

**Liquor Control Reform Act 1998**  
**Enforceable Undertaking**  
**Section 133F**

The commitments in this undertaking are offered to the Director of Liquor Licensing by:

Mr David Lyon  
Swan Reach General Store  
2025 Princes Highway  
SWAN REACH VIC 3903

**1. Description of the licensee and other relevant particulars**

1.1 Mr David Lyon (**the licensee**) holds a Packaged Liquor Licence No. 32020064 (**the licence**), which authorises the licensee to supply liquor up to and including 31 December 2011 in accordance with the conditions of the licence.

1.2 The licensee trades in respect of the licence under the name Swan Reach General Store and operates from premises situated at 2025 Princes Highway, Swan Reach in the State of Victoria (**the premises**).

1.3 In this undertaking—

*Act* means the Liquor Control Reform Act 1998; and

*Director* means Director of Liquor Licensing.

**2. Description of conduct engaged in by the licensee**

2.1 Swan Reach General Store is a multi-purpose store operating as a Post Office outlet, newsagency, grocery and packaged liquor outlet.

2.2 Pursuant to the licence, liquor must only be supplied (which includes offering or exposing liquor for sale) within a defined area shown by a red line on the plan of the premises approved by the Director.

2.3 The licensee has engaged in the conduct of supplying liquor in an unauthorised area of the premises, outside the defined area shown by the red line plan, without prior approval from the Director.

2.4 The point of sale or checkout (cash register) for liquor purchases, situated at the front of the premises, is located in an area of the premises outside the defined area shown by the red line plan. The Director has not provided any authorisation for a remote checkout in respect of the premises.

**3. Details of the investigation by Responsible Alcohol Victoria**

3.1 On 6 January 2011, a Compliance Inspector from RAV conducted an inspection of the premises, observing a number of liquor sales transacted from a point of sale located outside the defined area shown by the red line plan approved for the premises, the conduct described in paragraph 2 of this undertaking.

3.2 On 12 January 2011, the Compliance Inspector conducted a Record of Interview with the licensee in relation to the conduct described in paragraph 2 of this undertaking.

3.3 During the record of interview the licensee indicated that he had previously applied to vary the licence to extend the perimeter and location of the authorised area.

3.4 Subsequent enquiries by the Compliance Inspector revealed that the licensee made the variation application on 18 September 2009. At the time of the inspection, the variation application had not been granted by the Director.

**4. Explanation as to why the Director considers that the conduct contravenes the Act**

4.1 The Director considers that the conduct described in paragraph 2 of this undertaking contravenes section 108(1)(a)(i) of the Act, in that:

- (a) the licensee has supplied liquor other than in accordance with the licence by offering or exposing liquor for sale in an area outside the authorised area.
- (b) the sale of liquor has occurred outside the authorised area as a consequence of the location of the cash register outside the authorised area.

**5. Voluntary admissions**

5.1 The licensee acknowledges that he has contravened section 108(1)(a)(i) of the Act by reason of the conduct described in paragraph 2 of this undertaking.

**6. Undertakings given by licensee**

6.1 The licensee agrees to undertake the following remedial action with the aim of ensuring that it does not contravene the Act in future:

- (a) Ensure that all liquor on the premises is displayed only within the authorised area of the premises, within the defined area shown within the red line plan in accordance with the approved plan of the premises. The licensee will ensure that all such liquor is displayed accordingly **within 10 business days from the execution of this undertaking;**
- (b) Submit an application to the Director to gain approval for a variation of the current authorised area to extend the perimeter and location of the packaged liquor licence;
- (c) Seek approval from the Director for remote checkout authorisation, to enable payment of liquor purchases to be finalised at the current point of sale situated at the front of the premises;
- (d) Not conduct liquor sales in an unauthorised area of the premises, outside the defined area shown by the red line plan until approvals under paragraphs 6.1(b) and (c) are granted by the Director;

- (e) Attend a minimum of three Local Liquor Accord meetings during the period of this undertaking; and
- (f) Amend the 'House Rules' document to accurately reflect the responsibilities and obligations of staff in relation to the supply of alcohol within the authorised area of the premises. The licensee will ensure that the amended document is provided to the Compliance Inspector **within 14 business days from the execution of this undertaking.**

**7. Commencement and duration**

7.1 This undertaking:

- (a) comes into effect when it is executed by the licensee and the Director accepts and signs the undertaking; and
- (b) continues in effect until approvals have been given by the Director in relation to paragraphs 6.1 (b) and (c) of this undertaking, and the undertaking in paragraph 6.1(e) has been completed by the licensee.

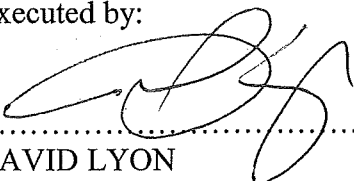
**8. Acknowledgements by licensee**

8.1 The licensee acknowledges that:

- (a) The Director and other interested parties specified in the Act may make an application to the Victorian Civil and Administrative Tribunal to conduct an inquiry pursuant to section 90(1)(bb) of the Act on the basis of any contravention of this undertaking by the licensee;
- (b) Pursuant to section 133G of the Act, the Director will register this undertaking in the register of undertakings on the Department of Justice Website and the undertaking will be available for public inspection;
- (c) The Director and/or Minister for Consumer Affairs may from time to time publicly refer to this undertaking; and
- (d) This undertaking in no way derogates from any of the rights and remedies available to any other person in the State of Victoria arising from the conduct that is the subject of this undertaking, or a breach of the Act or regulations.

**9. Execution of undertaking**

Executed by:

  
 .....

DAVID LYON

.....

Dated this ..... 24<sup>th</sup> ..... day of *May* ..... 2011

Accepted by:

**THE DIRECTOR OF LIQUOR LICENSING, VICTORIA**

*Mark Bevan*  
.....  
Director of Liquor Licensing

Dated this ..... 10<sup>th</sup> ..... day of *June* ..... 2011