



Regional Express Response to:

Consultation Regulatory Impact Statement (RIS)

Sunsetting Airports Regulations Stage 2

October 2022

Documents for review during stage 2:

- Airports (Control of On-Airport Activities) Regulations 1997

Key areas for review during stage 2:

- Liquor control in airports outside NSW
- Consumer trading hours
- Landside vehicle parking
- Airside vehicles
- Gambling
- Smoking

1. Liquor control in airports outside NSW

Background of the key issues:

- Part 2 of the Regulations outlines how the sale, supply, disposal or possession of liquor is to be controlled at leased federal airports outside NSW, with modifications to relevant state and territory liquor legislation provided in Part 2 and Schedule 1 of the Regulations.
- These modifications provide for transitional arrangements (such as recognition of existing authorities to sell liquor) and make other minor or technical adjustments to operation of the laws to enable their application as Commonwealth law on airport sites.

Option 1: Allow the Regulations to sunset without being remade

- *This option would remove those modifications to state and territory liquor law, which would have a range of effects (for example, those with existing authorities to sell liquor would lose these licences and be required to reapply under the relevant state or territory regime and pay associated fees).*
- *Where the modifications provide for a role of the ALC in the regulation and licencing for liquor, the ALC would lose that role.*
- *The regulatory framework for liquor on airport sites would mirror arrangements in the rest of the community.*

Option 2: Remake the Regulations without substantive changes

- This would maintain existing liquor authorities at leased federal airports and continue existing modifications to state and territory liquor laws in their application to leased federal airports.
- This option would preserve existing authorities to sell liquor (and the rights associated with them) as outlined in the Regulations and ensure current liquor-related operations at airports are not disrupted.
- *Depending on whether problems are identified as part of this consultation, remaking the Regulations without changes could perpetuate identified problems. This option would still involve a minimum of necessary technical changes being made, such as to update legislative references, like for NT liquor legislation.*

Option 3: Remake the Regulations with changes

- Consideration of matters include whether all modifications of state and territory law continue to be required, and whether the purpose of disparate requirements remains current or any harmonisation is required.
- To remake Part 2 and Schedule 1 of the Regulations with such changes of a limited nature would maintain existing policy in relation to liquor control at airports outside NSW, and support its efficient and effective implementation.

Rex Response

- 1. How appropriate do you think the current regulatory settings are for liquor in leased federal airports outside NSW? What works well? What needs to be fixed?**
 - *Rex is of the view that the current regulatory settings have provided for an adequate framework for liquor control on airport sites. The current control regime is distinctive from the state laws/community and has been proven to be fit for purpose.*
- 2. What is your preferred sunseting option (sunseting without remaking, remaking without substantive changes, or remaking with changes)? Why?**
 - *Rex's preferred sunseting option is to remake the regulations without substantive changes. From an airline's perspectives, it is critical that ALCs play a role in the control of liquor so that such control creates a unique setting which focuses on the nature of businesses within the airport sites.*
- 3. Are there any modifications of state or territory liquor laws, or other provisions of the Regulations relating to the control of liquor outside NSW (Part 2 or Schedule 1 of the Regulations), that are no longer required? If so, what are they and why?**
 - *Nil*
- 4. Are there any modifications of state or territory liquor laws, or other provisions, that are out of date or ineffective and so require updating? If so, what are they and why? What is the nature of the update required?**
 - *Nil*
- 5. What disparate requirements (for example, different requirements that apply to different airports within a state or territory, or to different parts of an airport such as the terminal area only) need harmonisation, if any? What would be the impacts of this harmonisation?**
 - *Nil*

2. Consumer Trading Hours

Background of the key issues

- Part 3 of the Regulations deals with consumer trading hours at leased federal airports.
- *For some, the relevant state or territory law applies. For others (leased federal airports in NSW, QLD, and SA, and Melbourne and Perth Airports), the relevant state law is modified or not applied, to reduce restrictions on trading hours for these airports.*
- *This is in recognition that the nature of the service that these airports provide requires more flexible trading hours than were afforded in the relevant state regulations at the time of privatisation.*
- *The current arrangements will be re-examined to determine if they are still appropriate, and if changes in state and territory consumer trading hours since the Regulations were made are likely to accommodate the nature of these airports' operations.*

Summary of proposed options and Rex's response:

Option 1: Allow the Regulations to sunset

- This option would see consumer trading hours being regulated by applied state or territory laws on all leased federal airports. Existing transitional arrangements would be extinguished.
- *Allowing Part 3 of the Regulations to sunset would remove current deregulation of consumer trading hours at NSW, QLD and SA leased federal airports, as well as Melbourne and Perth Airports as prescribed in the Regulations.*
- *This may remove the competitive edge that some on-airport and off-terminal businesses may have compared to nearby businesses not located on airport land, who must operate entirely under state and territory consumer trading laws.*
- *However, this may impose limitations on consumer trading hours (and associated trading opportunities) for terminal businesses where no such limitations have been in place. It may also impact consumers who rely on terminal businesses at unusual hours.*

Option 2

Question: Remake the Regulations without substantive changes

- This option would include preserving existing trading authorities and current consumer trading hours regulations, notably at NSW, QLD and SA leased federal airports, as well as Melbourne and Perth airports.
- The option recognises that the nature of airport operations at some airports presents the need for additional consumer trading opportunities than what may be afforded by relevant state or territory legislative frameworks.

Option 3: Remake the Regulations with changes

- This option involves changes to the existing disapplication or modification of applied state or territory consumer trading hours laws at leased federal airports in NSW, QLD and SA, as well as Melbourne and Perth airports.
- It could also involve making adjustments to applied consumer trading hours laws at other leased federal airports where relevant state or territory laws apply, if required.
- Since privatisation, state and territory consumer trading hours have generally become less regulated, with greater flexibility afforded to a wider range of businesses for the hours that they can trade with consumers.
- There is a need to consider whether the application of NSW consumer trading laws require adjustment for Western Sydney International (Nancy-Bird Walton) Airport in a similar way as they are for Sydney (Kingsford-Smith) Airport (by providing that trading may occur on public holidays), or whether other legislative arrangements are required.
- Currently, NSW consumer trading laws would apply to the Western Sydney International (Nancy-Bird Walton) Airport without modification – some businesses on the airport site, including in the terminal, could be subject to trading hours restrictions such as limitations on public holiday trading.
- Replication of the trading hours exemption for Sydney (Kingsford-Smith) Airport is one option. An alternative may be for exemptions to be provided under NSW law.
- It may be relevant to consider the difference between the needs of businesses in the terminal area, compared to the rest of the terminal site. Exemptions to trading hours restrictions could come with some limited economic advantages for businesses located on airport land, and which compete with businesses located off airport land for a similar customer base.

Rex Response

- 1. How appropriate do you think the current regulatory settings are for consumer trading hours in leased federal airports? What works well? What needs to be fixed?**
 - *Rex is of the view that the current regulatory settings have provided for an adequate framework for consumer trading hours in leased federal airports*
- 2. What is your preferred sunseting option (sunseting without remaking, remaking without substantive changes, or remaking with changes)? Why?**
 - *Rex's preferred sunseting option is to remake the regulations without substantive changes. Rex does operate services in states and airports, such as NSW, WA and QLD, where the trading authorities and regulations were made to accommodate the nature of airport's operations.*
 - *Any changes or removal of existing regulations would likely impact the economic activities and limit the choices of Rex's customers on airport sites as the industry emerges from COVID-19.*
- 3. Should the Regulations include any new provisions (e.g., exemptions to consumer trading hours for Western Sydney International (Nancy-Bird Walton) Airport)? What would be the impact on your operations if the provisions were or were not included?**
 - *Special consideration and exemption should be given to the Western Sydney International Airport that allows for a deregulated environment in terms of trading hours similar to the Sydney Kingsford Smith Airport and the Melbourne Airport.*
 - *Given the location of the Airports, it is believed that the exemption to consumer trading hours has very limited impact on the competitiveness of the off-airport business. If Rex were to operate in this airport and such provisions were not included, Rex customers would likely be impacted by the limited offerings caused by the more restricted state law. This would also likely impact on the tendency of passengers to choose this airport.*
- 4. If you think it is appropriate for exemptions to continue to apply (or new exemptions to apply) under the Regulations to state or territory consumer trading restrictions, should these apply to the whole of the airport site, or only the terminal area? Why? Would your views be different if any change only impacted new businesses trading on the airport site?**
 - *Rex is of the view that any existing or new exemptions should apply to the whole of the airport site. It is important that passengers have convenient access to a range of facilities anywhere at the airport site due to the hours of airport operations.*
- 5. Are there any provisions in the Regulations relating to consumer trading hours (e.g., exemptions to state laws) that are no longer required? If so, what are they and why?**
 - *Nil*
- 6. Are there any provisions in the Regulations relating to consumer trading, that are out of date or ineffective and so require updating? If so, what are they and why? What is the nature of the update required?**
 - *Nil*

3. Landside Vehicle Parking

Background of the key issues

- *Division 2 of Part 4 of the Regulations controls the operations and parking of vehicles within the landside area of leased federal airports.*
- *Previous feedback has indicated that improvements could be made to landside traffic management and that there are enforceability issues with the traffic management regulations within the landside area.*
- *There is currently two ways that a leased federal airport is regulated under this Division, either under the Parking Infringement Notice Scheme (PINS) which is regulated by the Australian Government, or under the operation of state law (local government regulations).*
- *Non-PINS airports fall under the authority of their respective state and territory parking or road control framework similar to airports not regulated by the Airports Act 1996 (Newcastle, Cairns, Avalon airports etc).*
- *There may be further review required as Western Sydney International (Nancy-Bird Walton) Airport nears completion, as currently it is not regulated as a PINS airport, which will mean that the landside area of the airport will be regulated by NSW state vehicle control regulation.*

Summary of proposed options and Rex's response:

Option 1: Allow the Regulations to sunset

- Allowing this Division of the Regulations to sunset would result in traffic management on the leased federal airports being subject to a mix of Commonwealth and state and territory laws.
- While this would remove the obligations under the Regulations, it is unlikely to reduce the number of rules that airports and their users would need to follow, as the parking rules in each state and territory are similar in nature to those contained in the Division.
- This option could also result in greater regulatory oversight from state and territory government entities and administrative arrangements would need to be established to manage certain aspects such as the treatment of monies collected by non-Commonwealth entities or officials and judicial jurisdiction.
- By allowing Division 2 of the Regulations to sunset, state and territory governments would become the primary regulators of all parking and vehicle operations within the landside area of leased federal airports.

Option 2: Remake the Regulations without substantive changes

- This option would see the current arrangements carried forward in their current state. This would include preserving the existing list of PINS and non-PINS airports and their regulatory frameworks.
- *Remaking the Division would retain all current authorities and authorisations that are currently in place, this would include authorised persons, signage and standard operating procedures.*

Option 3: Remake the Regulations with changes

- The changes could include updates to reflect changes in the Australian Road Rules, improved enforcement provisions and more streamlined authorisation among others.
- This option would largely retain the current split of PINS and non-PINS airports but could strengthen the current arrangements available to airports that are using the PINS framework.
- The Regulations were drafted in 1996 and since then there has been significant updates to the Australian Road Rules to reflect changes in expectations and safety developments in the community. This option could reflect some of these changes.

Rex Response

1. Should the PINS framework continue in its current form? Why?

- *Rex is of the view that the PINS framework should continue in its current form as Rex have not experienced significant compliance issues with the current regulations.*

2. What are the benefits (or issues) to your business of the current arrangements at the airport you are located at or you manage? (PINS or non-PINS)

- *The current arrangements have not caused any issues to Rex as an airline. Rex does operate services in almost all PINS Airports, with the exception of Hobart and Launceston Airport. Although some existing parking rules might be similar in nature to the state law, the PINS Airports have distinctive requirement for vehicle parking and Rex believes that the current arrangements can continue to play an important role of maintaining compliance in these airports.*

3. What additional changes would make this Regulation work better if it was retained?

- *Nil*

4. What benefits (or issues) would there be from the use of state and territory regulations?

- *Given the unique nature of airport operations in the PINS Airports, it is a concern that the move to the state regulations will not be fit for purpose and will relinquish the established standards.*

4. Airside Vehicles

Background of the key issues

- Division 3 and 4 of Part 4 of the Regulations controls the operations and parking of vehicles within the airside area of airports.
- Previous feedback has indicated that the airside controls are working roughly as intended and provide a generally consistent national approach at all federally leased airports.
- The airside area of an airport has significant regulatory frameworks established under a number of Commonwealth laws.

Summary of proposed options and Rex's response:

Option 1: Allow the Regulations to sunset

- This option would result in traffic management on the leased federal airports no longer being fully covered by a legislative framework as generally the airside area is not publicly accessible.
- This could have significant enforceability issues as the ALC would not have an established legislative framework to use when observing non-compliance.
- This option would likely not result in greater regulatory oversight from state and territory government entities and administrative arrangements would need to be established by the ALC to manage non-compliance with their own rules. The ALC may not be able to collect monies for penalties against their own rules.
- By allowing these Divisions to sunset there may no longer be a consistent framework for the management of airside vehicles other than obligations under other legislative regimes.

Option 2: Remake the Regulations without substantive changes

- This option would see the current arrangements carried forward in their current state. This would mean that all leased federal airports would continue being regulated by the Australian Government.
- Remaking these Divisions would retain all current authorities and authorisations that are currently in place, this would include authorised persons, signage and the Airside Vehicle Control Handbook.

Option 3: Remake the Regulations with changes

Summary:

- The changes could include updates to reflect updates in the Australian Road Rules, improved enforcement provisions and more streamlined authorisation among others.
- The Regulations were drafted in 1996 and since then there has been significant updates to the Australian Road Rules to reflect changes in expectations and safety developments in the community. This option could reflect some of these changes.

Rex Response

1. *Should airside vehicle controls be nationally consistent? Why?*
 - *Rex is of the view that airside vehicle controls should remain to be nationally consistent. The Aviation industry is highly regulated and the same level of regulation should apply to airside vehicle controls. A consistent approach allows for standard operations, communication and training of stakeholders in the airport sites.*
2. *Would there be an impact in your operations if the airside vehicle control Regulations were allowed to sunset?*
 - *Rex would have safety concern of airside activities if the airside vehicle control regulations were allowed to sunset. The existing regulations provide for a fit for purpose framework for ALCs to rely on and to manage compliance of airside vehicle operations. Removal of such framework would likely lead to the lack of motivation for stakeholders to comply with rules due to confusion.*
3. **What additional changes would make this Regulation work better if it was retained?**
 - *Nil*

5. Gambling

Background of the key issues

- *Part 5 of the Regulations currently prohibits gambling at leased federal airports, with limited exceptions based on existing gambling authorities (e.g., for the sale of lottery tickets at Melbourne Airport and operation of gaming machines at Parafield Airport).*
- *These sites are regulated by the Commonwealth and the respective airport lessee companies.*

Summary of proposed options and Rex's response:

Option 1: Allow the Regulations to sunset

- *This option would result in gambling activities being regulated under the relevant laws of each state and territory. This would result in the removal of the blanket prohibition on gambling that currently exists for the leased federal airports.*
- *It would also mean any existing authorities for gambling (those at Parafield Airport and Melbourne Airport) would be extinguished, and those operators could be required to reapply for permissions for those gambling activities under state law.*
- *This option would ensure that gambling on leased federal airports is regulated in a manner that is consistent with the community expectations of the state or territory they reside in.*
- *The lifting of the ban would likely see a substantial increase in gambling activities permitted on leased federal airports, which would have a range of associated community impacts, including possible health and wellbeing impacts.*
- *Any transfer of regulatory responsibility from the Commonwealth to state and territory gambling regulators (as this option would involve) would need to be made with the agreement of every relevant government.*

Option 2: Remake the Regulations without substantive changes

- *Under this option, ALCs and licensed gambling operators would continue to operate under regulations they are familiar with.*
- *The regulatory burden would remain the same, with gambling activities prohibited, except specific activities on Parafield and Melbourne Airports under existing authorities.*

Option 3: Remake the Regulations with changes

- *This option could have various impacts for different regulated entities and other stakeholders. Specific risks and benefits of this option depend on the nature of changes proposed.*
- *The Commonwealth would need to engage with relevant state authorities and licence holders to settle transitional arrangements, as necessary and as supported by the state authorities, for the regulation of those entities.*
- *Like the sunset option, this would enable gambling activities that occur on leased federal airports to be regulated in a way that reflects community expectations. These gambling activities would be managed by state and territory governments who are specialists in regulating these activities – bringing valuable expertise in managing the complex regulatory matters raised by gambling.*

Rex Response

- 1. How appropriate do you think the current regulatory settings are for gambling in leased federal airports? What works well? What needs to be fixed?**
 - *Rex is of the view that the current regulatory settings have provided for an adequate framework that limits the gambling activities at leased federal airports.*
- 2. What is your preferred sunseting option (sunseting without remaking, remaking without substantive changes, or remaking with changes)? Why?**
 - *Rex's preferred option is to remake the regulations without substantive changes. Rex believes that it is the responsibility of the Commonwealth to continue regulate and limit gambling activities at federal leased airports.*
- 3. Would you support the lifting of the gambling prohibition? What impacts would an increase in gambling activities on leased federal airports have?**
 - *While there are currently limited exceptions on gambling activities at certain airports, Rex does not see the need of lifting the gambling prohibition any further.*
- 4. Would you support the transfer of regulatory responsibilities for gambling activities under existing authorities to the relevant South Australian and Victorian government authorities?**
 - *Rex is against the transfer of regulatory responsibilities for gambling activities to the state government authorities. Rex is of the view that gambling authorities/prohibitions at leased federal airports should be regulated from a federal level.*
- 5. Are there any provisions relating to the control of gambling (Part 5 of the Regulations), that are no longer required? If so, what are they and why?**
 - *Nil*
- 6. Are there are any provisions relating to the control of gambling (Part 5 of the Regulations), that are out of date or ineffective and so require updating? If so, what are they and why? What is the nature of the update required?**
 - *Nil*

6. Smoking

Background of the key issues

- *Part 6 of the Regulations controls smoking at all leased federal airports except Mount Isa and Tennant Creek airports.*
- *Currently this allows the ALC for a leased federal airport to decide areas that are designated as no-smoking areas. Authorised persons are able to issue an infringement notice to a person who contravenes a no-smoking area requirement.*

Summary of proposed options and Rex's response:

Option 1: Allow the Regulations to sunset

- *Under this option Part 6 of the Regulations would be allowed to sunset and allow relevant state and territory governments to regulate smoking on leased federal airports.*
- *In general, the smoking rules at the leased federal airports can be consistent with the rules of each state and territory jurisdiction.*
- *Sunsetting the Regulations would also mean that smoking would be regulated by a more appropriate and modern legislative framework. This could include a more responsive regulatory framework that reflects changes in the way that people choose to smoke, such as vaping and secondary smoking restrictions.*
- *It is expected that airport users would experience minimal change in smoking rules if Part 6 were allowed to sunset. Administrative processes would need to be established to allow the operators of leased federal leased airports to enforce relevant smoking rules.*

Option 2: Remake the Regulations without substantive changes

- *The current Regulations are well known to airports and their users generally obey the obligations without knowing the limitations. This option is expected to provide a continued stable operating environment.*
- *The Regulations provide a level of flexibility that means ALCs have the option to control where a no-smoking area should be located that is appropriate for the operations of the airport.*
- *If unchanged, there may be regulatory confusion amongst those who smoke and those who enforce smoking regulations in shared precincts that are both on the airport site and off-airport.*

Option 3: Remake the Regulations with changes

- *Under this option Part 6 of the Regulations would be remade with changes to more appropriately reflect the modern smoking regulations on leased federal airports.*

- *Under this option, amendments could include reflecting more modern legislative frameworks. This could include obligations that reflects changes in the way that people choose to smoke, such as 'vaping' and secondary smoking restrictions.*
- *This option would have the effect of updating the Regulations to reflect changes in community attitudes, such as explicitly restricting smoking within the terminal and restaurants for example.*
- *It would mean that Regulations continue to provide clarity on what laws apply on the leased federal airports while reflecting the use of more modern smoking rules that have been enacted by state and territory governments.*

Rex Response

1. Do the current smoking regulations adequately control smoking on the airports?

- *Rex is of the view that the current smoking regulations adequately control smoking on the airports. While the existing provisions allow the ALC for the leased federal airports to decide the designated no-smoking area, Rex have not experienced any issued that impact its operations*

2. Are the penalties appropriate for contravention of smoking rules?

- *Nil comment*

3. What additional changes would make this Regulation work better if it was retained?

- *Rex agrees that changes and updates could be made to reflect the changes in the community attitudes and behaviour, including secondary smoke restrictions and a total ban of indoor smoking.*

4. Would state and territory governments need to make changes to their frameworks if this Regulation were to sunset?

- *Although the existing smoking rules at leased federal airports are largely consistent with the state/territory laws, Rex is of the view that the regulations should not be allowed to sunset and the smoking rules at leased federal airports should be regulated from a federal level*