

# NSW Independent Liquor & Gaming Authority

Our ref: DF24/014010

Mr Tony Schwartz

Back Schwartz Vaughan

5 July 2024

Dear Mr Schwartz

Application No.	1-9030235223
Applicant	Jordan Johanna Davy
Application for	Packaged liquor licence removal
Application date	18 March 2024
Decision date	19 June 2024
Current licence name	BWS - Beer Wine Spirits
Licence No.	LIQP724003419
Proposed licence name	Dan Murphy's
Current trading hours	Monday to Saturday 05:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Proposed trading hours	Monday to Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 08:00 PM
Current premises	Woolworths Supermarket 43-51 Grosvenor Street Neutral Bay NSW 2089
Proposed premises	Tenancies 1 and 2, 12-14 Waters Road Neutral Bay NSW 2089
Legislation	Sections 3, 11A, 12, 29, 40, 44, 45, 48, 114 and 123 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority**  
**Application for a packaged liquor licence removal – BWS – Beer Wine**  
**Spirits (proposed to be Dan Murphy's)**

We **approve** the application above under section 59 of the *Liquor Act 2007* — with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence.

### **Approved manager or individual licensee**

The licence cannot be exercised until the Authority or Liquor & Gaming NSW is notified that:

- the licence is transferred to an individual licensee, or an approved manager is appointed; and
- the licensee or approved manager is a suitable and qualified person.

## **Statement of reasons**

Overall, we are satisfied that the social impact of approving the application will not be harmful to the well-being of the local or broader community, while also promoting a balanced and responsible development of the industry.

### **Our main findings**

The local community for the purposes of this decision is Neutral Bay. The broader community is the Local Government Area (LGA) of North Sydney.

#### *Positive social impacts*

The application is for removal of a packaged liquor licence within the same suburb (approximately 130 metres from its existing location). The BWS will convert to a Dan Murphys with a substantial increase in floorspace.

We are satisfied that the proposal would benefit the local and broader communities by providing convenience and choice.

#### *Negative social impacts*

We accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the:

- substantial increase in floorspace at the proposed premises
- high-density hotspots in the suburb for incidents of malicious damage
- medium-density hotspots in the suburb for incidents of domestic assault, non-domestic assault, and alcohol-related assault
- crime rate of alcohol-related non-domestic assault in the suburb being higher than in NSW
- rate of alcohol-attributable hospitalisations in the LGA being higher than the NSW average
- saturation of packaged liquor licences being higher in the suburb and LGA than in all of NSW.

However, we are satisfied that these risks are reduced by the:

- fact, that the saturation rate of packaged liquor licenses remains the same in the suburb
- crime rates for alcohol-related domestic assault, malicious damage and alcohol-related disorderly conduct being lower in the suburb and LGA than in all of NSW

- crime rate for alcohol-related non-domestic assault being lower in the LGA than in all of NSW
- rate of alcohol-attributable deaths being lower in the LGA than in all of NSW
- indication of an above-average level of socio-economic advantage and disadvantage in the suburb and LGA compared to other communities in NSW
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

### **The material we considered**

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a community impact statement (CIS)
- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response to them.

We also considered Guideline 6 to assess the likely social impact to the local and broader community.

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

### **If you disagree with this decision**

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to NCAT for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the website. There is a fee to lodge the application.

For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the NCAT website.

### **If you have any questions**

Please contact the case manager, Sophie Cartwright, at Liquor & Gaming NSW if you have any questions.

Yours sincerely



Caroline Lamb

### **Chairperson**

For and on behalf of the **Independent Liquor & Gaming Authority**

## Schedule 1: Licence conditions to be imposed – Dan Murphy’s

No.	Condition to be imposed	Description								
1.	6-hour closure	Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between <b>03:00 AM and 09:00 AM</b> during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.								
2.	Restricted trading & NYE	<p>Retail sales</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Good Friday</td> <td style="width: 50%;">Not permitted</td> </tr> <tr> <td>December 24th</td> <td>Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</td> </tr> <tr> <td>Christmas Day</td> <td>Not permitted</td> </tr> <tr> <td>December 31st</td> <td>Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight Sunday</td> </tr> </table>	Good Friday	Not permitted	December 24th	Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday	Christmas Day	Not permitted	December 31st	Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight Sunday
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3.	Social impact	The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of removing this licence to the premises at <b>Tenancies 1 and 2, 12-14 Waters Road, Neutral Bay NSW 2089.</b>								
4.	Plan of management	The premises is to be operated at all times in accordance with the policies and procedures of the Endeavour Group Limited, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.								
5.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.								
6.	Incident Register	<ol style="list-style-type: none"> <li>1. The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident: <ol style="list-style-type: none"> <li>a. any incident involving violence or anti-social behaviour occurring on the premises,</li> <li>b. any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that</li> </ol> </li> </ol>								

No.	Condition to be imposed	Description
		<p>involves a person who has recently left, or been refused admission to, the premises,</p> <ul style="list-style-type: none"> <li>c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,</li> <li>d. any incident that results in a patron of the premises requiring medical assistance.</li> </ul> <p>2. The licensee must, if requested to do so by a police officer or Liquor &amp; Gaming NSW inspector:</p> <ul style="list-style-type: none"> <li>a. make any such incident register immediately available for inspection by a police officer or Liquor &amp; Gaming NSW inspector, and</li> <li>b. allow a police officer or Liquor &amp; Gaming NSW inspector to take copies of the register or to remove the register from the premises.</li> </ul> <p>3. The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.</p>
7.	CCTV	<p>1. The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises (“the premises”) in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>a. the system must record continuously from opening time until one hour after the premises is required to close,</li> <li>b. recordings must be in digital format and at a minimum of ten (10) frames per second,</li> <li>c. any recorded image must specify the time and date of the recorded image,</li> <li>d. the system’s cameras must cover the following areas: <ul style="list-style-type: none"> <li>i. all entry and exit points on the premises, and</li> <li>ii. all publicly accessible areas (other than toilets) within the premises.</li> </ul> </li> </ul> <p>2. The licensee must also:</p> <ul style="list-style-type: none"> <li>a. keep all recordings made by the CCTV system for at least 30 days,</li> <li>b. ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and</li> <li>c. provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.</li> </ul>