

Decision Notification

Application Details

Application no.	215775, 215776
Licence No.	57104897
Licence Class	On Premises
Premises Name	Departure Bar
Premises Address	T51, Gate 23, Level 2, Terminal 1, Adelaide Airport, 1 James Schofield Drive, ADELAIDE AIRPORT SA 5950
Licensee	DELAWARE NORTH RETAIL SERVICES PTY LTD
Applicant	DELAWARE NORTH RETAIL SERVICES PTY LTD
Application Type	Application for a Liquor Licence, Application for Exemption\Responsible person
Representative	Ryan Feuerherdt - Minter Ellison

Outcome

Decision	Granted
Effective Date	08 Jul 2022

Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised
- All approvals, consents or exemptions have been obtained

People

Position of Authority

The following persons are approved to occupy any position of authority in the entity holding the licence:

- Gary Peter Brown (126612)

Premises

New Premises

The licensed area is outlined in red on the approved plan.

Capacity

The capacity of the venue is set at 40.

Community Impact Assessment

The application is a designated application for the purposes of section 53A of the Act.

Delaware North Retail Services Pty. Ltd (**the Applicant**) have applied for a on premises licence in respect of premises to be situated at T51, Gate 23, Level 2, terminal 1, Adelaide Airport, 1 James Scofield Drive, Adelaide Airport, (**the Site**), to be known as Departure Bar.

As part of the application the Applicant has submitted a Community Impact Submission. It is the content of the report, and supporting materials that my decision is based on.

This application for an on premises licence is a designated application under section 53A of the *Liquor Licensing Act*

1997 (the “Act”) and so may only be granted if the licensing authority is satisfied that the grant is in the community interest. In determining this application under section 53A(2) of the Act, I must have regard to:

- the harm that might be caused (whether to a community as a whole or a group within community) due to the excessive or inappropriate consumption of liquor;
- the cultural, recreational, employment or tourism impacts; and
- the social impact in, and the impact of the amenity of, the locality of the premises or proposed premises; and
- the nature of the business conducted or to be conducted under the licence (as prescribed)

I must also apply the Community Impact Assessment Guidelines (**the Guidelines**), which state: *“The onus is on the applicant to satisfy the licensing authority that the grant of the application is in the community interest and to provide relevant evidence and submissions to discharge this onus.”*

The Guidelines generally impose an obligation upon an applicant to include with the application a community impact submission that, if relevant, is expected to address a range of matters, including: the applicant’s products/services in terms of key features and potential customers; business/professional experience, in particular relevant knowledge, experience and competency in relation to the service of liquor; general description of facilities and services; relevant construction details (e.g. materials, finishes, acoustic treatment, etc.); details of any food, including menu; liquor services (e.g. bar) and range of liquor; types of entertainment; types of accommodation; a statement as to whether the community supports the proposed business, including providing evidence of such support; and a statement as to why the grant of the application is in the community interest.

Applicants are also required to provide, where applicable: a map and report regarding the locality generated through Consumer and Business Service’s Community Impact Portal; a business plan/plan of management; and a site or property plan, floor plan and/or photographs/artists impressions of the site/building.

Pursuant to section 3(2) of the Act, when deciding whether or not to grant this application, I must have regard to the objects of the Act as set out in section 3(1) of the Act.

Section 3(1) of the Act provides that:

- (1) The object of this Act is to regulate and control the promotion, sale, supply and consumption of liquor—
 - (a) to ensure that the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor; and
 - (b) to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and
 - (c) to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public; and
 - (d) to facilitate the responsible development of the licensed liquor industry and associated industries, including the live music industry, tourism and the hospitality industry, in a manner consistent with the other objects of this Act.
- (1a) For the purposes of subsection (1)(a), harm caused by the excessive or inappropriate consumption of liquor includes—
 - (a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and
 - (b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a

group within a community); and

- (c) the adverse effects on a person's health; and
- (d) alcohol abuse or misuse; and
- (e) domestic violence or anti-social behaviour, including causing personal injury and property damage.

The Applicant must also satisfy the Authority that the pre-requisites in s 57 of the Act have been met, in relation to such matters such as: the suitability of the premises; the potential for them to cause undue offence, annoyance, disturbance or inconvenience to nearby residents, workers and worshippers in the vicinity; prejudice to the safety or welfare of children attending nearby kindergartens and schools in the vicinity of the premises; and whether the appropriate approvals, consents and exemptions, in respect of the proposed premises have been obtained.

Additionally, s 53 of the Act gives the Authority “*an unqualified discretion to grant or refuse an application under this Act on any ground, or for any reason, the licensing authority considers sufficient (but is not to take into account an economic effect on other licensees in the locality affected by the application)*”, and s 53(1a) provides that the authority must refuse an application if it is satisfied that granting the application would be contrary to the public interest.

Section 53(1b) requires that the Authority must refuse an application for a licence if it is satisfied that granting the application would be inconsistent with the objects of the Act.

Locality

The Community Impact Portal provides a locality guide of 2km radius for metropolitan areas and 5km radius for regional areas. The proposed business is located in the Adelaide Airport and therefore will draw customers from across South Australia as well as interstate and overseas visitors arriving at or departing from the airport.

The Applicant has submitted that given the proposed locality is essentially the airport and its target market is travellers passing through the airport, it has not engaged in any community consultation regarding this proposal

Nature of Business

The business model is a ‘café style’ outlet serving light meals and snacks to persons using the Adelaide Airport. The Applicant has suggested that the focus of the business is the provision of food and it seeks to provide non-alcoholic drinks as well as wine, beer, cider and pre-mixed sprits to compliment the food offerings.

I note that liquor will only be served to seated patrons for consumption within the licensed premises and that the venue will be trading in accordance within standard airport trading hours, between 5am and 10pm daily.

The venue will operate as an ancillary venue to the larger Coopers Alehouse which is located in in the main food, drink and retail area. The Departure Bar however, is much smaller than the Alehouse and is located away from the main airport thoroughfare near the far end of the departure gates (gate 23).

It is expected that the venue will be used by airport guests and travellers when waiting for a flight to arrive or depart. It is also intended to be a smaller and quieter venue to consume a drink than a more traditional bar like the Coopers Alehouse.

There will be no entertainment nor accommodation provided at the premises.

Harm

The Applicant has not identified any 'at risk' groups in the locality, however accepts that there may be vulnerable persons frequenting the airport from time to time.

The Applicant will implement the following measures in order to minimise the risk of harm to those who may be considered "at risk"

- liquor products will be in a display fridge which is only accessible by staff.
- all staff will have undertaken responsible service of alcohol training
- all staff are trained to identify and/or question anyone who appears to be under the age of 18 years, or who appears to be showing signs of intoxication.
- staff will ensure liquor is only consumed within the licensed area

Social impact and impact on the amenity of the community

The Applicant has identified a number of licensed premises within the Adelaide Airport, operating across a range of different licence categories including general and hotel, on premises and restaurant and catering. The business currently on the site has been operating as an unlicensed café since 2005, this proposal involves an upgrade of the facilities and a rebrand to change the name and add the sale and supply of liquor to the menu.

It is expected that the new business model will employ approximately 2-3, although the Applicant has not specified whether this will be in a full time or part time capacity.

I am satisfied that the granting of this application is in the community interest.

Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	5:00 am to 10:00 pm	-
Tuesday	5:00 am to 10:00 pm	-
Wednesday	5:00 am to 10:00 pm	-
Thursday	5:00 am to 10:00 pm	-
Friday	5:00 am to 10:00 pm	-
Saturday	5:00 am to 10:00 pm	-
Sunday	5:00 am to 10:00 pm	-

Reasons for Decision

In reaching my determination, I have had regard to the objects of the *Liquor Licensing Act 1997*.

I am satisfied that the grant of this application will pose little risk, and is consistent with the expectations and aspirations of the public. It is expected that a cafe-style venue of this nature, catering to passengers at the western end of the terminal who wish to enjoy a quiet drink or light meal closer to their departure gate is in the interests of the community.

Accordingly, under section 53A(1) of the Act I grant the application.

It is a requirement under section 97(1) of the Liquor Licensing Act 1997 (the Act) that premises must be personally

supervised by a responsible person at all times that they are open to the public, however under section 97(2) of the Act the Commissioner may exempt a licensee from this requirement and approve alternative arrangements for the supervision and management of the business. An exemption can only be granted if the licensing authority is satisfied that, in view of the limited scope of a business conducted under a licence, an exemption would not compromise the principle of responsible service of alcohol and consumption of liquor.

The licensee of the Departure Bar has applied for an exemption from this requirement.

The applicant has submitted the following reasons why they should be granted an exemption:

The applicant operates a number of licensed outlets within the Adelaide Airport, of which all are close in proximity.

It is intended that, at various times, the responsible person(s) allocated to each venue, is given the freedom to travel to other venues and rotate responsibilities. This may have the effect of a venue not being under the supervision of a responsible person for a short period of time while a responsible person is between venues.

The applicant seeks an exemption from responsible person requirements at this venue, so as to allow movement of responsible persons between nearby venues operated by the same licensee.

Having considered all of this, I am not satisfied that, in view of the scope of the business conducted under the licence, and the distance between this licensed premises and the other venues operated by the licensee within the terminal, that an exemption from the responsible person requirements can be granted without compromising the principle of responsible service of alcohol and consumption of liquor.

The application for an exemption from the requirements of s97(1) is refused.

Under Delegation from the Liquor and Gambling Commissioner



Vicki Brunello
Hearings Delegate
08 Jul 2022