

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the granting of a liquor licence with a special venture authority
APPLICANT:	Qantas Airways Limited
LEGISLATION:	Part 3, Division 4 of the <i>Liquor Act 2019</i>
DECISION OF:	Manager Licensing - Liquor, Gambling & Racing
DATE OF DECISION:	28 October 2021

DECISION

1. For the reasons set out below and in accordance with section 60 of the *Liquor Act 2019* (the Act), as delegate of the Director of Liquor Licensing I have determined to grant the application for a liquor licence with a **special venture authority** to Qantas Airways Limited (the Applicant) for the sale of liquor to patrons as an ancillary part of services provided to the patrons by the licensee.
2. The granting of this approval is for the licensee to operate the premises formerly known as the Catalina Lounge at the Darwin International Airport, as a private lounge for Qantas Club members, guests and first and business class passengers on international flights, transiting in Darwin.
3. The premises approved under this licence are situated on the first floor of the Darwin International Airport, airside in the international gates.
4. In accordance with regulation 92 of the *Liquor Regulations 2019* (the Regulations), the days and hours of operation of the special venture authority are each day, for 90 minutes prior to a scheduled international flight departure and 90 minutes after an arrival.
5. In accordance with regulation 93 of the Regulations, the operational conditions of this special venture authority are:
 - liquor must not be sold, served or supplied to anyone other than customers of the licensee's services who have booked those services in advance;
 - liquor must not be sold for consumption off the licensed premises;
 - a reasonable range of non-alcoholic beverages must be available for purchase by patrons during the hours of operation;
 - complimentary tap water must be available to patrons during the hours of operation;

BACKGROUND

6. Qantas Airways Limited (Qantas) operates an existing lounge for domestic passengers, under a special venture authority in the domestic departures area of the airport.
7. The patrons for this new licence are international passengers transiting through Darwin.
8. The area within which the lounge is located has until this time been within the licensed area of Delaware North Pty Ltd who operate the concession stands at the airport. This area has until now been known as the Catalina Lounge and was a private lounge area, similar to the traditional Qantas style member's lounges. The distinction being, any passenger could pay a fee for a single entry and did not need to be a member.
9. Qantas have been granted a lease over this area from the Airport Development Group for 12 months (2 x 6 months).
10. The opening of this lounge by Qantas coincides with the recommencement of international travel following on from the COVID-19 pandemic. At this time the flights are between Sydney and London, with passengers transiting in Darwin.
11. But for the international aspect of this application and exclusivity of patrons, the application is to replace like for like in terms of passenger lounges at the airport.

CURRENT SITUATION

Publication of the application

12. The application was lodged by Qantas on Monday, 25 October 2021 with the first flight scheduled for Monday 1 November 2021.
13. Accordingly, timeframes were abridged to accommodate consideration of the application and a decision in time for 1 November 2021.
14. Given the nature of the application, the fact the area is was for all intents and purposes operating as a lounge in a similar manner and the timeframe public notices of the application were published at the premises only on Monday, 25 October 2021 and Tuesday, 26 October 2021.
15. As delegate of the Director I exercised my powers under section 318 of the Act to abridge the publication period to two (2) days.
16. No objections were received in relation to this application.

Consultation

17. Section 56(4) of the Act states within 14 days of accepting an application, the Director must inform the following that an application has been made and accepted:
 - (a) the Chief Executive Officer of the Agency administering the *Public and Environmental Health Act 2011*;
 - (b) the Commissioner of Police;
 - (c) the Chief Executive Officer of the local council.
18. The City of Darwin stated they had no objection to the application.
19. Police responded stating they had no objections to the application.
20. Department of Health initially required further materials and clarification of the manner of service and operations, subsequently confirming they had no adverse comment.
21. The Department of Health did however suggest the National Health and Medical Research Council responsible drinking guidelines be displayed and promoted if the licence was to be granted.

Referral to the Liquor Commission

22. On 17 December 2020 the Liquor Commission delegated the determination applications for a community event authority to the Director of Liquor Licensing, with the Director further delegating the determination by instrument.
23. Further, the delegation of the determination of this application is conditional upon there being no objections or contentious matter raised, or where the applicant has not been the subject of disciplinary action under a former licence.
24. This applicant holds a special venture licence for the domestic club lounge in Darwin and Alice Springs, there were no objections nor contentious matters and they have not been the subject of disciplinary action.
25. Accordingly this application may be determined under delegation without referral to the Liquor Commission, or a public hearing.

Disclosure of persons

26. Section 54 of the Act requires the applicant to make an affidavit disclosing each person who, if the licence is issued, may:
 - (a) be able to influence the applicant; or
 - (b) expect a direct or indirect benefit from the applicant.
27. I am satisfied by the materials provided by the applicant in relation to this requirement.

Results of Investigation

28. Section 58 of the Act enables the Director to conduct an investigation into an application as considered appropriate. No materials have been discovered or provided to indicate there are any adverse matters in relation to this application.

ASSESSMENT OF THE MATTER

29. In accordance with section 59 of the Act, I have considered:
- (a) the applicant's affidavit required by section 54;
 - (b) the results of an investigation into the applications conducted by Licensing NT personnel;
 - (c) in the absence of objections, the responses of the stakeholders to which notification was provided;
 - (d) the suitability of the proposed premises; and
 - (e) the financial stability and general reputation and character of the applicant.

Whether the applicant is a fit and proper person to hold a liquor licence

30. Qantas already holds two similar licences at the Darwin and Alice Springs airports with no adverse outcomes.
31. As a publicly listed company the financial position of Qantas is a matter of public knowledge and I am satisfied with what has been provided.
32. There are no matters in the materials provided that would suggest Qantas is not a fit and proper person to hold a liquor licence. As written earlier, they are an existing licensee with an unblemished history.
33. Qantas has proposed Mr Patrick Bradley Hogan as the nominee for the licence. Mr Hogan is the existing nominee for the other licence held by Qantas in the domestic terminal. It is therefore considered unnecessary to require further probity documents at this time as he has previously been declared fit and proper.

Whether issuing the licence is on the public interest

34. Section 49(2) of the Act requires me to determine whether issuing the authority is in the public interest and how it will advance the following objectives:
- (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - (b) ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner;
 - (c) safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
 - (d) protecting the safety, health and welfare of people who use licensed premises;

(e) increasing cultural, recreational, employment or tourism benefits for the local community area;

(f) promoting compliance with this Act and other relevant laws of the Territory;

(g) ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;

(h) preventing the giving of credit in sales of liquor to people;

(i) preventing practices that encourage irresponsible drinking;

(j) reducing or limiting increases in anti-social behaviour.

35. Having considered each of these objectives, and having particular regard to the nature of the operation, I am satisfied that it is in the public interest to issue the authority to the licensee.
36. The impetus behind this application clearly meets the objective of increasing tourism benefits for the local community area.
37. For completeness, Qantas provided a summary of the proposed operation and items available at the lounge, these include:

At Qantas, we go to great lengths to promote healthy travel and hydration for our customers.

We are aligned with the Charles Perkins Centre, Sydney University to develop the best experience for customers flying long and ultra-long haul flights. As part of this partnership we have conducted research into managing customer's welfare pre, during and post flying.

As part of this research we have designed our service and offerings inflight and in our lounges to reflect the best flying and dining experience, with a real focus on dining and hydration. One of the reasons we are welcoming our premium customers into the lounge with our delicious new fresh lemonade mocktail.

Please see details regarding our proposed food and beverage service for the Darwin International Transit Lounge, this is part of our overall customer experience which involves offering over 3 full meals on our flights between Sydney and London, along with this dining experience in the lounge.

38. Further, it was submitted all cabin crew and lounge staff hold current RSA certification, and the nature of the service is personal and described as a 'signature service'.¹
39. A rather comprehensive menu is also provided including hot and cold foods as well as snack foods.

Whether the issue of the authority will have a significant adverse impact on the community

40. Section 49(3) of the Act prescribes the matters which must be considered when determining whether the issuing of the authority would have a significant adverse impact on the community.
41. These include:

(a) the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;

- (b) the geographic area that would be affected;
- (c) the risk of harm from the excessive or inappropriate consumption of liquor;
- (d) the people or community who would be affected;
- (e) the effect on culture, recreation, employment and tourism;
- (f) the effect on social amenities and public health;
- (g) the ratio of existing liquor licences and authorities in the community to the population of the community;
- (h) the effect of the volume of liquor sales on the community;
- (i) the community impact assessment guidelines issued under section 50;
- (j) any other matter prescribed by regulation.

- 42. The applicants also bear the onus of satisfying me of the relevant matters, irrespective of whether any objections were received.
- 43. I am satisfied the conditions placed on the approval, along with the conditions prescribed by the Regulations will ensure liquor is consumed in an appropriate manner, the risk of harm is minimal and there is no apparent significant adverse impact on the community as the patrons are transiting only.
- 44. In considering this application I am obliged to consider the purposes prescribed in the Act, primary being, to minimise the harm associated with the consumption of liquor in a way that recognises the public's interest in the sale and consumption of liquor.
- 45. Secondary purposes include, a protection of the community amenity and wellbeing, regulation of the sale of liquor in a way that contributes to the responsible development of the industry and associated businesses, and of particular relevance, stimulation of the tourism and hospitality industries.
- 46. I am satisfied the application is in line with the purposes of the Act, particularly in providing a diversity of services for the benefit of the community.
- 47. As a result of the matters outlined above, I am on balance, satisfied that the approval of this application is appropriate, in the public interest and will not have a significant adverse impact on the community.
- 48. Section 85 of the Act requires a term of the licence to be fixed and it is to remain force until it expires or is abandoned, surrendered or otherwise dealt with.
- 49. The Act is silent as to the nature or format of that term to be fixed.
- 50. The premises are leased for two (2) by six (6) month leases. It is likely the lease may be continued, however this is likely to be dependent upon a number of factors, not least travel options as a result of the COVID-19 pandemic.

51. Accordingly, I can only approve the period of the licence to be for 12 months.
52. In the circumstance where the licensee's leases are terminated for any means, they would be required to seek a substitution of the licence to other premises before they may recommence trade at the new premises.
53. As a result of the time constraints the licence was granted with the decision notice to follow.

REVIEW OF DECISION

54. Section 26 of the Act requires a delegate of the Director to as soon as practicable after making a decision, to give a written notice of the decision to an affected person, being a licensee, applicant or person who made a submission, complaint or objection, the subject of the decision.
55. Section 11 of the Act provides for the Director to delegate powers and functions under this Act by instrument, to a person from time to time holding, acting in or performing the duties of the position specified in that instrument. This decision was made by a person referred to in such an instrument. .
56. Section 27 of the Act provides that an affected person for a delegate decision may apply to the Director for a review of the decision. This application for review must be made within 28 days after written notice of the delegate decision is given to the affected person, or within any additional time that the Director allows.
57. Accordingly the affected persons in relation to this decision are Qantas Airways Limited, Police and the Department of Health.



Mark Wood
Manager Licensing - Liquor, Gambling & Racing
Delegate of the Director of Liquor Licensing

3 November 2021