

# Decision Notification

## Application Details

Application no.	208538
Licence No.	57700588
Licence Class	Packaged Liquor & Sales
Premises Name	BWS - Beer Wine Spirits
Premises Address	Shop 16, 447-465 Tapleys Hill Road FULHAM GARDENS SA 5025
Proposed Premises Address	447-465 Tapleys Hill Road FULHAM GARDENS SA 5025
Licensee	Endeavour Group Ltd
Application Type	Application for Removal of Licence

## Outcome

Decision	Conditional Grant
Effective Date	22 Jun 2021

## Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised
- All approvals, consents or exemptions have been obtained

## Certificate

A certificate of approval is issued for the licence to be removed to:

447-465 Tapleys Hill Road  
FULHAM GARDENS SA 5025

The certificate is granted subject to the following conditions:

The certificate of approval must be converted to a licence prior to the applicant commencing trade at the premises.

## Premises

### Removal

The licence is removed to:  
447-465 Tapleys Hill Road  
FULHAM GARDENS SA 5025.  
The licensed area is outlined in red on the approved plan.

## Reasons for Decision

In reaching my determination, I have had regard to the objects of the *Liquor Licensing Act 1997*.

This application may only be granted if the licensing authority is satisfied that the grant of the application is in the community interest. In determining this application under section 53A(2) of the *Liquor Licensing Act 1997* (the Act), I must have regard to:

- the harm that might be caused (whether to a community as a whole or a group within community) due to the excessive or inappropriate consumption of liquor;
- the cultural, recreational, employment or tourism impacts; and
- the social impact in, and the impact of the amenity of, the locality of the premises or proposed premises; and
- the nature of the business conducted or to be conducted under the licence (as prescribed)

I must also apply the community impact assessment guidelines which states, *The onus is on the applicant to satisfy the licensing authority that the grant of the application is in the community interest and to provide relevant evidence and submissions to discharge this onus.*

As part of the application the applicant has provided a community impact submission. I will have regard to this submission, the application itself and supporting material in making my determination.

The applicant has submitted that when considering the above matters the licensing authority should do so in the context of an application for the removal of an existing licence and not assess it as though the application were for a new packaged liquor sales licence.

As there is already a licence of the same category at the centre, the applicant submits that this application ought to be assessed in terms of the risk of any increase in harm by virtue of a change from a BWS to a Dan Murphy's store.

#### Nature of the business

The applicant currently operates a BWS store at the shopping centre which is approximately 250 square metres in size. The proposal is to move the store to a new tenancy within the shopping centre approximately 100 metres away.

The new store will be known as Dan Murphy's and will be much larger than the existing store. It is part of a major redevelopment of the centre which will include a Woolworths supermarket, another large tenancy (of 1800 square metres) and 5 new speciality stores.

BWS stores are recognised as convenience style bottle shops, usually co-located with supermarkets to allow customers to complement their regular grocery shop with small liquor purchases. BWS stores typically stock 1500-1800 different product lines.

Dan Murphy's stores are much larger and recognised as destination retail outlets where customers tend to purchase liquor in larger quantities. The proposed store will be approximately 1400 square metres in size and stock around 4500 products.

Dan Murphy's stores are usually stand alone rather than co-located with a supermarket. However, this store will be adjacent to the supermarket and so will operate as both a destination and convenience outlet.

The applicant has suggested that due to the larger catchment area of a Dan Murphy's store compared to a BWS, a 2km radius is not an accurate representation of the locality. The applicant has determined the locality to be defined by Port Road, Grange railway line and Trimmer Parade to the north, the coast to the west, West Beach Parks and Adelaide Airport to the South and Marion Road, Holbrooks Road and East Ave to the east. Thereby capturing a number of major retail centres within the revised locality.

#### Potential harm

The applicant submits that there is no evidence of any increased risk of harm associated with the change from a BWS store to a Dan Murphy's. In addition to this, the applicant has stated that it has adequate practices and procedures in place to mitigate any perceived increase in harm associated with the application.

As this is an application for the removal of an existing licence, there is no change in the number of packaged liquor outlets in the locality. The existing store has traded at the centre for nearly 20 years without issue. The applicant is not aware of any concerns from the local police, council or community in relation to the BWS store and I note that this application has not received any submissions opposing the removal.

The applicant conducted a community consultation process writing to 134 key stakeholders, only one of whom responded, simply enquiring why they had been consulted.

Whilst the new store will be significantly larger than the current store, and stock a larger range of products, the applicant maintains that there is no correlation between the volume of liquor purchased on any one day by a customer and the volume of liquor they consume on that day.

The MasterPlan report does not consider that the proposed site would be a congregation for school children, nor any risk of minors being exposed to licensed premises. There is no cultural risks or harm to places of worship, given that the nearest place of worship is 300 metres away and there have been no issues with that from the existing BWS store.

Further to this the applicant has also stated that there is no risk to aged care residents, or to the Aboriginal Drug and Alcohol Council due to its location 3.1km west of the proposed store, nor is there any risk associated with the hospitals in the locality as there a number of packaged liquor stores situated closer.

The applicant has significant experience in operating packaged liquor outlets and has a comprehensive range of policies and procedures in place to mitigate harm. The proposed store will be designed and constructed following Crime Prevention through Environmental Design (CPTED) principles including surveillance and lighting, territorial reinforcement and access control.

The proposed store will not stock items that have a special appeal to minors, it will not provide liquor in non standard measures, it will not use advertising that encourages irresponsible drinking. Also Dan Murphy's pricing structure is consistent throughout all of its stores in South Australia.

#### Cultural, recreational, employment or tourism impacts

The proposed new store will provide an improved amenity and access, will have a significantly larger range of liquor products and a state of the art modern fit out which will meet the community's expectations.

It is a well known brand with a specific appeal to a wide range of customers. The nearest Dan Murphy's stores are 6km away and there are no other large format liquor stores within the locality.

The store will offer a loyalty program and customer service, which will benefit members of the rewards program with exclusive targeted offers in line with their preferred products. As well as increased employment and career opportunities. Once opened the store will employ approximately 15 full and part time staff and 20 casual staff. These staff members also have the opportunity to progress throughout wider business.

#### Social impact and impact on the amenity of the community

The applicant expects that new store will also have a positive impact for other traders in the centre by attracting more customers to a popular new Dan Murphy's store and is likely to support the future viability of the centre.

The locality contains 7 packaged liquor sales licence outlets and 8 General and Hotel outlets. The nearest packaged liquor outlet is the Cellarbrations store located in the Findon shopping centre 1.8km away. The nearest Hotel is the Lockleys Hotel, 1.4km away which contains a Sip n Save drive through facility with a small walk in room.

It has also been submitted that the grant of the applicant will advance the objects of the Act and particularly be

consistent with the aspirations and expectations of the public and will facilitate the responsible development of the licensed liquor industry.

The data in the Community Impact Report shows that the locality has a population of approximately 68000 people. The overall crime rate is lower than the State average and there is no evidence to suggest that the removal of the existing licence will lead to increased crime levels in the locality.

The applicant has referred to the importance of the following submissions:

- there is no evidence of existing community concern in respect of the operation of the BWS store over the last 20 years
- there is no evidence of any community concern or increase in potential harm associated with the grant of this application
- the local community overwhelmingly supports the application
- there are no apparent concerns with regard to the demographics or social profile of the locality.
- there are many benefits to the local community if the application is granted.

### Decision

This is an application to relocate an existing packaged liquor sales licence within the same shopping centre at Fulham Gardens, taking into account that the existing BWS store will become a much larger Dan Murphy's store. I note that there were no submissions lodged opposing the grant of this application.

The applicant has provided detailed submissions addressing the requirements of the Community Impact Assessment. In particular, the applicant has identified and applied a much larger locality than the 2km radius recommended by the Community Impact Portal and has undertaken significant community consultation with a range of stakeholders.

I accept the applicant's submission that this is an application for the removal of an existing licence and should not be viewed as an application for a new packaged liquor sales licence. It follows from this that the application ought to be assessed in terms of the risk of any increase in harm by virtue of a change from a BWS to a Dan Murphy's store.

I have carefully considered the submissions made, and on the basis of the information provided I agree that the increase in size of the liquor store, does not necessarily create a greater risk to the community. In any event, I am satisfied that the applicant is an experienced operator of licensed premises (both smaller BWS stores and larger Dan Murphy's stores) and has appropriate policies and procedures in place to mitigate any potential harm.

The onus is on the applicant to satisfy the licensing authority that the grant of the application is in the community interest. It is expected that providing a brand new larger liquor store as part of a shopping centre redevelopment, offering a larger product range, better customer experience and employment opportunities is in the interest of the community.

I am satisfied that the grant of this application will pose little risk, and is consistent with the expectations and aspirations of the public. Accordingly, under section 53A(1) of the Act I grant the application.

I note that the applicant intends to continue trading at the current licensed premises until the new store has been completed. On that basis the application for removal is granted as a certificate for the new site, which must be converted to a licence prior to commencement of trade.

## Under Delegation from the Liquor and Gambling Commissioner



Vicki Brunello

Hearings Delegate

22 Jun 2021

