



James Scott-Mackenzie  
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22 November 2019

Dear Mr Scott-Mackenzie

<b>Application No.</b>	1-7359953351
<b>Applicant</b>	James Alexander Scott-Mackenzie
<b>Application for</b>	Removal of a packaged liquor licence
<b>Licence number</b>	LIQP700359250
<b>Current licence name</b>	BWS – Beer, Wine, Spirits
<b>Current premises</b>	Cnr Flora and Orient Streets BATEMANS BAY NSW 2536
<b>Current trading hours</b>	Monday to Saturday 5:00 AM – 12:00 midnight Sunday 7:00 AM – 10:00 PM
<b>Proposed licence name</b>	Dan Murphy's
<b>Proposed premises</b>	55,57,59 & 61 Orient Street BATEMANS BAY NSW 2536
<b>Proposed trading hours</b>	Monday to Saturday 9:00 AM – 9:59 PM Sunday 10:00 AM – 10:00 PM
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 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, Batemans Bay**

The Independent Liquor & Gaming Authority considered the application above at its meeting on 14 August 2019 and, pursuant to section 59 of the *Liquor Act 2007*, decided to **approve** the application subject to the following conditions:

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 24<sup>th</sup> Normal trading Monday to Saturday  
8:00 AM to 10:00 PM Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> 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 55, 57, 59 & 61 Orient Street, Batemans Bay NSW 2536.
4. The premises is to be operated at all times in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents, 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. 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.

The conditions above are to replace all of the existing conditions on the packaged liquor licence the subject of the application (LIQP700359250).

### **Trading on a Sunday that falls on 24 December**

Please note that 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 proposed premises must not trade earlier than 9:00 AM.

## Removal of the licence

Notwithstanding the approval of the application, the subject licence (LIQP700359250) remains at Cnr Flora and Orient Streets, Batemans Bay 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.

## Concise statement of reasons

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

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager at [michelle.stark@liquorandgaming.nsw.gov.au](mailto:michelle.stark@liquorandgaming.nsw.gov.au).

Yours faithfully



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

## Concise statement of reasons

### Key facts

<b>Application No.</b>	1-7359953351
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<b>Proposed trading hours</b>	Monday to Saturday 9:00 AM – 9:59 PM Sunday 10:00 AM –10:00 PM
<b>Application date</b>	5 June 2019
<b>Decision</b>	Approved under section 59 of the <i>Liquor Act 2007</i>
<b>Decision date</b>	14 August 2019

### Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application;
- Category B community impact statement;
- Premises plan setting out the proposed boundaries of the proposed licensed premises;
- Plan of management for the licensed business at the proposed premises;
- Development consent for the proposed premises;
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

### Legislative requirements

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:

- Section 3: Statutory objects of the Act and relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6 hour period during which liquor cannot be sold.
- Sections 29-31: Specific provisions in respect of a packaged liquor licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements in respect of a CIS.

- Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.

### **Key findings**

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Batemans Bay, and the broader community is the Local Government Area of Eurobodalla Shire.

#### Positive social impacts

The Authority notes that the applicant proposes to move the dormant licence a short distance of approximately 114 metres to a bigger and more modern facility.

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of increased liquor access, choice and convenience.

#### Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the:

- higher than average liquor licence density in the local and broader community
- presence of crime hotspots in the local community
- higher than average crime rates in the broader community
- higher than average level of alcohol-attributable deaths and hospitalisations in the broader community
- relative socio-economic disadvantage in the local and broader community.

The Authority notes, however, that Batemans Bay is a popular tourist destination and the regular influx of visitors may distort crime rates. Furthermore, the Authority is satisfied that these risk factors are sufficiently mitigated by the following:

- the removal of the licence within the suburb will not increase the density of packaged liquor licences in the local or broader community
- the reduction in licensed trading hours
- absence of any objections from agency stakeholders or members of the community
- experience of the applicant as an operator of multiple licensed premises with sound compliance records
- harm minimisation measures set out in the plan of management and licence conditions.

#### Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 59 of the Act.



Philip Crawford  
Chairperson