

Mr Tony Schwartz
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18 January 2021

Dear Mr Schwartz

Application No.	1-7563760048
Applicant	Anthony Charles Leybourne Smith
Application for	Removal of a packaged liquor licence
Licence number	LIQP700350903
Current licence name	Dover Heights Liquor Store
Current premises	218 Military Road Dover Heights NSW 2030
Proposed licence name	Dan Murphy's
Proposed premises	Car Park Level 1 (Basement Level) Eastgate Bondi Junction Shopping Centre 71-91 Spring Street Bondi Junction NSW 2022
Proposed trading hours	Monday to Saturday 9:00 am – 9:00 pm Sunday 10:00 am – 7:00 pm
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45, 48 and 59 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority

Application for the removal of a packaged liquor licence – Dan Murphy's, Bondi Junction

The Independent Liquor & Gaming Authority considered the application above, and decided on 17 June 2020 to **approve** the application under section 59 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 9:00 am.

Removal of the licence

Notwithstanding the approval of the application, the subject licence (LIQP700350903) remains at 218 Military Road, Dover Heights subject to the same conditions and trading hours in force immediately before the approval of this application, until Liquor & Gaming NSW has:

- been notified that the licence has been removed, and
- granted a transfer of the licence to a suitably qualified person.

Statement of reasons

A statement of reasons for this decision is attached at the end of this letter.

If you have any questions, please contact the case manager, Mr Charles Rivers, at charles.rivers@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed within a thin black rectangular border.

Philip Crawford

Chairperson

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

STATEMENT OF REASONS

DECISION

1. On 27 September 2019, Mr Anthony Charles Leybourne Smith ('Applicant') lodged an application ('Application') with Liquor & Gaming NSW ('L&GNSW'), for determination by the Independent Liquor & Gaming Authority ('Authority').
2. The Application sought to remove packaged liquor licence LIQP700350903 ('Licence') from 218 Military Road, Dover Heights ('Current Premises') to Car Park Level 1 (Basement Level), Eastgate Bondi Junction Shopping Centre, 71-91 Spring Street, Bondi Junction ('Proposed Premises'), to be known as Dan Murphy's.
3. The Authority first considered the Application at its meeting on 11 March 2020 and, following the receipt and consideration of further requested information, decided on 17 June 2020 to approve the Application under section 59 of the *Liquor Act 2007* ('Act').
4. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.
5. A preliminary notification of this decision was sent to the Applicant on 4 August 2020, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

6. The Authority has considered the Application, the accompanying community impact statement ("CIS"), and all submissions received in relation to the Application.
7. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
8. In accordance with its Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research ("BOCSAR"), NSW Department of Health, and Australian Bureau of Statistics ("ABS").
9. A list of the material considered by the Authority is set out in Schedule 2.

LEGISLATIVE FRAMEWORK

10. The Authority has considered the Application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:
 - a) section 3: statutory objects of the Act and relevant considerations
 - b) sections 11A and 12: standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold
 - c) sections 29-31: specific provisions in respect of a packaged liquor licence
 - d) section 40: minimum procedural requirements for a liquor licence application to be validly made
 - e) section 44: submissions to the Authority in relation to licence applications
 - f) section 45: criteria for granting a liquor licence
 - g) section 48: requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community
 - h) section 59: requirements for an application to remove a liquor licence to another premises and the determination of such an application.
11. An extract of these sections is set out in Schedule 3.

12. The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

KEY FINDINGS

13. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading hour requirements

14. The Authority is satisfied on the material before it that:
- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act
 - b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act
 - c) sections 30 and 31 of the Act do not apply to the Application, as the Proposed Premises is not intended to operate as is contemplated by the sections
15. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

Fit and proper person, responsible service of alcohol, and development consent requirements

16. Pursuant to sections 45 and 59 of the Act, the Authority is also satisfied that:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the Proposed Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Proposed Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on Complying Development Certificate No. 18/3688/01 in respect of the Proposed Premises, issued by Steve Watson & Partners on 2 August 2019.

Community impact

Local and broader communities

17. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Bondi Junction, and the relevant "broader community" comprises the Local Government Area ('LGA') of Waverley.

Licence density

18. The Authority notes that Bondi Junction has a density of packaged liquor licences that is approximately three times the state average, and that Waverley LGA also has a higher density of packaged liquor licences compared to the state average.
19. The Authority has had regard to the Applicant's submission that the rate of packaged liquor licence density in Bondi Junction is skewed on account of it being a commercial hub for the Eastern Suburbs, noting that:
- a) Bondi Junction accounted for 48% of all economic turnover in retail across the eastern suburbs
 - b) there are on average 23 million annual visitors to Westfield Bondi Junction, which services a trade population in excess of 450,000

- c) The trade area from which people come to work or shop in Bondi Junction is “significant – the permanent population of Bondi Junction has no bearing whatsoever on its actual population at any one time.”

Crime data

20. The relevant BOCSAR data indicates that, for the year to September 2019:

- a) the Proposed Premises was located within high-density hotspots for incidents of alcohol related assault, domestic and non-domestic assault, and malicious damage to property
- b) Bondi Junction recorded higher rates of alcohol-related assault (domestic and non-domestic), malicious damage to property, and alcohol-related disorderly conduct, compared to the NSW state average
- c) Waverley LGA recorded higher rates of alcohol-related non-domestic assault and alcohol-related disorderly conduct, and lower rates of alcohol-related domestic assault and malicious damage to property, compared to the NSW state average.

21. The Authority has also had regard to the five-year crime data, which indicates that crime rates in the local and broader communities have been trending downwards over the past five years.

Alcohol-related health data

22. The most recent HealthStats NSW data available at the time of the Authority’s decision indicates that Waverley LGA recorded a significantly higher than average level of alcohol attributable hospitalisations for the period 2016-2018, and a lower than average level of alcohol attributable deaths for the period 2016-2017.

SEIFA

23. The Authority notes that ABS Socio-Economic Index for Areas (“SEIFA”) data as at 2016 indicates that Bondi Junction and Waverley ranked among the most advantaged suburbs and LGAs in NSW.

Purported benefits

24. The Authority has had regard to the Applicant’s purported benefits, including:

- a) improved amenity and access, submitting that the “comfortable, convenient and modern” store will be a “*destination*” location
- b) the well-known Dan Murphy’s brand, which has “specific appeal to a wide range of customers”, and offers a loyalty program and knowledgeable customer service
- c) increased choice – the Proposed Premises will stock a large range of products, some of which are not available through other retailers
- d) the fit-out and operation of the Proposed Premises will result in increased employment opportunities
- e) the Proposed Premises will contribute to local groups and organisations, noting that the “aim of Woolworths is to contribute the equivalent of at least 1% of pre-tax profits to the communities in which it operates.” The Authority notes, however, that specific details of *local* contributions have not been provided, other than stating that Dan Murphy’s allows “some groups to collect donations in tins on registers or outside stores”.

25. The Authority has also had regard to the submissions from three members of the public, which submitted that the Proposed Premises will:

- a) provide “a better liquor option that are currently available in this shopping centre”
- b) provide a bigger selection and “save us travelling to other centres”

- c) provide “shopping convenience”, noting that Dan Murphy’s is a “very good retailer” and that this proposal is “[o]verdue in Bondi Junction”.

Stakeholder submissions

26. The Authority has given careful consideration to the submissions from:

- a) NSW Police (‘Police’), who do not object to the Application, noting that “[P]olice are satisfied that potential negative impacts can be minimised due to the size, location, proposed activities, reduced operating hours, stringent harm minimisation policies, a robust Plan of Management and the imposition of conditions requested.” The conditions requested by Police have been duly considered by the Authority and imposed to the extent they are considered appropriate. Further, Police note that “Police met with various stakeholders ... Police identified a number of concerns which were discussed and provided to the applicant for consideration and inclusion in an amended Community Impact Statement (CIS). Police have since been provided with the amended CIS ... with all matters addressed”
- b) a commercial competitor, who noted the high-levels of alcohol-related crime in the local and broader communities, that two applications for a new/unrestricted packaged liquor licence for premises in Bondi Junction were refused in 2019, and that the transformation of the dormant Licence into a large scale “discount liquor barn” is not in the community’s interests. The Authority notes that the submitter relies heavily on the Police submissions in respect of the two refused Bondi Junction applications, both of which Police objected to, surmising that Police must also have objected to the current Application
- c) a commercial competitor, who raised concerns that the Authority gives more favourable consideration to applications from larger corporations compared to smaller independent businesses. The Authority notes that it considers each application on its own merits, and takes into consideration the individual circumstances of each application in accordance with the legislative requirements and the Authority’s Guideline 6, including local statistics and submissions from relevant stakeholders
- d) a member of the public (who made a verbal submission directly to the Applicant’s legal representative), who submitted that there is no need for a further licence in the local community
- e) three members of the public, all of whom are supportive of the Application, noting that the Proposed Premises would provide greater and better liquor options than are currently available in the local community
- f) Waverley Council, which raised no objection to the Application
- g) NSW Roads & Maritime Services, which raised no objections to the Application, however recommended that the Applicant participates in the Local Liquor Accord and displays public education material to assist with responsible supply of alcohol and help reduce alcohol-related road incidents
- h) NSW Aboriginal Affairs, which raised no objections to the Application.

27. The Authority has also had regard to the Applicant’s submissions in response which noted that:

- a) the local submitters could be considered commercial competitors
- b) in the case of the two refused applications, Police were opposed to their grant, but in respect of this Application the Applicant has actively worked with Police to address every aspect of their concerns, which resulted in Police being unopposed to this Application

- c) the Applicant has committed to implementing a range of additional harm minimisation measures at the Proposed Premises, including:
- i. use of CCTV both inside the Proposed Premises and in the carpark area
 - ii. installation of a back to base security alarm system
 - iii. limited access into and out of the Proposed Premises through one-way automatic gates and exit only through staffed, open checkouts
 - iv. installation of duress buttons for the safety of staff
 - v. installation of electronic article surveillance (EAS) gates
 - vi. use of other deterrents to prevent theft, such as tagging items, the positioning of CCTV cameras in areas where high risk lines are stored, securing high priced spirit lines in secure glass cabinets and premium fine wines in lockable glass cabinets
 - vii. use of an in-store Central Monitoring Station to stream-line information on incidents.

Mitigating factors

28. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that Bondi Junction has a licence density that is significantly above state average and is subject to relatively high levels of alcohol-related crime, and that there are some alcohol related health issues in the broader community.
29. The Authority notes that it refused an application for a new packaged liquor licence, and another application to remove restrictions from an existing packaged liquor licence, in Bondi Junction in 2019. However, the Authority notes that NSW Police strongly objected to those two applications, raising a number of localised concerns; and that one of the applications was refused by reason that the development consent only permitted the restricted use of the premises.
30. The Authority considers that, in approving the Application, there is a risk that the liquor sold at the Proposed Premises may exacerbate the existing alcohol-related problems in the community and, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities, particularly given the large scale of the Proposed Premises, with a retail trading area of some 620 m².
31. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:
- a) the removal of the Licence within the same LGA will not increase the density of packaged liquor licences within the broader community
 - b) the licensed trading hours are "conservative" compared to other tenancies within the complex, who operate at later hours
 - c) the five-year crime data indicates that crime rates in the local and broader communities have been trending downwards over the past five years
 - d) no objections were received from any institutional stakeholders, including NSW Police, NSW Health or L&GNSW Compliance
 - e) experience of Endeavour Group Limited as an operator of multiple licensed premises with sound compliance records
 - f) harm minimisation measures over and above the minimum legislative requirements, as set out in the Plan of Management
 - g) licence conditions as set out in Schedule 1.

CONCLUSION

32. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
33. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.
34. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford

Chairperson

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

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the Liquor & Gaming NSW website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule 1 – Licence conditions to be imposed Dan Murphy's, Bondi Junction

1. 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 6 hours between 3:00 AM and 9:00 AM 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 and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
 8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st Normal trading
3. 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 Car Park Level 1 (Basement Level), Eastgate Bondi Junction Shopping Centre, 71-91 Spring Street, Bondi Junction.
4. 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 Authority.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system (CCTV)
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close,
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises, and
 - (ii) all publicly accessible areas (other than toilets) within the premises.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (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
 - (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.
7. The licensed premises must not commence trading before 7:00 AM, and must cease to trade by 8:00 PM, on public holidays.
8. Incident Register
 - (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:
 - (a) any incident involving violence or anti-social behaviour occurring on the premises,

- (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 involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the licensed premises under section 77 of the Liquor Act 2007, and
 - (d) any incident that results in a patron of the premises requiring medical assistance.
- (2) The licensee must, if requested to do so by a police officer or inspector:
- (a) make any such incident register immediately available for inspection by a police officer or inspector, and
 - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
- (3) The licensee must ensure that the information recorded in the incident register is retained for at least 3 years from when the record was made.

Schedule 2 – Material considered by the Authority Dan Murphy's, Bondi Junction

Application material

1. Applicant's submission in respect of the 6-Hour closure period, dated 10 September 2019.
2. Completed application, dated 16 September 2019.
3. Completed Category B Community Impact Statement, dated 16 September 2019, attaching:
 - a. document titled "Stakeholder list"
 - b. document titled "The assessment of this proposal"
 - c. document titled "Statistical evidence"
 - d. document titled "Operational matters, security and the specific harm minimisation and responsible service of alcohol practices adopted at Dan Murphy's stores in NSW"
 - e. document titled "Product range exclusive to Woolworths' retail liquor stores"
 - f. document titled "The terminology adopted in this Application"
 - g. photographs of the Eastgate Bondi Junction Shopping Centre and its immediate surrounds
 - h. illustration of the alcohol-free zones in Bondi Junction
 - i. letter from the premises owner detailing the security arrangements in place at Eastgate Bondi Junction Shopping Centre, dated 28 June 2018
 - j. document titled "Bondi Junction Development Status/Update – June 2019"
4. Completed certifications of Advertising, dated 24 September 2019 and 24 October 2019.
5. Completed application notices, dated 27 September 2019.
6. Plan of Management documents for the Proposed Premises, dated February 2020, including Endeavour Drinks House Policy and Intoxication Policy, dated January 2020.
7. ASIC business records in relation to the business and premises owners.
8. Identification and probity documents in relation to the Applicant.
9. Floor plan for the Premises indicating the proposed licensed area.

Development consent

10. Notice of Approval of Development Application No. 172/81 issued by Waverley Municipal Council on 15 December 1981, in relation to the Proposed Premises.
11. Notice of Approval of Amended Development Application No. 172/81 issued by Waverley Municipal Council on 25 May 1982, in relation to the Proposed Premises.
12. Letter from Philips Fox Lawyers to Waverley Council, enclosing Council's original Development Application Register, dated 2 May 2001.
13. Complying Development Certificate No. 18/3688/01 issued by Steve Watson & Partners on 2 August 2019, in relation to the Proposed Premises.
14. Email from Steve Watson & Partners, dated 6 August 2019, in relation to the trading hours of the Proposed Premises.

L&GNSW records

15. L&GNSW liquor licensing records as at 10 February 2020 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Bondi Junction, Waverley LGA and NSW. The density of packaged liquor licences is 35.13 in NSW, 44.90 in Waverley LGA, and 105.88 in Bondi Junction.
16. L&GNSW liquor licensing records as at 10 February 2020 listing all liquor licences in Bondi Junction.

Crime data

17. NSW crime statistics published by BOCSAR indicating that:

- a. for the year to December 2015, the rates of:
 - i. alcohol-related domestic assault in Waverley LGA and Bondi Junction were 133.2 and 170.1 respectively, compared to the NSW average of 118.3
 - ii. alcohol-related non-domestic assault in Waverley LGA and Bondi Junction were 182.2 and 440.3 respectively, compared to the NSW average of 137.1
 - iii. malicious damage to property in Waverley LGA and Bondi Junction were 730.3 and 1,350.9 respectively, compared to the NSW average of 840.8
 - iv. alcohol-related offensive conduct in Waverley LGA and Bondi Junction were 126.2 and 510.4 respectively, compared to the NSW average of 54.1
- b. for the year to December 2016, the rates of:
 - i. alcohol-related domestic assault in Waverley LGA and Bondi Junction were 97.2 and 177.8 respectively, compared to the NSW average of 114.0
 - ii. alcohol-related non-domestic assault in Waverley LGA and Bondi Junction were 250.0 and 563.0 respectively, compared to the NSW average of 133.8
 - iii. malicious damage to property in Waverley LGA and Bondi Junction were 683.2 and 1,056.9 respectively, compared to the NSW average of 812.4
 - iv. alcohol-related offensive conduct in Waverley LGA and Bondi Junction were 125.0 and 464.2 respectively, compared to the NSW average of 47.4
- c. for the year to December 2017, the rates of:
 - i. alcohol-related domestic assault in Waverley LGA and Bondi Junction were 77.7 and 135.7 respectively, compared to the NSW average of 113.0
 - ii. alcohol-related non-domestic assault in Waverley LGA and Bondi Junction were 196.2 and 494.5 respectively, compared to the NSW average of 129.5
 - iii. malicious damage to property in Waverley LGA and Bondi Junction were 648.6 and 1,124.7 respectively, compared to the NSW average of 777.7
 - iv. alcohol-related offensive conduct in Waverley LGA and Bondi Junction were 84.5 and 271.5 respectively, compared to the NSW average of 42.4
- d. for the year to December 2018, the rates of:
 - i. alcohol-related domestic assault in Waverley LGA and Bondi Junction were 95.8 and 182.8 respectively, compared to the NSW average of 113.5
 - ii. alcohol-related non-domestic assault in Waverley LGA and Bondi Junction were 214.5 and 336.8 respectively, compared to the NSW average of 121.0
 - iii. malicious damage to property in Waverley LGA and Bondi Junction were 596.4 and 1,289.5 respectively, compared to the NSW average of 733.5
 - iv. alcohol-related offensive conduct in Waverley LGA and Bondi Junction were 90.4 and 230.9 respectively, compared to the NSW average of 37.0
- e. for the year to December 2019, the rates of:
 - i. alcohol-related domestic assault in Waverley LGA and Bondi Junction were 95.8 and 163.6 respectively, compared to the NSW average of 116.2
 - ii. alcohol-related non-domestic assault in Waverley LGA and Bondi Junction were 143.0 and 336.8 respectively, compared to the NSW average of 115.3
 - iii. malicious damage to property in Waverley LGA and Bondi Junction were 537.0 and 971.9 respectively, compared to the NSW average of 713.9
 - iv. alcohol-related offensive conduct in Waverley LGA and Bondi Junction were 101.2 and 269.4 respectively, compared to the NSW average of 34.2.

18. NSW Recorded Crime Statistics October 2018 to September 2019 comparing certain offences by day of week and time of day in Bondi Junction and Waverley LGA compared to NSW.

19. NSW Recorded Crime Statistics 2018 comparing the number and proportion of selected offences flagged as alcohol related by NSW Police in Bondi Junction and Waverley LGA compared to NSW.
20. BOCSAR crime hotspot maps for the year to September 2019, indicating the location of the Premises relative to hotspots for alcohol-related assault, domestic assault, non-domestic assault, and malicious damage to property.

Health data

21. HealthStats NSW data showing that Waverley LGA recorded a spatially adjusted rate of:
 - a. 13.1 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 17.4, in the period 2016-17; and
 - b. 1,045.7 for alcohol attributable hospitalisation per 100,000 of population, compared to the corresponding NSW figure of 555.6, in the period 2016-18.

Socio-economic data

22. ABS SEIFA data based on the 2016 Census indicating that, on the Index of Relative Socio-economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged, both Bondi Junction and Waverley LGA ranked in the 10th deciles.

Stakeholder submissions

23. Survey prepared by the Applicant's legal representative, and completed by a member of the public, dated 26 May 2019.
24. Survey prepared by the Applicant's legal representative, and completed by a member of the public, dated 29 May 2019.
25. Submissions from a member of the public (corporation), dated 29 May 2019 and 17 December 2019.
26. Record of telephone call from a member of the public to the Applicant's legal representative on 30 May 2019.
27. Submission from Roads & Maritime Services, dated 4 June 2019.
28. Survey prepared by the Applicant's legal representative, and completed by a member of the public, dated 11 June 2019.
29. Submission from Aboriginal Affairs, dated 23 August 2019.
30. Submissions from Waverley Council, dated 19 November 2019 and 18 February 2020.
31. Submission from a member of the public (corporation), dated 22 November 2019.
32. Submission from NSW Police, dated 2 December 2019.

Other relevant information

33. Correspondence between L&GNSW staff and the Applicant between 31 October 2019 and 18 February 2020 in relation to the assessment of the Application.
34. Authority statement of reasons in respect of a refused application for a packaged liquor licence in Bondi Junction, dated 3 February 2020.
35. Google map images extracted from the Google website on 14 and 25 February 2020, showing the location and photos of the Proposed Premises in map view, earth view and street view.
36. Google map image extracted from the Google website on 27 February 2020, showing the location and photos of the Current Premises in street view.
37. Literature review of liquor outlet size research, prepared by the Research & Evidence Team, Department of Customer Service, dated 29 April 2020.

Schedule 3 – Relevant extracts from the *Liquor Act 2007*

Dan Murphy's, Bondi Junction

3 Objects of Act

- (1) The objects of this Act are as follows:
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the standard trading period means:
 - (a) for any day of the week other than a Sunday:
 - (i) the period from 5 am to midnight, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
 - (b) for a Sunday:
 - (i) the period from 10 am to 10 pm, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the standard trading period for a small bar is the period from noon to midnight on any day of the week.

Note. Small bars are subject to the 6-hour closure period under section 11A.

- (1B) Despite subsection (1) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
- (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
- (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

29 Authorisation conferred by packaged liquor licence

(1) Retail sales

A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:

- (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
- (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.

(2) No retail trading on restricted trading days

Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.

(3) Selling liquor by wholesale or to employees

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

- (3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

(4) Tastings

A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

30 Liquor sales area required if bottle shop is part of another business activity

- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises (**the liquor sales area**) that is adequately separated from those parts of the premises in which other activities are carried out.
- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:
 - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
 - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.
- (3) In this section:

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
 - (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the Registered Clubs Act 1976.
- (3) An application for a licence may not be made by:
 - (a) an individual who is under the age of 18 years, or
 - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
 - (c) an individual who is a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012.

Note. Controlled members are prohibited from applying for licences—see section 27 of the Crimes (Criminal Organisations Control) Act 2012.

- (4) An application for a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

Note. See also section 48 which requires a community impact statement to be provided with certain licence applications.

- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
 - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
 - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
 - (c) if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

Note. Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:

- (a) that the person:
 - (i) is a member of, or
 - (ii) is a close associate of, or
 - (iii) regularly associates with one or more members of,
 a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and
 - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
- (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
- (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:
- relevant application** means any of the following:
- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
 - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
 - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
- (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
- (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
 - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:

- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
 - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

59 Removal of licence to other premises

- (1) A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
- (2) An application for approval to remove a licence to other premises must—
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
- (4) The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.
- (5) The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that—
 - (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and
 - (b) those practices will remain in place.
- (6) The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.
- (7) The approval to remove a licence to other premises takes effect—
 - (a) on payment to the Secretary of the fee prescribed by the regulations, and
 - (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.