

# NORTHERN TERRITORY LIQUOR COMMISSION

## DECISION NOTICE

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**MATTER:** APPLICATION FOR A LICENCE

**REFERENCE NUMBER:** LC2019/003

**PREMISES:** **Virgin Lounge**  
Alice Springs Airport  
Santa Teresa Road  
ALICE SPRINGS NT 0870

**APPLICANT:** **Spotless Facility Services Pty Ltd**

**NOMINEE:** Emma Rolfe

**LEGISLATION:** Section 26, Part III, Part IV, Part V of the *Liquor Act*

**HEARD BEFORE:** Mr Russell Goldflam (Acting Deputy Chairman)  
Ms Pauline Reynolds (Health Member)  
Mr Blair McFarland (Community Member)

**DATE OF HEARING:** 12 February 2019

**DATE OF DECISION:** 15 February 2019

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### **DECISION**

1. For the reasons set out below and in accordance with section 29 of the *Liquor Act* (“the Act”) the Commission has determined to issue an “On Licence” licence authorising the sale of liquor for consumption on or at the premises (“the Virgin Lounge”) to Spotless Facility Services Pty Ltd (“the Applicant”).
2. In accordance with section 31 of the Act, the Commission has determined that the licence shall be subject to the same general and special conditions as those contained in Liquor Licence Number 80815940 dated 31 August 2016 in relation to the Virgin Lounge, including the following conditions:
  - a. Liquor may be sold from 90 minutes prior to each flight's scheduled departure until its actual departure.
  - b. Souvenir packs of wine and beer, as approved by the Director-General, may be sold for consumption away from the premises.

- c. Notwithstanding anything contained elsewhere in these licence conditions, unless a person is the bona fide holder of a boarding pass indicating current day travel, no liquor other than light beer may be sold or supplied to any person prior to 11:30 hours Monday to Friday inclusive (other than Public Holidays) for consumption in or within any part of the licensed premises. For the purpose of this condition "light beer" is defined as any brewed beverage containing NOT more than 3.00% by volume of ethyl alcohol, the onus of proof of which shall lie with the licensee in any proceedings in relation to an alleged breach of this condition.

## **REASONS**

### **BACKGROUND**

3. Spotless Facility Services Pty Ltd ("the applicant") is an Australian Proprietary Company limited by shares with a registered address in Melbourne, Victoria. The applicant holds liquor licences in the Northern Territory (Virgin Lounge, Darwin Airport) and throughout Australia. The applicant provides catering services at Virgin Australia lounges at numerous Australian airports.
4. Prior to 22 October 2018, there were three licensed premises at the Alice Springs airport, operated by two licensees. Qantas operated the Qantas Club Lounge, and Delaware North Retail Services Pty Ltd ("Delaware") operated the Café Terra Rossa and the Virgin Lounge. On 22 October 2018, the Northern Territory Liquor Commission ("the Commission") approved an application by Delaware to make a material alteration, namely to excise the Virgin Lounge from its licence footprint. In its Decision Notice of 26 October 2018, the Commission stated:

The licensee has informed the Commission that it has terminated its lease over the Virgin Lounge, which will be managed by another enterprise, Spotless Facility Services Pty Ltd, which, the Commission has been notified by Licensing NT, has lodged an application for a liquor licence for the Virgin Lounge. That application has not yet been referred to the Commission.

5. The said application by the applicant had originally been lodged with Licensing NT on 14 February 2018, but was incomplete. The completed application was lodged on 17 July 2018. Following Delaware's vacation of the premises, the applicant secured authorisation to sell liquor at the Virgin Lounge by way of a Special Licence from 31 August 2018 to 31 December 2018, and subsequently by a second Special Licence expiring on 28 February 2019.
6. On 7 January 2019 a Delegate of the Director-General of Licensing referred this application to the Commission for hearing pursuant to sections 28(1) and 50(a) of the Act, and provided the Commission with a brief of evidence ("the brief") including:
  - Application for a liquor licence dated 12 February 2018
  - Affidavit for purposes of s26A of the Act deposed by Rachel Morgan dated 19 April 2018
  - Special Licence to applicant for the Virgin Lounge from 31 August 2018 to 31 December 2018
  - Liquor licence to Delaware to trade from Café Terra Rossa and Virgin Lounge dated 31 August 2016 (superseded)

- Community Impact and Public Interest Assessment statement in compliance with s6 and s6A of the Act
- Extract from ASIC current and historical company register for applicant
- Documents certifying identity and character of proposed licence nominee, Emma Rolfe
- Applicant's Business and Management Plans for Virgin Lounge
- Licence by Virgin Australia to the applicant to occupy the Virgin Lounge, dated 24 January 2018
- Certificate of applicant's registration as a food business at the Virgin Lounge, dated 16 May 2018
- Plan of proposed premises
- Public notices of application for grant of a liquor licence, dated 20 and 24 July 2018
- Correspondence between Licensing NT and: Department of Health; Police; Fire and Rescue Service; Alice Springs Town Council; and Department of Infrastructure, Planning and Logistics

## **HEARING**

7. The hearing was conducted in public on 12 February 2019. Ms Thava appeared by telephone on behalf of the applicant. Ms Morley appeared for the Director-General. The Commission thanks both Ms Thava and Mr Morley for their attendance and assistance. The brief was tendered without objection and admitted into evidence. No other evidence was adduced.

## **THE APPLICANT'S PREMISES**

8. The Commission finds that the Virgin Lounge is accessible to Virgin Australia Business Class passengers and eligible members of the loyalty programs operated by Virgin Australia and partner airlines. The lounge offers self-service food and non-alcoholic beverages, and a bar service for beer and wine. There is seating for 40 guests, with a total capacity of 86 guests.
9. In accordance with s28(2)(a) of the Act, the Commission finds that the premises are suitable for the purpose of the application.

## **THE APPLICANT**

10. The applicant has been a registered company since 1995. According to its website the applicant employs 36,000 people, has over 1,000 clients, and in the 2016 financial year served food to 74,000,000 customers.<sup>1</sup> Before granting the applicant a similar licence to sell liquor at a Virgin Lounge at the Darwin airport in 2015, the applicant satisfied the Director-General of its probity, and the Director-General remains so satisfied. In accordance with s28(2)(c), the Commission finds that the business reputation and financial stability of the applicant and the applicant's executives are satisfactory. In accordance with s28(2)(e) of the Act, the Commission finds that the applicant is a fit and proper person to hold a licence.
11. Section 26A of the Act requires applicants to depose an affidavit disclosing whether certain persons may be able to influence the applicant, or expect a benefit from the

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<sup>1</sup> <https://www.spotless.com/company-overview/>

applicant, if the licence is granted. Rachel Morgan, on behalf of the Applicant, affirms in her affidavit, witnessed by the applicant's registered Company Secretary, that there is no such person.

12. The applicant has nominated Emma Rolfe as its licence nominee. In accordance with s 28(2)(h) of the Act, the Commission finds that Emma Rolfe is a fit and proper person to manage the licence.

## **ADVERTISING AND NOTIFICATION**

13. Details of the application were advertised in the Centralian Advocate on 20 July 2018 and 24 July 2018 as well as having signage displayed at the premises for a period of 30 days. The objection period expired on 23 August 2018.

14. No objections to the application were lodged.

15. As required by s27(3) of the Act, the Director-General informed the Chief Executive Officer ("CEO") of the Department of Health ("DOH") and the Commissioner of Police of the application.

16. The Director-General also invited comment about the application from the Northern Territory Fire and Rescue Service (NTFRS), the Alice Springs Town Council and the Department of Infrastructure, Planning and Infrastructure (DIPL).

17. The Commission notes that the following responses were received:

- a. The DOH made "no adverse comment".
- b. The NT Police advised that they it had "nil objections".
- c. The NTFRS advised it had "no issues".
- d. The Alice Springs Town Council advised that it had no "objection".
- e. DIPL advised that planning consent would not be required for the proposed development.

## **ASSESSMENT OF THE APPLICATION**

18. Section 6B of the Act provides that the Applicant bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test set out in s6 of the Act. In considering and determining this application, the Commission has had regard to the objects of the Act and applied the public interest and community impact test by reference to the community impact assessment guidelines published by the Minister on 6 March 2018 pursuant to s6A of the Act. The guidelines are detailed and specific, but also state that:

the Commission has the authority to consider a broad range of issues specific to each application and flexibility exists to assess each individual application on its merits.

19. The Commission is satisfied that the Applicant has met the public interest and community impact test.

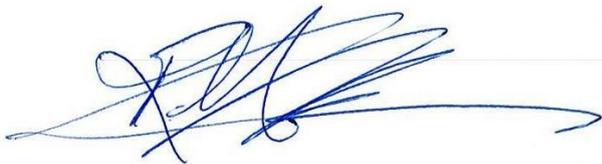
20. The Commission has determined that a licence be granted to the applicant over the Virgin Lounge with conditions equivalent to those contained in the licence over the Virgin Lounge granted in 2016 to the previous licensee, Delaware.

#### **NOTICE OF RIGHTS**

21. Section 120ZA of the Act provides that a reviewable decision is a Commission decision that is specified in the Schedule to the Act. A decision to issue a licence pursuant to section 29 of the Act is specified in the Schedule and is a reviewable decision.

22. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision.

23. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected person is the applicant.



RUSSELL GOLDFLAM  
ACTING DEPUTY CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION

15 February 2019

On behalf of Commissioners, Goldflam, Reynolds and McFarland