

Proposed Amendment to Regulations under Airports Act 1996 -  
Stage 1A

Department of Infrastructure, Transport, Regional Development and Communications

Queensland Airports Limited response

**11 March 2022**

## Background

Queensland Airports Limited (QAL) is an Australian-owned, Queensland-based company that operates Gold Coast, Townsville, Mount Isa and Longreach airports.

Established in 1998, QAL is the largest regional airport operator in Australia.

QAL is a privately-owned company and its shareholders include superannuation and investment funds.

QAL employs almost 175 people directly, and its airport activities facilitate thousands more jobs across Queensland and in northern NSW.

## Response

QAL's management believe that overall, the *Airports Act 1996*, including the *Airports Regulations 1997* and the *Airports (Ownership Interest in Shares) Regulations 1997*, works well, allowing the efficient and effective operation of three of our four airports within the group – the Gold Coast, Townsville and Mount Isa – to the benefit of the communities we support and our various partners. Longreach Airport is not governed by this legislation as it is a small, former local government-owned and operated aerodrome.

We do believe there are a few key opportunities for improvement when the areas identified as part of this phase 1A review are considered: cutting red tape, duplication, inconsistencies and reporting, leasing and management of airports, and airport ownership. These areas are addressed in the sections below.

We note the Australian Airports Association submission and particularly support the point made around the chance to modernise and improve the regulatory framework.

We appreciate the opportunity to participate in this review process, and potentially help inform the regulatory amendment and, where relevant, the development of further stages. We congratulate the Federal Government for its ongoing focus on modernising and improving Australia's airport regulations.

## 1. Prohibition on uses – section 34 of the Act

### *1.1 Trustee lessees*

Section 34 of the Act states that regulations may prohibit certain subleases and licences. QAL supports the Department's right to prohibit certain types of leases, however, we note that regulations 2.04(2)(c) and 2.12(2)(c) prohibit in the first instance subleases or sublicences to a person who is a trustee of a trust.

Regulations 2.05 and 2.13 respectively, provide the mechanism under which an airport operator can request a declaration approving a lessee or a licensee who is a trustee of a trust.

In the instances where a QAL airport operator has applied for such a declaration, approval has always been granted by the Department. QAL submits that it may be useful for airport operators to better understand the reasoning behind the prima facie prohibition in regulation 2.04, particularly given the common use of trusts in corporate structures. **If the public policy reasoning behind this prohibition is no longer as relevant as it was when the legislation was enacted, QAL supports the repeal of these regulations to reduce red tape and streamline the subleasing process.**

### *1.2 Residential development*

Regulations 2.05(2)(b) and 2.12(2)(b) prohibit subleasing or sublicensing for the purposes of residential development. Some airport operators, like QAL, operate airports in regional Australia (i.e. Mount Isa), and it would therefore be useful to have **some guidance from the Department, via the Act, as to the legality of on-airport residential accommodation for airport employees and contractors, when required.** It is not uncommon for local accommodation to be fully booked at certain times of the year, presenting challenges for housing airport employees and contractors. This is particularly relevant for critical operational roles.

## 2. Periodic Lease Reviews

QAL notes that the Department has reduced the frequency of its lease review requirements from an annual obligation to every two to three years. **QAL supports this change as it serves to reduce red tape and streamlines reporting and administrative processes.**

## 3. Nature of 99 year lease - section 14(5)(c) of the Act

QAL's airport operations across each port are supported by complex financing structures which require periodic refinancing e.g. every three to five years. This has been more involved throughout the COVID-19 pandemic, where, as the Department would be aware, the aviation industry has come under extreme pressure from reduced passenger numbers and associated severe reductions in revenue.

Under the Gold Coast Airport lease, for example, Gold Coast Airport Pty Ltd cannot exercise its option for the second term of the lease before the 40th lease year (which is 2037). Financiers see the 99-year lease term as a risk issue and the airport a diminishing asset in terms of security. For that reason, **it would be extremely beneficial if QAL's airport operators were able to exercise their respective lease options earlier, say around the 25-30 year mark.** This would go some way to giving financiers comfort that the investment is a long-term project (and suitable for security purposes), with a committed financed party.

QAL notes that there is no express provision in the Act relating to the actual option exercise dates as it is more of a contractual matter, but it is something QAL submits that the Department may wish to consider in any amendments to the Act.

## 4. Competing Commonwealth legislation

Airport operators often come under pressure from public utility providers (PUP) to agree to a PUP's requests for access to enter onto airport land to undertake activities such as installation of mobile phone towers. As many PUPs are also governed by Commonwealth legislation, it takes significant time and effort within the business to deal with such PUPs where the objectives of the PUP and the airport operator differ.

QAL submits that (except in the case of safety, emergency or where there is an overriding social or national interest) **the Airports Act include a provision noting that where such two conflicting objectives occur, the objectives of the airport operator (in operating the airport) prevail.**

5. Special legislation to deal with Gold Coast Airport cross border issues

As the Department would be aware, the Gold Coast Airport lease area sits in both Queensland and New South Wales, which can create additional complications for the business and its tenants. An example of this is the new GCA terminal expansion, which will be placed in both Queensland and New South Wales. This has the potential to cause some interjurisdictional issues where state legislation impacts Gold Coast Airport's operations.

Examples of legislation which have the potential to impact Gold Coast Airport in competing ways, depending on where in the terminal the undertaking is carried, include:

- the retail shops legislation
- liquor regulations
- state police jurisdiction
- personal injuries legislation
- WHS legislation
- security of payments legislation.

The impacts of border closures resulting from the COVID-19 pandemic have further highlighted this issue for our business. **The Department's review of the Act provides an opportunity to consider whether the revised Act could specify that, for example, where there are two competing state or jurisdictional legislative instruments that govern the one activity, Queensland legislation applies.**

In QAL's view, such a change would streamline processes, eliminate red tape and allow for better and more targeted decision making by the airport operator.