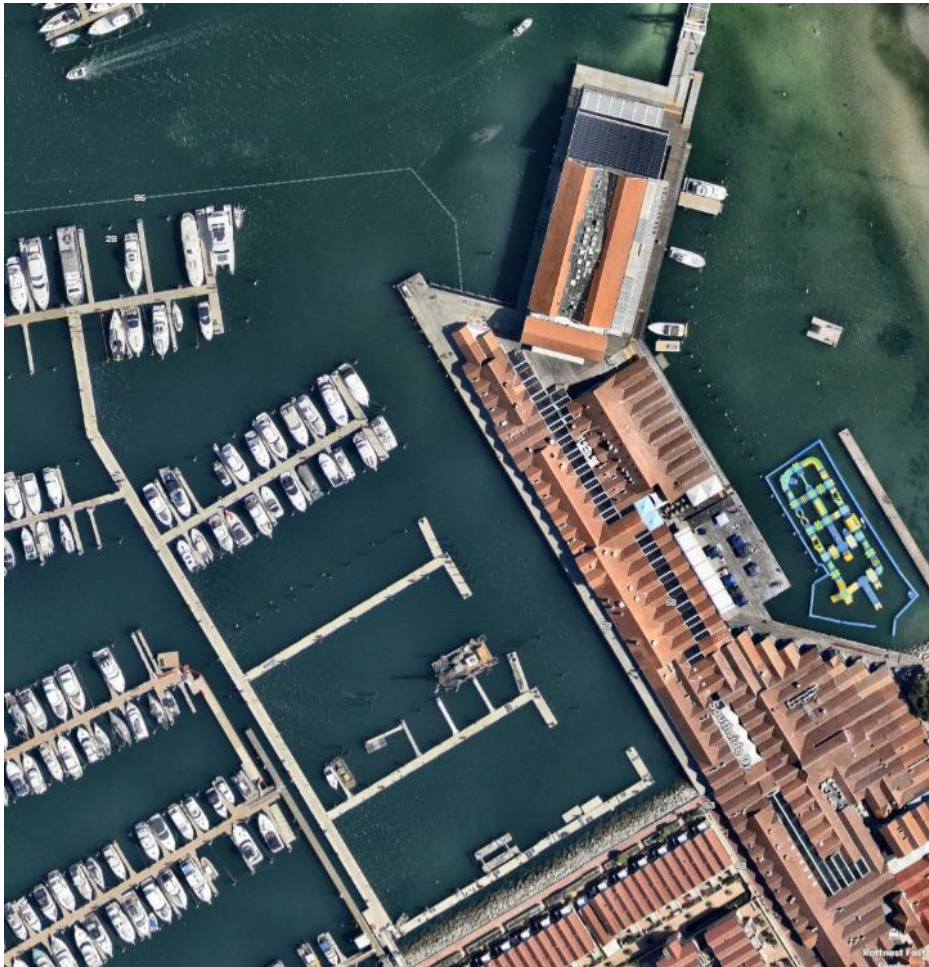


# The Harbour Bar

## Hillarys Boat Harbour



Application for a tavern restricted licence

Section 38 Submissions  
Public Interest Assessment  
January 2024

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## 1. Introduction

- 1.1. Harry Bridgett Pty Ltd is applying to the licensing authority for the grant of a tavern restricted licence for premises located at Shop 42, 58 Southside Hillarys WA.
- 1.2. The proposed trading name of the premises is The Harbour Bar.
- 1.3. The subject premises is located in an existing and empty tenancy within Hillarys Boat Harbour, one of Perth's premier hospitality and entertainment precincts.
- 1.4. These submissions are designed to address the public interest requirements as set out in Section 38 of the Liquor Control Act 1988.
- 1.5. These submissions have been drafted by Canford Hospitality Consultants Pty Ltd in consultation with Wes D'Arcy of Harry Bridgett Pty Ltd, and references to the Applicant or the Applicant's opinion relate to Wes.
- 1.6. Section 38(2) of the Act sets out the matters to be taken into account by the Licensing Authority in deciding whether or not to grant a liquor licence. Specifically, it states:
  - 1.6.1. *"An applicant who makes an application to which this subsection applies must satisfy the licensing authority that granting the application is in the public interest".*
- 1.7. Further Section 38(4) sets out the matters to which the Licensing Authority may have regard, as follows;
  - 1.7.1. *"The harm or ill health that might be caused to people, or any group of people, due to the use of liquor; and*
  - 1.7.2. *The impact on the amenity of the locality in which the licensed premises, or proposed licensed premises are, or are to be, situated; and*
  - 1.7.3. *Whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises; and*
  - 1.7.4. *Any other prescribed matter".*
- 1.8. The objects of the Act are expressed at s.5 of the Act, which states that the primary objects of the Act are -
  - 1.8.1. *"To regulate the sale, supply and consumption of liquor; and*
  - 1.8.2. *To minimise harm or ill-health caused to people, or any group of people, due to the use of liquor, and*
  - 1.8.3. *To cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State."*

- 1.9. Section 5(2) of the Act also includes the following Secondary Objects;
  - 1.9.1. *“To facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and*
  - 1.9.2. *To provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and*
  - 1.9.3. *To provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act, and*
  - 1.9.4. *To encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor that are consistent with the interests of the community.”*
- 1.10. Further Section 5(3) states *“If, in carrying out any function under this Act, the licensing authority considers that there is any inconsistency between the primary objects referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence”*.
- 1.11. In the Aldi South Fremantle decision (refusing an application for a conditional grant of a liquor store licence), dated 22<sup>nd</sup> March 2019, at paragraph 26, the Director said (attachment HB01);
  - 1.11.1. *“None of the primary objects of the Act take precedence over each other, however, where conflict arises in promoting the objects of the Act, the licensing authority must weigh and balance the competing interests in each case<sup>11</sup> and it is a matter for the licensing authority to decide what weight to give to the competing interests and other relevant considerations”*.<sup>12</sup>
- 1.12. The licensing authority regulates the sale, and supply of alcohol. It seeks to strike a balance between catering for the requirements for liquor and liquor related services whilst minimising the potential for harm and ill-health to the community through the abuse of alcohol. So, the framework exists for the granting of new liquor licences in appropriate circumstances.
- 1.13. Through these submissions, the applicant will demonstrate how this proposed tavern restricted licence will properly and responsibly cater to the diverse consumer requirements for alcohol and related services for the regular visitors and locals expected to visit this new venue at Hillarys Boat Harbour.

## 2. The Locality

- 2.1. In accordance with section 38 of the Act, the licensing authority is required to assess whether the granting of an application is in the public interest.
- 2.2. One of the matters applicants must have regard to in their PIA under section 38(4) of the Act is in relation to the impact on the amenity of the locality in which the licensed premises or proposed licensed premises are to be located.
- 2.3. In general, 'locality' will be defined as the area surrounding the licensed premises or proposed licensed premises, which is most likely to be impacted by an application if granted.
- 2.4. The Liquor Commission, in the BWS Kelmscott decision (LC 32/2022, dated 31/8/22) provided further guidance, stating;
  - 2.4.1. *"27. The term 'locality' in section 36B(4) connotes the concept of neighbourhood, and denotes an area that surrounds, and is geographically close to, the location of the proposed premises, rather than the area(s) from which consumers would come, and to which the retail catchment area can be a relevant consideration (Liquorland [181], [182], [188])."*
  - 2.4.2. *"28. Justice Archer also explained that the shape and size of a locality may be influenced by topographical features (including man-made features such as roads) and the areas from which the proposed site could be accessed reasonably easily on foot or push-bike. If there is a community in the area of the proposed site, the geographical spread of that community may also influence the shape and size of the locality (Liquorland [185])."*
- 2.5. In Liquorland Karrinyup (WASC 2021/366, 28/10/2021) Justice Archer found
  - 2.5.1. *"181 In my view, the word 'locality' in s 36B denotes an area that surrounds, and is geographically close to, the location of the proposed premises (proposed site). I consider it was not intended to equate to the area(s) from which consumers would come."*
- 2.6. And further at 185 of Liquorland Karrinyup Justice Archer went on;
  - 2.6.1. *"This is not to say that the 'locality' will inevitably, or even usually, be a circular area within a particular radius of the proposed site. The shape and size of the 'locality' may be influenced by topographical features (including man-made features such as roads) and the areas from which the proposed site could be accessed reasonably easily on foot or push-bike. If there is a community in the area of the proposed site, the geographical spread of that community may also influence the shape and size of the 'locality'."*
- 2.7. However, depending on the nature of the application the licensing authority may determine the locality for a specific application, particularly, where the potential impact on a particular sub-



community or 'at risk' group is such that reference to this sub-community should also be made, notwithstanding that this group may be situated outside of the locality of the proposed premises.

2.8. Therefore, the onus is on the applicant to ensure that it identifies any potential 'at risk' groups who may travel through or resort to the locality, or who may be impacted by the proposed premises.

2.9. With the knowledge of the above information, this section will then consider the following with regard to the subject premises.

2.9.1. The physical location of the subject premises.

2.9.2. The presence of natural or human made boundaries that define the locality.

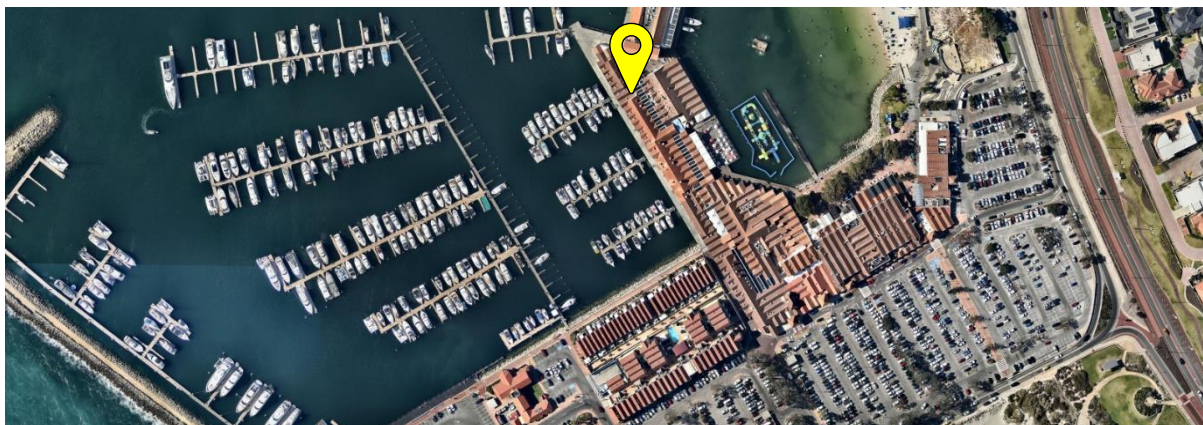
2.9.3. The perception of the local community and/or key advisers relevant to that community.

2.9.4. The appropriate locality definition for the demographic study, and

2.9.5. The appropriate locality definition for the outlet density study.

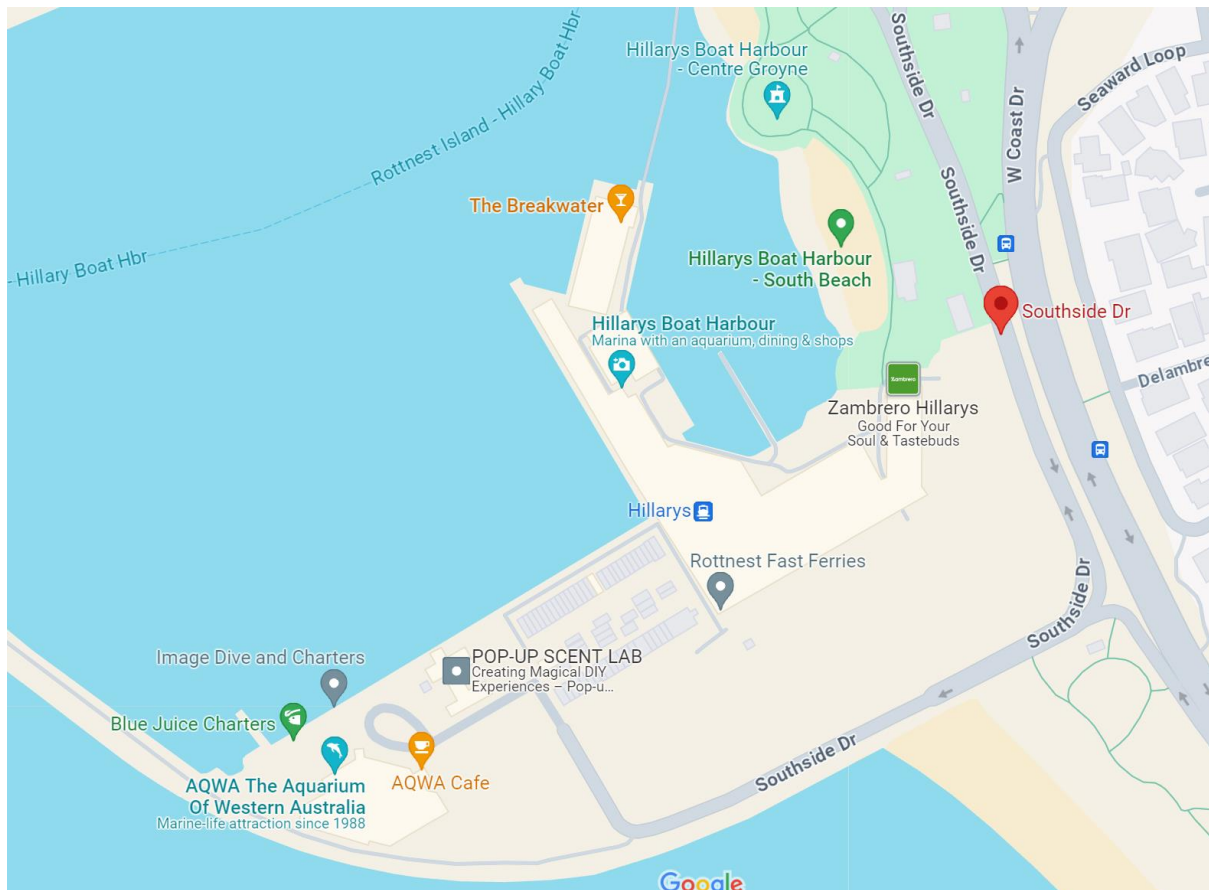
2.10. **The physical situation of the subject premises;**

2.10.1. The proposed tavern is located on the western, ocean-side fringe of Hillarys Boat Harbour at 42/28 Southside Drive. The tenancy has been empty for some time but was previously used as a licensed restaurant.

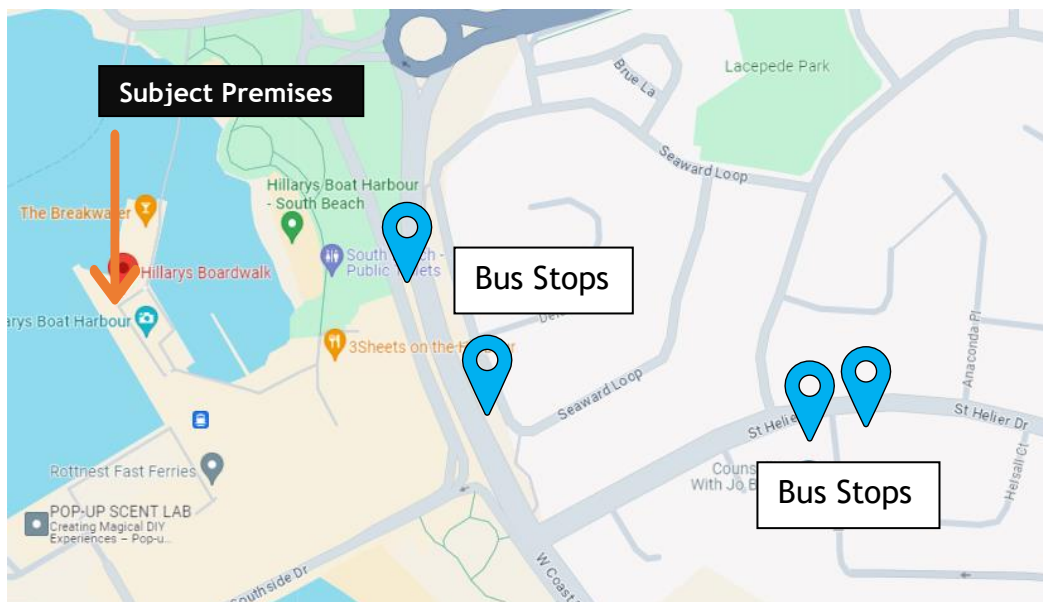


2.10.2. Shown above is a satellite photo sourced from [www.maps.au.nearmap.com](http://www.maps.au.nearmap.com). This photo shows the location of the premises within the Hillarys Boat Harbour food & beverage precinct.

2.10.3. Southside Drive is the main road into the precinct, from which patrons travel by foot through Hillarys Boat Harbour to their desired venue or destination.



2.10.4. Below is a roadmap image of nearby public transport options.

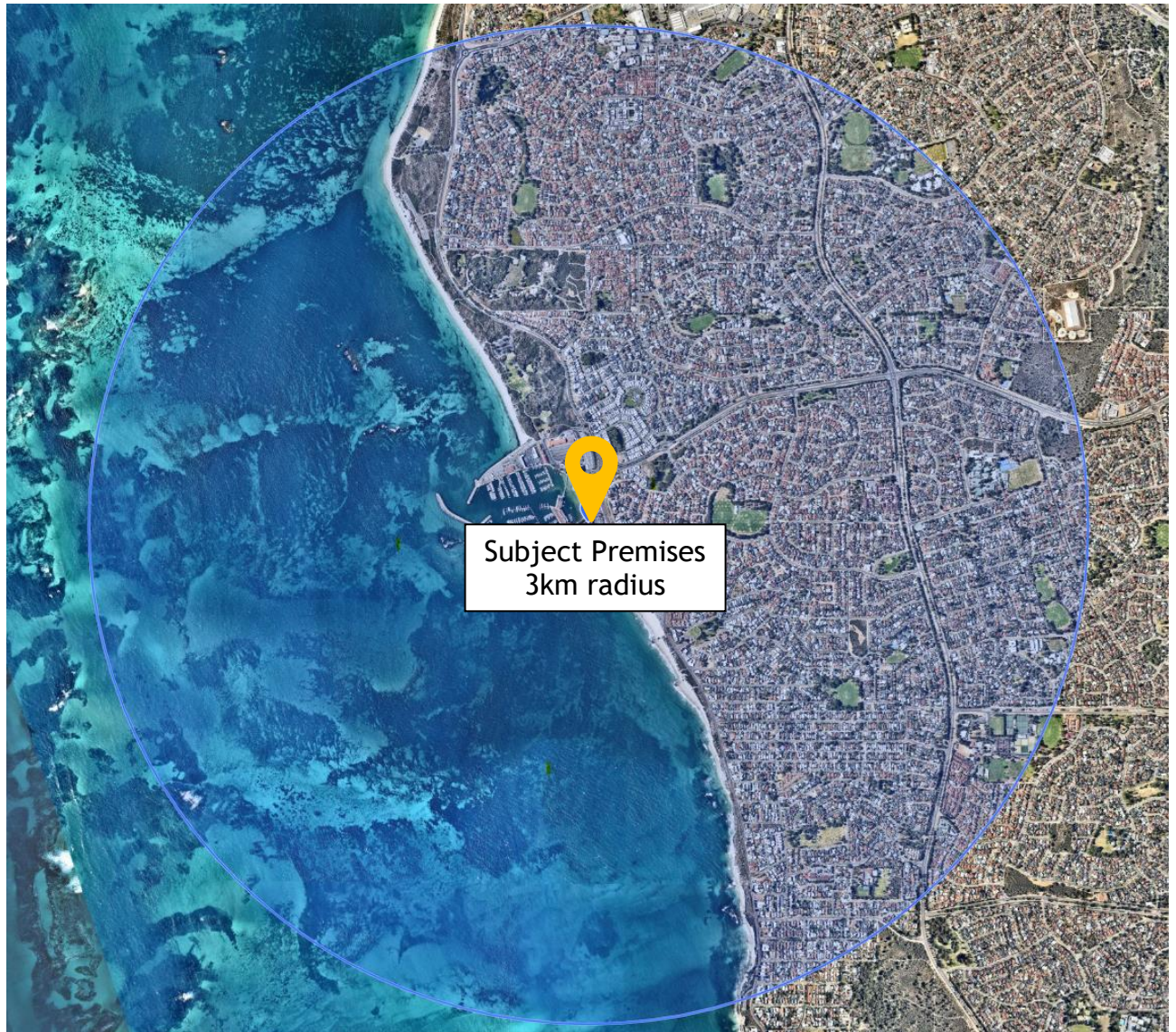


2.10.5. In can be seen from the image above, that the proposed venue is in relative proximity to 4 bus stops, all of which run Bus 423.

2.10.5.1. Bus 423 runs regularly, with major stops at Whitfords and Stirling Train stations.

- 2.10.6. The direct distance to the closest bus stop is 270m.
- 2.10.7. This bus route is available within short walking distance of the premises, and will take patrons to major train stations, and more public transport options.
- 2.11. **The presence of natural or human made boundaries that define the locality;**
  - 2.11.1. Access to the premises within the locality can only be from Southside Drive.
  - 2.11.2. Access from any other direction is not possible as the premises is located within the Harbour itself.
  - 2.11.3. Off Southside drive, there is ample parking within close proximity to the premises. Further, there are large walkways along the Southside Drive side of the tenancy, and the Harbour side too.
  - 2.11.4. As the only boundary is the harbour, the proposed tavern is very accessible.
- 2.12. **The perception of the local community and/or key advisers relevant to that community.**
  - 2.12.1. The subject premises is in an area of great attraction to locals, and all of Perth. Hillarys Boat Harbour has long been a tourist attraction and a destination location.
  - 2.12.2. The Harbour plays host to a lot of popular food & beverage premises, and is the focal landing/gathering point for people who may visit the Harbour for any number of reasons (i.e. to use their boat, to dine out, to shop, to swim at the pool/beach).
  - 2.12.3. It is common knowledge among the local community and the wider Perth community that the Harbour is a popular attraction for all peoples for a variety of reasons.
- 2.13. As further and better described in the Objective Evidence Section later in these submissions, the applicant took the time to distribute an Intended Manner of Trade document and a witness questionnaire to a representative selection of customers who live, work and / or visit the locality (See attachments HB02 and HB03).
- 2.14. **The applicant will now consider the appropriate locality for the demographic study.**
- 2.15. According to the Director's policy - Public Interest Assessment, Hillarys forms part of the outer-metropolitan region.
- 2.16. Therefore, the locality definition for Hillarys, the suburb in which the proposed venue will be, is set as 3km radius from the subject premises.
- 2.17. Shown below is a satellite photo sourced from [www.maps.au.nearmap.com](http://www.maps.au.nearmap.com). This photo shows the location of Jarrah Bar and Cafe. A blue circle has been added to indicate a 3km radius of the subject premises.





2.18. Below is a list of suburbs that fall in full, or in part, within the 3km locality.

2.18.1. Hillarys,

2.18.2. Sorrento,

2.18.3. Marmion,

2.18.4. Duncraig, and

2.18.5. Pabury

2.19. For the purposes of the demographic study, the applicant will not include data from Padbury and Duncraig - given the low portions of either suburb falling within the 3km locality.

2.20. Therefore, the following suburbs will be used as a representation of the locality for the purposes of the demographic study in these submissions.

2.20.1. Hillarys,

2.20.2. Sorrento, and



## 2.20.3. Marmion.

2.21. The following map, as taken from the Nearmap website (<https://www.nearmap.com/au/en>), shows each suburb's coverage, as well as the amount that each suburb exists within the locality.



2.22. Section 3 of these submissions will consider the demographics of the locality.

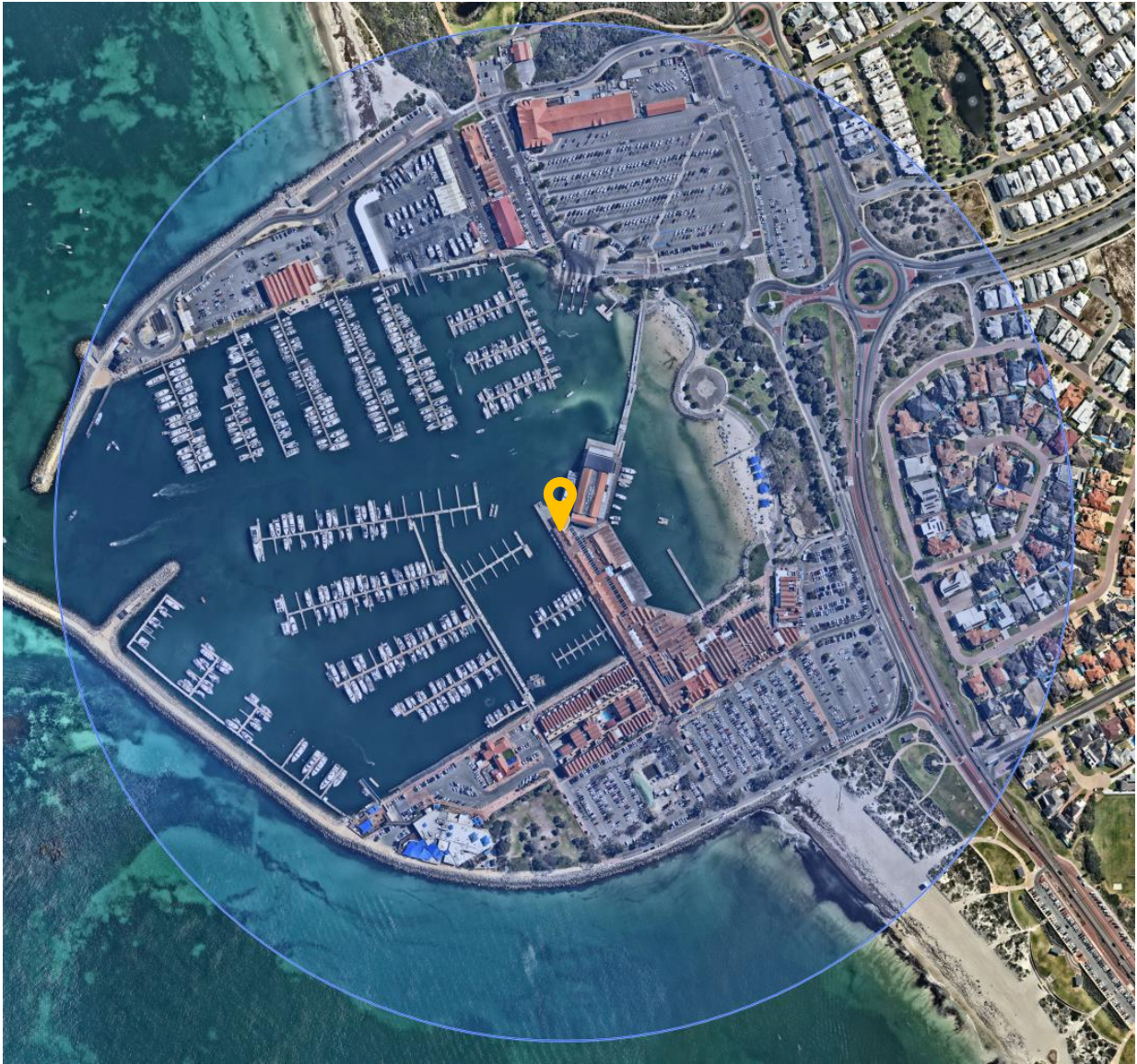
2.23. **The applicant will now consider the appropriate locality for the outlet density study.**

2.24. As required by the Director's policy on Public Interest Assessments, last amended on 11<sup>th</sup> January 2017, for the purposes of the outlet density study in these submissions the applicant will consider the location of all existing licensed premises within 500 metres. The policy states:

2.24.1. *"Applicants will also need to provide: outlet density information that includes: If the applicant does not intend to sell packaged liquor, the location of all existing licensed premises within 500 metres".*

2.25. Below is a map showing the 500m radius from The Harbour Bar.





2.26. Section 4 of these submissions will address the outlet density in the locality.

### 3. Demographics of the locality

- 3.1. The Director's policy document on Public Interest Assessments, last amended 31st August 2015 states *"In regard to 'at risk' groups and sub-communities, these have been identified under the Drug and Alcohol Interagency Framework for Western Australia 2011-2015 and may include:*
  - 3.2. The potential impact of this proposed licence on the community within the specified locality is something that any applicant must consider and is considered here by this applicant.
  - 3.3. In "The Western Australian Alcohol and Drug Interagency Strategy 2018-2022" the priority groups of concern are as follows;
    - 3.3.1. *Aboriginal people and communities.*
    - 3.3.2. *Children and young people.*
    - 3.3.3. *People with co-occurring problems*
    - 3.3.4. *People in rural and remote areas including fly-in, fly-out and drive-in, drive-out workers;*
    - 3.3.5. *Families, including alcohol and other drug using parents and significant others;*
    - 3.3.6. *Those interacting with the justice and corrections systems.*
    - 3.3.7. *Other target groups of concern include:*
      - 3.3.7.1. *Older adults:*
      - 3.3.7.2. *Culturally and linguistically diverse communities,*
      - 3.3.7.3. *People identifying as lesbian, gay, bisexual, transgender or intersex; and*
      - 3.3.7.4. *Homeless people.*
  - 3.4. The applicant will consider all ten groups above for which data is readily available. The following groups were unable to be considered however, as data is not available for them;
    - 3.4.1. *people with co-occurring problems;*
    - 3.4.2. *People in rural and remote areas including fly-in, fly-out and drive-in, drive-out workers;*
    - 3.4.3. *Families, including alcohol and other drug using parents and significant others (see paragraphs 3.5 & 3.6 below);*
    - 3.4.4. *Those interacting with the justice and corrections systems;*
    - 3.4.5. *Culturally and linguistically diverse communities, people identifying as lesbian, gay, bisexual, transgender or intersex; and*
    - 3.4.6. *Homeless people.*



- 3.5. Clarification has previously been sought from the Drug and Alcohol Office regarding the definition of the term “family”.
- 3.6. The Drug and Alcohol Office replied that “a specific definition of family is not provided in the Strategy document. There are a number of reasons for this, including:
  - 3.6.1. *“Recognition of the cultural diversity in Western Australia and that the definition of family can be different for different cultures.*
  - 3.6.2. *Recognition that the impact of an individual’s drug and alcohol use is not always confined to a household or what has in the past been defined as the ‘immediate family’ - it can impact more broadly on family members who are external to a household. For example, Grandparents, Aunts and Uncles are commonly reported to be impacted upon.*
  - 3.6.3. *Recognition that not all families are biologically related but can still be impacted on by a person’s drug or alcohol use - for example step children/guardians.”*
- 3.7. With such a broad definition, it is impossible for the applicant to identify or quantify this priority population group in the locality.
- 3.8. For the purpose of this demographic study, the applicant has selected relevant Census topics from the Australian Bureau of Statistics (ABS) website ([www.abs.gov.au](http://www.abs.gov.au)) to provide an indication of the prevalence of each of the priority population groups within the locality and compared them with the same information for the State (Western Australia).
- 3.9. For the purposes of the demographic study, the applicant will be considering the 2021 Census data relating to the suburbs of Hillarys, Sorrento and Marion, in comparison to the State average.

3.10. The selected ABS 2021 Census data is shown in the table below.

<b>ABS Census 2021</b>	<b>Hillarys</b>	<b>Sorrento</b>	<b>Marmion</b>	<b>WA</b>
<b>Aboriginal and Torres Strait Islander People</b>	0.7%	0.7%	0.3%	3.1%
<b>Age</b>				
Median age	44	47	45	36
<b>Age</b>				
Persons aged 15 - 19 years	7.2%	6.7%	6.3%	5.8%
Persons aged 20 - 24 years	5.6%	5.5%	4.3%	6.0%
<b>Level of highest educational attainment</b>				
Bachelor Degree level and above	32.1%	34.6%	36.7%	23.8%
<b>Language</b>				
English only spoken at home	87.0%	88.1%	91.8%	75.3%
<b>Employment</b>				
Works full time	54.4%	52.5%	52.1%	57.1%
Unemployed	4.2%	3.7%	3.6%	5.1%
<b>Occupation</b>				
Professionals	28.6%	30.0%	33.4%	22.0%
Managers	18.7%	18.2%	17.8%	12.3%
<b>Median Weekly incomes</b>				
Personal	\$983	\$971	\$1,014	\$848
Family	\$2,877	\$3,064	\$2,983	\$2,214
Household	\$2,465	\$2,472	\$2,435	\$1,815
<b>Dwelling Count</b>				
Occupied Private Dwellings	94.2%	92.9%	91.7%	89.1%
<b>Tenure type</b>				
Owned outright	44.8%	48.5%	48.3%	29.2%
<b>Household Income</b>				
Less than \$650 gross weekly income	12.1%	12.9%	14.7%	16.3%
More than \$3000 gross weekly income	41.7%	43.7%	42.4%	25.6%
<b>Mortgage monthly repayments</b>				
Households where mortgage repayments are less than 30% of household income	74.7%	73.9%	73.2%	72.1%

- 3.11. The purpose of considering the demographic data for the locality is to establish whether the priority population groups identified in paragraphs 3.3 and 3.4 above are over or underrepresented in the locality.
- 3.12. Aboriginal people and communities;
- 3.13. The table above indicates that in 2021, all three suburbs exhibited a far lower percentage of Aboriginal and Torres Strait Islander people when compared to the State;
  - 3.13.1. ***Conclusion - This priority group is underrepresented in the locality.***
- 3.14. Children and young people;
  - 3.14.1. The average figure for persons aged between 15 and 19 years in the locality was slightly higher than the State figure for all suburbs.
  - 3.14.2. The average figure for persons aged between 20 and 24 in the locality is lower than the State figure.
  - 3.14.3. ***Conclusion - There is average representation of this group in the locality.***
    - 3.14.3.1. Noting this, the applicant would like to reiterate that the proposed venue will be a sophisticated meal focused venue, which will not attract a younger clientele, and
    - 3.14.3.2. It is located away from the beach areas, so it is not as accessible to children and young people who are there casually visiting the beach for a swim.
- 3.15. People from rural and remote communities.
  - 3.15.1. This is not a regional, rural or remote town / area.
- 3.16. When comparing the socio-economic data in the 2021 Census for the locality to the figures for WA as a whole.
  - 3.16.1. Full time employment rates are just under the State average. However, unemployment rates for all suburbs are under the State average.
  - 3.16.2. Properties owned outright is well above the State average.
  - 3.16.3. The average percentage of professionals and managers in the locality is higher across all three suburbs compared to the WA figure.
  - 3.16.4. All 3 segments of 'median weekly income' are higher in the three suburbs than the State.
  - 3.16.5. The last row of the table indicates each of these suburbs to be affluent, and with low levels of mortgage stress.

- 3.16.6. *Conclusion - these suburbs are financially / economically stable & affluent. On average, people within these suburbs are financially responsible and well off.*



## **4. Outlet Density Information**

- 4.1. According to the policy document “Public Interest Assessment”, the applicant is required to consider licensed premises, which may trade in a manner similar to what is proposed, within 500 metres of the planned premises.
- 4.2. In December 2023, the applicant searched the website of the Department of Racing, Gaming and Liquor, for existing liquor licences within 500m of the proposed premises.
- 4.3. The applicant then;
  - 4.3.1. Considered all the relevant suburbs outlined in paragraph 2.18.
  - 4.3.2. Restricted their search to premises within 500m of the subject premises, and
  - 4.3.3. Eliminated any premises which may not trade in a manner similar to what is permitted under a tavern restricted licence.
- 4.4. This resulted in the following list of premises which may trade in a manner similar to a tavern which are situated within 500m.

Map no.	Licence No.	Licence Type	Premises Name	Premises Address
1	6020028076	Tavern	The Breakwater	Hillarys Boat Harbour, Hillarys WA 6025
2	6070027581	Nightclub	Bar 1	Shop 17, Hillarys Boat Harbour, Hillarys WA 6025
3	6382085530 16	Tavern Restricted	The Beach @SQ	Shop 52, Hillarys Boat Harbour WA 6025

- 4.5. The map below shows where these venues are in relation to the applicant’s premises.
- 4.6. While the applicant notes the close proximity of Bar 1 Nightclub, it considers the premises (in view of the Public Interest Assessment policy) to not trade in a manner similar to a tavern restricted licence.
- 4.7. By definition, a nightclub licence is only granted “subject to the condition that liquor may only be sold ancillary to continuous live entertainment provided by one or more artists present in person performing there, or by way of recorded music presented by a DJ”,
- 4.8. A tavern restricted licensed premises is not bound by this definition, and holders of this licence type often (as with this Applicant) sell their liquor alongside substantial food menu options, or in a more ‘pub’ environment.

- 4.9. Further, there are very different trading hours for a nightclub, that would make it an unsuitable match when comparing to tavern licensed premises - see below.

The permitted trading hours for a nightclub		
Day	Open	Close
Monday to Saturday	6:00pm	5:00am on the next day
Sunday	8:00pm	2:00am on the next day
New Year's Eve (on a Sunday)	8:00pm	5:00am on the next day
Good Friday	No permitted trading hours after 3:00am	
Christmas Day (other than a Monday)	No permitted trading hours after 3:00am	
Christmas Day (Monday)	No permitted trading hours after 2:00am	
ANZAC Day		Nightclubs must close at 3:00am on ANZAC Day, then reopen in accordance with normal trading hours

- 4.10. Notably nightclubs may not trade at lunch time and can't open until 6pm in the evening.
- 4.11. Therefore, the applicant discards Bar 1 Nightclub from consideration, leaving the outlet density as shown below in the new map and table below.
- 4.12. There are only two premises licensed to provide services similar to what is proposed in this application for the whole Hillarys Boat Harbour.

Map no.	Licence No.	Licence Type	Premises Name	Premises Address
1	6020028076	Tavern	The Breakwater	Hillarys Boat Harbour, Hillarys WA 6025
2	6382085530 16	Tavern Restricted	The Beach @SQ	Shop 52, Hillarys Boat Harbour WA 6025

- 4.13. The map below shows a 500m radius from the subject premises.
- 4.14. The applicant notes that other similar tourist precincts such as Scarborough Beach and Fishing Boat Harbour (Fremantle) have a far higher density of taverns and small bars.
- 4.15. The locality is populated by a large number of licensed restaurants. This, however, is not seen as a negative, as restaurants are viewed as very responsible and low-risk venues which add very positively to the amenity of tourist areas such as Hillarys.



4.16. In the witness questionnaire (discussed in detail in the next section), respondents were asked, *“How would you describe Hillary’s hospitality scene and the licensed premises currently available to you?”*;

4.16.1. Susan of Watermans Bay said, *“It’s good but would benefit from more to increase tourism to the area.”*,

4.16.2. Paula of Ocean Reef said, *“Would prefer more restaurants. Classy places, better food options”*,

4.16.3. Lionel of Sorrento said, *“The Breakwater is expensive and seems to cater to a younger scene than my age group”*,

4.16.4. Kellie of Padbury said, *“the current licensed premises are good but could use the added extra of bar seating for people only wanting a quick drink”*,

4.16.5. Sian of Iluka said, *“I would like more choice of places to go to”*.

## 5. Objective Witness Support

- 5.1. The applicant conducted a witness questionnaire to gather objective evidence for the support of this application. The questionnaire (attachment HB03) was prepared and distributed in and around Hillarys Boat Harbour.
- 5.2. Respondents were also provided the following supporting documents.
  - 5.2.1. An intended manner of trade document (attachment HB02).
  - 5.2.2. A map of the locality (attachment HB04), and
  - 5.2.3. A draft floor plan (attachment HB05).
- 5.3. A total of 43 people completed the questionnaire. The applicant declares that 6 of these respondents did not answer the question "Are you over 18?". However, from the types of responses given, it is very indicative that all 6 of these respondents are of the legal drinking age.
- 5.4. All raw witness data has been lodged with these submissions (attachment HB06).
- 5.5. These questionnaires provide the Director with an insight into the opinions of people from the local community and others who resort to the area and are likely to become patrons of the new venue.
- 5.6. Of the 42 respondents who filled in their suburb address;
  - 5.6.1. 11 said they either lived in Hillarys or a suburb adjacent to Hillarys (i.e. Duncraig, Sorrento),
  - 5.6.2. Another 7 said they lived one suburb over from these adjacent suburbs (i.e. Kingsley, Greenwood),
  - 5.6.3. Another 10 said that they lived in other northern suburbs like Ocean Reef, Edgewater etc - which are in relative proximity to Hillarys.
- 5.7. That is to say **66.67%** of respondents to that question could be considered as northern suburb locals. Of those respondents, **18** of them live within 2 suburbs of the proposed premises.
  - 5.7.1. Further, over half of the respondents said they live within 1-5km of the premises.
- 5.8. Further, these respondents were asked how long they have lived in their suburbs for. Over **38%** have been living in their suburbs for a minimum of 5 years. **85%** of these respondents have been in their suburbs for at least 1 year, or up to 10+ years.
- 5.9. Given that this application is for the benefit of (1) Hillarys and surrounding suburb's locals, as well as (2) anyone who visits Hillarys Boat Harbour with the intention of dining out, the objective evidence



presented in this section shows this respondent pool to be an accurate representation of the community and locality.

- 5.10. Noting all of this, further questions and respondent answers are detailed throughout these submissions, to aid in the applicant satisfying Section 36B(4) and Section 38 of the Liquor Control Act (1988).
- 5.11. All raw witness data can be viewed in attachment HB06?.

## 6. Proposed Style of Operation

- 6.1. Should this tavern restricted licence be approved by the licensing authority, it will authorise the applicant to sell and/or supply liquor for consumption on the premises only.



- 6.2. The Harbour Bar will be a community focused facility, offering residents and visitors to the Hillarys area an opportunity to sit right at the water's mouth and at the estuary that meets the harbour and the Indian Ocean. The orientation of the premises will allow patrons to watch boats sail in and out.
- 6.3. The premises itself will be elegantly set, with;
- 6.3.1. Copper style finishings and fittings,
  - 6.3.2. Chesterfield leather style booths, and
  - 6.3.3. Timber flooring.
- 6.4. The aim of Harbour Bar is to offer a 5-star restaurant experience, providing a food & beverage service with South American influences.
- 6.5. Harbour Bar will be targeting the 25 - 55 age demographic, providing a sophisticated and plush atmosphere and dining experience.
- 6.6. The overall style of The Harbour Bar will be the halfway point between a bar and restaurant, but patrons should expect a classy, well executed food & beverage operation - something that matches the pristineness of the Hillarys Bay and coastline.
- 6.7. Food will be available at all times whilst the venue is in operation.



- 6.8. The applicant proposes to apply for the standard trading hours permitted by the Liquor Control Act for a tavern restricted licence, as follows:
  - 6.8.1. Monday to Saturday: 6am to 12 midnight; and
  - 6.8.2. Sunday: 10am to 12 midnight.
- 6.9. Although, as with their other venues it would be unusual to trade to midnight, and Harbour Bar will likely trade well within these standard set hours.
- 6.10. Harbour Bar will provide healthy competition to other tavern operations at the Boat Harbour (The Breakwater and The Beach House).
- 6.11. Key aspects of the proposed design include:
  - 6.11.1. A seated restaurant and bar area with a mix of high-quality tables and chairs in a more structured restaurant setting.
  - 6.11.2. Large internal open-plan areas creating more than one sqm per person throughout the proposed premises.
  - 6.11.3. Open-air alfresco with seating to allow guests to enjoy the fresh air and the harbour views.
  - 6.11.4. Dramatic bespoke light fixtures specifically designed for the premises and its theming.
  - 6.11.5. A commercial kitchen installed according to Building Code of Australia specifications.

- 6.11.6. High-specification toilet facilities including disabled persons' facilities.
- 6.12. As required by the Liquor Control Act, The Harbour Bar will have at least one approved manager on duty at all times the premises are open for trade and all staff will all be trained in the responsible service of alcohol.
- 6.13. In the witness questionnaire, respondents were asked, *"Would you prefer there to be more tavern-style options (such as the proposed Harbour Bar) in the area?"*
- 6.13.1. Of the 43 responses, 41 (**95%**) said, **"Yes"**.
- 6.14. Further, respondents were also asked, *"After considering the Intended Manner of Trade document provided, are you likely to become a customer of the Harbour Bar?"*.
- 6.15. Of the 43 responses received, 42 (**98%**) said, **"Yes"**.
- 6.16. Elaborating on their answers;
- 6.16.1. Kevin from Watermans Bay said, *"We love visiting new restaurants and bars so we are likely to love and become a regular customer"*,
- 6.16.2. Rebecca of Ocean Reef said, *"Yes, Jarrah is great and always so busy at night would be great to have something else in Hillarys with great food like Jarrah"*,
- 6.16.3. Hayley of Duncraig said, *"As a local and regular visitor at Hillarys boat harbour, I think opening more variety will increase tourism and positively impact the area."*,
- 6.16.4. Duncan of Duncraig said, *"Regulars at Jarrah. They operate a very professional business and look forward to a great addition to Hillarys BH"*,
- 6.16.5. Brenda of Kingsley said, *"absolutely! The environment is wonderful - we have family that will travel over 40km to come here for dinner as it caters for all individuals"*,





## **7. Department of Transport Consultation**

- 7.1. The subject premises has been vacant for some considerable time. The Applicant had lengthy discussions with the Department of Transport (DoT).
- 7.2. Previously, the tenancy operated as a restaurant / café known as 'Over Board Café', however, the Applicant felt a tavern restricted licence would enable him to create a venue which would add vibrancy to the vicinity.
- 7.3. Wes negotiated with the DoT and secured a lease with Tavern as an approved use, confirmed in an email from Wajee Gakunju, Manager Property Services, TPLPS, Maritime, Department of Transport on 28th September 2023.
- 7.4. Consultation with Tourism WA will be discussed at section 10.

## 8. Background and Experience of the applicant

- 8.1. Wesley D’Arcy is the sole director of the applicant company, Harry Bridgett Pty Ltd.
- 8.2. Mr. D’Arcy is a very experienced hospitality operator and licensee in WA.
- 8.3. Currently, he owns and manages Jarrah in Hillarys (restaurant licence), The Iluka (tavern licence), Grafton Street Café in Mullaloo (unlicensed), and Mister D’Arcy in North Beach (restaurant licence).
- 8.4. Mister D’Arcy is one of the newer additions to the North Beach hospitality scene. Taking directly from their website, the premises is *“aesthetically beautiful & timeless”, with “artisan but cheeky fresh food, elegant friendly professional service, world class wine list, cutting edge cocktails, 14 coastal and international beers on tap, cool music day & night, plus our trademark blazing open fires.”*
- 8.5. Mister D’Arcy has a highly respected reputation as a fine dining, destination in North Beach. On google, from over 400 reviews, the restaurant currently sits at a rating of 4.6 stars. Below are just some of the recent reviews left by customers.


**Ava O'Connor**  
 2 reviews

 5 days ago **NEW**

Dine in | Dinner | A\$20–40

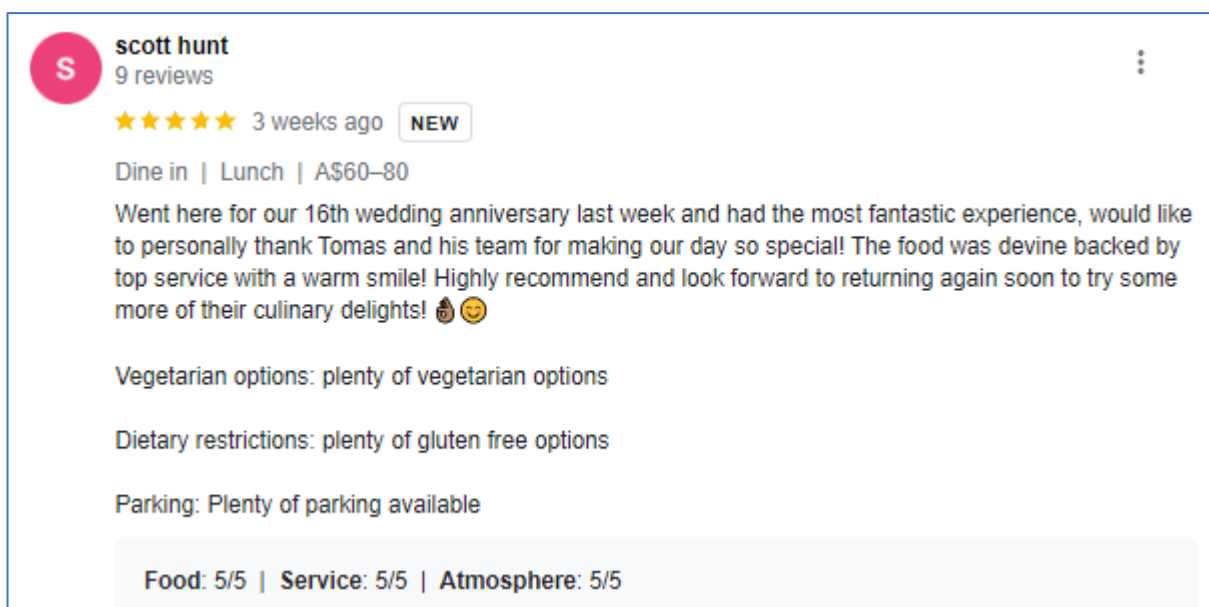
Virginia is so welcoming everytime we come to Mister D’Arcy. The best service I’ve experienced in Perth. The food is amazing especially the chicken wings, and always so fresh. My favourite bar in Perth. 100% would recommend.

Food: 5/5 | Service: 5/5 | Atmosphere: 5/5


**M Crouch**  
 6 reviews
 
 a week ago **NEW**



- 8.6. Jarrah is one of Wes' best-known venues and is located within Hillarys Boat Harbour.
- 8.7. Taking directly from the Jarrah website, *"Jarrah is a great place for an afternoon or night out. Amazing freshly made pasta, gnocchi, pizza and tapas. We boast the best wine list along the northern beaches, stunning modern cocktails and 22 beers on tap"*.
- 8.8. Jarrah has very quickly become a staple of Hillarys Boat Harbour, having been of service to the entertainment precinct for a number of years now.
- 8.9. Across 612 google reviews, Jarrah holds a 4.1 star rating.
- 8.10. Below are a couple of recent reviews left by customers.




**mr t**  
 3 reviews

 a month ago

This place is awesome. Definitely recommend. I've been here twice now, both times A+. The food is very good, Fresh and great menu, The place and atmosphere are very welcoming. And the service was great. Greeted and served with smiles and we didn't wait long at all for the food.

Food: 5/5 | Service: 5/5 | Atmosphere: 5/5


**Marc Holyoake**  
 2 reviews

 2 weeks ago **NEW**

Amazing atmosphere pumping vibes matched with food and service that is on point :) favourite selections and highly recommend the miniature black Angus beef fillet and believe it or not the vegan mushroom house made gnocchi would be my favourite mains. I've tried both and the vegan version packs a pleasant punch of full flavours.

Love all the team there Rishi runs tight ship

Food: 5/5 | Service: 5/5 | Atmosphere: 5/5

- 8.11. The Iluka Tavern has been a cornerstone food & beverage premises to the suburb of Iluka for a number of years now.
- 8.12. Given its large scale, it has played host to a number of sports event nights & function nights. Further, it is a destination location for families and groups of friends who are seeking a quality food & beverage service.
- 8.13. It also provides a perfect place for a casual drink, and even has a hole in the wall for coffee, with 'Grafton St' tucked into the tavern space too.
- 8.14. Below are a couple of recent reviews left by customers.


**Hayley Pullen**  
 Local Guide · 133 reviews · 135 photos

 2 days ago **NEW**

A\$40-60

Have not visited for a while and was pleasantly surprised on entry to find lots of tables, friendly service. Ordered the best steak I've had in a very long time. Peppercorn sauce was delicious and steak cooked to perfection. I really enjoyed the rocket Salad. Stoked to find my favourite Grace Farm wine on the list - I ordered 2!

Food: 5/5 | Service: 5/4 | Atmosphere: 5/4



- 8.15. In years gone by Wes has operated restaurants in Ireland alongside his father.
- 8.16. Further, prior to undertaking more managerial / owner / operator roles Wes worked as a chef in a string of restaurants, including;
  - 8.16.1. C Restaurant, Perth,
  - 8.16.2. Mullaloo Beach Hotel (Executive Chef and Shareholder),
  - 8.16.3. The Farm Restaurant Roundwood Bray - Dublin,
  - 8.16.4. Roundwood Inn - Wicklow Ireland,
  - 8.16.5. Old Candle Restaurant - Grey Stones Dublin, and
  - 8.16.6. The Coach House - Wicklow Ireland.
- 8.17. His previous experience also includes operating and completely transforming the Mullaloo Beach Hotel (MBH) between 2015 and 2020, as well as operating Italian restaurant Dat's Amore.
- 8.18. The MBH was transformed - the bottle shop was closed, along with Sunday session events, happy hour events and cheap meal deals. Wes believes this helped transform the MBH into the "great venue it is today."
- 8.19. These changes were made to target the immediate community, and not just focus on drawing in larger crowds from afar with money saving deals. These changes to the venue allowed it to feel a little more exclusive.
- 8.20. Wes is also a long time local to the Northern suburbs of Perth, having lived in Hillarys for over 18 years now.
- 8.21. He is very much a community focused operator, who clearly has a wealth of experience to bring to the table.



## 9. Risk Assessment with respect to the Harm and Ill Health

- 9.1. Section 38(4)(a) of the Liquor Control Act (1988) asks the applicant to consider *“the harm or ill-health that might be caused to people, or any group of people, due to the use of liquor”*.
- 9.2. Section 38(4)(a) of the Liquor Control Act (1988) asks the applicant to consider “the harm or ill-health that might be caused to people, or any group of people, due to the use of liquor”.
- 9.3. The demographics of the locality have been discussed in some detail in section 3 of these submissions.
- 9.4. The applicant is a very experienced licensee in WA and has considered the demographics very carefully and has devised harm minimisation strategies to mitigate the potential for harm.
- 9.5. To assess the risk, the applicant will consider the type and style of licensed premises proposed, and the potential impact that it could have on the local population, and others who resort to the locality.
- 9.6. As mentioned in the demographic report;
  - 9.6.1. All three suburbs analysed were shown to have low levels of mortgage stress, high levels of properties owned outright, high levels of median weekly income and lower levels of unemployment.
  - 9.6.2. The conclusion of the report was that these suburbs are financially / economically stable and affluent. The people in these suburbs are generally financially responsible and well off.
  - 9.6.3. Looking at it more broadly, the applicant understands Hillarys Boat Harbour is a destination location that attracts visitors from suburbs all throughout the metropolitan area.
  - 9.6.4. Knowing this, it becomes harder to assess the risk to those people not from the immediately surrounding suburbs, as data for the priority groups identified in section 3 is not available for persons who visit Hillarys Boat Harbour.
  - 9.6.5. However, considering the target demographic for this venue (as mentioned in section 6) the applicant believes their premises will not be the cause of any increased risk for harm or ill-health to any of the priority groups.
  - 9.6.6. The Harbour Bar (much like Jarrah Bar - the other premises at the Harbour run by Wes D’Arcy) will be a more sophisticated dining experience and will encourage the same type of mature and responsible clientele seen at Jarrah.
  - 9.6.7. Those who are seeking a refined and quality dining experience will be naturally attracted to The Harbour Bar. Those seeking

to drink and go out to many bars or to a club, will go to a different licensed venue.

- 9.7. It is noted in section 3 that there is an average representation of 15 - 19 year olds in the locality (i.e. the priority group “children and young people”).
- 9.8. It cannot be denied that Hillarys Boat Harbour is an attraction for young people.
- 9.9. The granting of this licence and the opening of this venue however, will not attract a younger clientele, and will not further exacerbate the representation of this priority group.
  - 9.9.1. The proposed venue will be a sophisticated, meal focused venue.
  - 9.9.2. Further, it will be away from the main beach area, tucked into the corner of the Harbour’s retail / commercial tenancies.
  - 9.9.3. Lastly, any externally visible signage, physically visible advertising, or online advertising & posting of The Harbour Bar will be;
    - 9.9.3.1. Geared towards an older demographic,
    - 9.9.3.2. Not encouraging excess drinking, and
    - 9.9.3.3. Promoting the venue as a destination meal location.
- 9.10. Noting these conclusions, and mixing in the upmarket, friendly atmosphere that is intended to be provided, (as seen and described in Section 6) the premises can be considered low risk.
- 9.11. Regardless, to further investigate harm and ill health within the locality, the applicant sought to investigate the incidence of alcohol related offences within the focus suburb of Hillarys, as recorded by the WA police.
- 9.12. However, no statistics were available on the WA Police website in relation to alcohol related crime for any suburb in WA.
- 9.13. The WA Police have made it clear they do not provide applicants with data on alcohol related offenses in any locality. This clearly hampers any assessment of the potential impact a licensed premises will have on the locality where it is situated.
- 9.14. Consequently, the applicant has considered crime statistics for Hillarys - see the table below.

**2022/23 Crime statistics recorded by the WA Police for Hillarys and Western Australia.**

Type of Offence	Hillarys	Western Australia
Homicide	-	95
Sexual Offences	22	7,188
Assault (Family)	30	28,051
Assault (Non-Family)	83	15,679
Threatening Behaviour (Family)	4	5,398
Threatening Behaviour (Non-Family)	15	4,522
Deprivation of Liberty	-	296
Robbery	9	1,796
Dwelling Burglary	17	14,986
Non-Dwelling Burglary	10	6,153
Stealing of Motor Vehicle	9	6,528
Stealing	366	80,039
Property Damage	56	28,324
Arson	-	955
Drug Offences	74	22,949
Graffiti	6	2,263
Fraud & Related Offences	79	33,869
Breach of Violence Restraint Order	33	14,071
<b>Total of Selected Offences</b>	<b>814</b>	<b>273,162</b>

Source: <https://www.police.wa.gov.au/Crime/CrimeStatistics#/>

9.15. **WA Police Crime Statistics** indicates a total of 814 recorded offences in Hillarys in 2021/22. The ABS Census for 2021 shows the 2021 population of Hillarys to be 11,200.

9.16. Comparing Hillarys offences from 2022/23 to the State average, the applicant has used the following formula.

9.16.1.  $(\text{No. of offences} / \text{suburb population}) \times 1000 = \text{no. of offences per thousand people}$

9.16.2. So,  $814 / 11,200 \times 1000 = 73$  offences per thousand people.

9.17. By way of comparison;

9.17.1. Western Australia in 2022/23 had 273,162 offences. Using the same population tool, and the 2021 ABS Census, the 2021 population for the state was 2,660,026.

9.17.2. This equates to 102 offences per thousand population in WA.

9.18. Looking at the crime statistics, the applicant concludes that Hillarys shows a lower rate of offending when compared to the State.

	Hillarys	Western Australia
Offences per 1,000	73	102

9.19. However, that is not the full picture. Hillarys Boat Harbour attracts a large number of people to its many attractions. Therefore, the number of people resorting to the suburb is far higher than just the resident population, and should be taken into account in the crime data above.

9.20. The effect would be to reduce the offences per 1,000 for the suburb further, making the rate of offending in the locality substantially lower than what appears to be accepted in Western Australia as a whole.

9.21. In the witness questionnaire, respondents were asked, *“Are there any people or any groups of people in the locality who, in your opinion, would be at risk of increased and undue harm as a result of the granting of this application?”*.

9.22. Of the 43 responses, **98%** said, **“No”**.

9.23. One respondent went further and commented on just how far back residential developments are from the Harbour Bar vicinity.

9.24. In order to minimise the potential for undue harm or ill-health, the applicant will;

9.24.1. Have Closed Circuit TV (CCTV) throughout the premises.

9.24.2. Have a detailed harm minimisation plan in place, that staff will be knowledgeable on.

9.24.3. Further, the applicant intends to maintain and enhance the comfortable and friendly food & beverage space;

9.24.3.1. They intend to accomplish this through means of low-key entertainment, lots of comfortable furniture, and a family-friendly environment.

9.24.3.2. The applicant, as shown above in section 6, is an experienced operator, manages multiple licensed hospitality venue.

9.24.3.3. The applicant has built successful hospitality businesses and has a long managerial career in hospitality. They will use all their experience and

responsible service from years past to ensure the potential for harm and ill-health is minimised.



## 10. A report on the Tourism Impact of the Proposed Premises

- 10.1. In the Second Reading Speech relating to the Liquor Control Amendment Bill 2018 the Minister said;
  - 10.1.1. *“The bill also establishes a mechanism that will allow the Chief Executive Officer of Tourism Western Australia to introduce evidence or make representations regarding the tourism benefits of an application or other matters relevant to the proper development of the tourism industry. The amendments will give tourism a greater opportunity to be heard during the decision making process.”*
- 10.2. The applicant wrote to Tourism WA and Managing Director, Carolyn Turnbull made the following comments in reply (attachment HB07) with regard to The Harbour Bar;
  - 10.2.1. *“In 2022, the Destination Perth tourism region attracted 4.72 million overnight visitors who spent over 24.67 million nights with an average daily spend of \$217. For these visitors, the top activity was to eat out/dine at a restaurant/café, with 93 per cent of international visitors indicating this as their top activity (Tourism WA Overnight Visitor Factsheet 2022).*
  - 10.2.2. *It is Tourism WA’s understanding that the applicant intends to deliver a 5-star restaurant experience with the food and beverage menu to have a South American influence. Tourism WA considers that The Harbour Bar will enhance the density and diversity of food and beverage options at Hillarys Boat Harbour, adding another drawcard to the popular entertainment / hospitality precinct.*
  - 10.2.3. *Tourism WA’s Perth Entertainment Precincts Research (2023) found that licenced restaurants were considered to add vibrancy to a precinct and increase consumers’ likelihood of visitation to an area. Tourism WA considers that The Harbour Bar’s waterfront location will also offer an appealing proposition for visitors to enjoy a meal and a drink with a view of the harbour and Indian Ocean.”*
- 10.3. The Perth Entertainment Precincts Report is a report produced for Tourism Western Australia which rates precincts such as Perth CBD, Fremantle, Elizabeth Quay, Northbridge, Scarborough, Beaufort Street, Subiaco, Victoria Park and Leederville according to safety, vibrancy, range of venues and activities, and public transport access.

- 10.4. The report also looks at why people visited these precincts, the types of venues they went to, how often they travelled to these areas and who was with them.
- 10.5. Respondents to the witness questionnaire were asked, *“After considering the intended manner of trade document, do you believe the Harbour Bar is good for tourism, and is attractive to people in the Hillary’s locality and further beyond?”*
  - 10.5.1. Of the 43 responses, all 43 (**100%**) said, **“Yes”**.

## 11. A report on the amenity of the locality

- 11.1. The applicant is required to consider both the positive and the negative potential impacts of these applications on the amenity of the locality.
- 11.2. The applicant believes that through this proposed tavern restricted licence, the Harbour Bar will be adding value and amenity to the locality. There are several features of the proposal that highlight how the applicant intends to boost the amenity of the locality.
  - 11.2.1. The applicant aims to bring a quality food and beverage environment to the locality that attracts a low-risk demographic of people.



- 11.2.2. Wes D'Arcy is already a known top-level hospitality operator in the northern suburbs.
  - 11.2.3. Further to this, having Jarrah Bar & Café already existing in the boat harbour and operating successfully is another feather in his cap.
  - 11.2.4. The venue will feature an exceptional menu with South American influences.



- 11.2.5. The same quality fit out that Wes has put in place at The Iluka, Jarrah and Mister D’Arcy will be a feature here too.





- 11.3. In qualifying the type of locality that Hillarys is, the witness questionnaire asked respondents, *“If you live or work in/close to Hillarys, how would you describe the nature of the locality and the immediate area surrounding the proposed Harbour Bar?”*;
- 11.3.1. Mia of Hillarys said, *“This is an excellent proposal and should be fully supported. As an entertainment precinct there should be multiple options not limited by just existing encumbrances”*,
- 11.3.2. Rebecca of Ocean Reef said, *“Good location”*,
- 11.3.3. Hayley of Duncraig said, *“Relaxing, family friendly, great area for tourism”*,
- 11.3.4. Amanda of Hillarys said, *“Family orientated, upmarket, relaxed, popular”*,
- 11.3.5. Enda of Wembley said, *“Beautiful, picturesque, scenic”*,
- 11.3.6. Susan of Watermans Bay said, *“It’s a popular area and would benefit from adding more options for visitors”*.
- 11.4. In the witness questionnaire, respondents were asked, *“If this application is approved in what ways do you think it may change the locality?”*
- 11.5. Of the 43 responses, **100%** said **“Positively”**.
- 11.6. Elaborating on their answers,
- 11.6.1. Kellie of Padbury said, *“It will give people an option for a quick drink and also attract more business and have more people come through word of mouth. Improve local business”*,
- 11.6.2. Declan of Perth said, *“It will bring more tourism to Hillary’s, in the form of casual drinks”*,
- 11.6.3. Louis of Perth said, *“Will add a more sophisticated audience to that side of the harbour”*,
- 11.6.4. Amanda of Hillarys said, *“More options in a great entertainment district”*.
- 11.6.5. F. Walsh of Duncraig said, *“The area is getting very busy and needs more bars”*.
- 11.7. Lastly, on matters of amenity, respondents were asked, *“Should this application be granted, do you think the amenity, quiet or good order of the locality might in some manner be lessened? If so, please explain.”*
- 11.8. Of the 43 responses received, **84%** of respondents said, **“No”**.
- 11.9. Elaborating on their answers;
- 11.9.1. Zahra of Perth said, *“I think the good order would increase as it provides another place for enjoyment”*,

- 11.9.2. Amanda of Hillarys said, *“A compact area with a level of noise that 1 more bar will not increase”*,
- 11.9.3. Rebecca of Ocean Reef said, *“It's going to be next to other bars and restaurants so shouldn't make any difference”*,
- 11.9.4. Kellie of Padbury said, *“I think this can only improve and increase business to Jarrah and Hillarys”*,
- 11.9.5. Declan of Sorrento said, *“The venue is in the furthest avenue away from all others”*,
- 11.9.6. Louis of Perth said, *“This venue has intentions of drawing in a sophisticated and well-mannered audience, so no.”*,
- 11.10. The witness comments, the letter of support from Tourism WA and their intended style of operation, show how the proposed tavern restricted licence is expected to have a positive impact on the amenity of the locality.

## **12. Offence, Annoyance, Disturbance or Inconvenience - Section 38(4)(c)**

- 12.1. Section 38(4)(c) of the Liquor Control Act states the licensing authority may have regard to;
  - 12.1.1. *“whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises”.*
- 12.2. In the applicant’s opinion, there is very little potential for adverse impacts from the subject premises because;
  - 12.2.1. Wesley D’arcy - director of the applicant company, is an experienced licensee and food and beverage operator, who already manages the premises under a restaurant licence,
  - 12.2.2. There is an emphasis on food and sophisticated clientele,
  - 12.2.3. The venue is designed in such a way as to take in views of the harbour.
  - 12.2.4. The applicant envisages that entertainment will mainly be in the form of pre-recorded music played through a central sound system, with occasional live performances.
  - 12.2.5. Further, these premises are already in a popular food & beverage precinct, with a vibrant nightlife. Given the other licensed premises around, and the general acceptance of Hillarys Boat Harbour being a dining and entertainment precinct, this new proposed licence, on the opposite end from the busier side of the Harbour will not impact levels of offence, annoyance, disturbance or inconvenience, above what is already present.
- 12.3. The applicant envisages that entertainment will be in the form of low-key, pre-recorded music played through a central sound system played at conversational levels;
- 12.4. This proposed premises is currently unoccupied. This proposal brings new life into the building and enhances the aesthetic of the area.
- 12.5. The location of the subject premises in the Harbour reduces any concerns of offence, annoyance, disturbance or inconvenience to Hillarys residents. The nearest residence is 350m away. Between this residence and the proposed Harbour Bar is the busy Southside Drive, a large carpark and multiple commercial / retail / hospitality premises.
- 12.6. The Director of the applicant company is a very experienced licensee who takes his responsibilities towards the local community very seriously and will provide an open channel for communication with locals to ensure The Harbour Bar will fit seamlessly in the local community.

- 12.7. Given how intimately he knows and respects the Hillarys community through Jarrah Bar and Café, Wes will be ensuring nothing but a quality product is presented at The Harbour Bar.
- 12.8. The applicant also proposes the following measures:
- 12.8.1. Prompt and polite response to any noise complaint in respect of the operations of the venue.
  - 12.8.2. Adherence to responsible service of liquor, and responsible consumption of liquor practices at the venue.
  - 12.8.3. Encouraging patron awareness of the rights of neighbours and others who reside, work, recreate or otherwise resort to the locality, especially when leaving the venue, and
  - 12.8.4. The approved manager will also ensure the last patrons leave safely and quietly.
- 12.9. In the witness questionnaire, respondents were asked *“What do you say about the potential for annoyance, offence, disturbance, or inconvenience that the granting of this application may cause to people who live, work, visit or otherwise resort to the locality?”*,
- 12.10. The following comments were made.
- 12.10.1. Kellie of Padbury said, *“No I do not see any annoyance, offence or disturbance by granting this application”*,
  - 12.10.2. Brenda of Kingsley said, *“I can't understand or imagine how granting this application would cause a negative impact to the locality”*,
  - 12.10.3. F.Walsh of Duncraig said, *“The area is well policed and never see any trouble”*,



### **13. Section 5(1)(a) of the Liquor Control Act (1998)**

- 13.1. Section 5(1)(a) states that a primary object of the Act is;
  - 13.1.1. *“To regulate the sale, supply and consumption of liquor”;*
- 13.2. Being one of three primary objects means that it is of equal importance to the other two primary objects of the Act.
- 13.3. To regulate means;
  - 13.3.1. *“To control or direct according to rule, principle, or law”*  
*or*
  - 13.3.2. *“To put or maintain in order”*
- 13.4. It does not mean to restrict or to reduce.
- 13.5. There may be some circumstances where a restriction or a reduction is warranted, but the word “regulate” implies more flexibility than either “restrict” or “reduce”.
- 13.6. It is possible to “regulate” and to “increase” at the same time.
- 13.7. Therefore, this primary object should not, of itself, prevent this application from being granted.
- 13.8. It is possible to properly regulate the sale, supply and consumption of liquor and grant this application.
- 13.9. At a time of increasing population, it is quite clear there will be increased demand for liquor and related licensed services. Proper regulation of the industry would allow for growth in licensed premises in a responsible manner, to cater to increased demand.
- 13.10. If there is not a controlled growth, then more people will try to satisfy their liquor requirements in the same number of venues, leading to overcrowding and queueing, recognised sources of harm in licensed premises.
- 13.11. So this provides the licensing authority with a directive, but also an opportunity to grant the type and style of licensed venue which will add positively to the WA liquor licensing landscape.
- 13.12. The Applicant argues, in this matter, there is just such an opportunity, with a proposed licensed premises in a recognised tourist precinct in need to continual rejuvenation, from a very well-known and respected licensee who has a track record of owning and managing exciting, interesting and responsible licensed venues.

### 13.13. **14. Section 5(1)(b) of the Liquor Control Act (1998)**

14.1. Section 5(1)(b) states that a primary object of the Act is;

*14.1.1. “To minimise harm or ill-health caused to people, or any group of people, due to the use of liquor”;*

14.2. Being one of three primary objects means that it is of equal importance to the other two primary objects of the Act.

14.3. In its decision granting a liquor store licence to Woolworths Warnbro the Liquor Commission noted;

*“40. The potential for harm or ill-health is a powerful public interest consideration when determining an application (refer Lily Creek supra). Consequently, it is relevant for the licensing authority to consider the level of alcohol-related harm, due to the use of liquor, which is likely to result from the grant of the application. As Wheeler J stated in Executive Director of Public Health v Lily Creek International & Ors [2001] WASCA 410:*

*“This does not mean that only the increased harm which may result from the specific premises in question is to be considered; rather it seems to me that must necessarily be assessed against any existing harm or ill health so as to assess the overall level which is likely to result if a particular application is granted. Where, as occurs in probably the majority of cases, the existing level of alcohol related harm is no greater than that which appears to be commonly accepted in the community, the distinction is probably not significant.*

*41. Also, as observed by Ipp J (in Lily Creek supra) it is significant that the primary object in section 5(1)(b) is to “minimize” harm or ill-health, not to prevent harm or ill-health absolutely”.*

14.4. In paragraph 46 of the Supreme Court decision in respect of the National Hotel, Fremantle, the following conclusion is found;

*14.4.1. “It is not sufficient to simply reason that, where there is already a high level of harm in the particular area, even a small increment in potential or actual harm may be determinative, without making specific findings on the evidence about the level of alcohol related harm which is likely to result from the grant of the particular application.”*

14.5. Paragraph 62 of the same decision reads;

*14.5.1. “The appellant contends that the reasons of the Commission reveal that it considered the application was not in the public interest, but not:*  
*(a) the positive aspects of the application that were weighed;*

(b) how the Commission reached the conclusion there was  
 a  
 likelihood of increased harm and ill-health if the  
 application was granted; or  
 (c) the degree of increased harm or ill-health that was  
 likely to have resulted if the application was granted.”

14.6. All liquor licences have the potential to cause harm and ill health. It is a question for the licensing authority to assess whether the potential for harm in each specific application is too great, and/or outweighs the positive aspects of the application.

14.7. Therefore, in this application, the applicant is not required to show that no harm whatsoever may occur if this application is granted, only that the applicant will do all that is reasonably possible to minimise harm and ill-health that could potentially occur if this application is granted, that any potential for harm or ill-health is minimised, and is not “undue”, and that the positive aspects of the application outweigh this potential for harm.

14.8. There is a great deal of research which shows that the drinking environment can exert significant influence on patron behaviour.

14.9. Briscoe and Donnelly (2003)<sup>1</sup> quoted Graham and West (2001)<sup>2</sup> as finding that;

14.9.1. *“The drinking setting can exert considerable influence on behaviour through expectations, physical and social characteristics of the environment, levels of intoxication allowed and the characteristics of others in the setting.”*

14.10. Additionally, Briscoe and Donnelly had the following to add;

14.10.1. *“Given the results of the present analysis, the issue of what factors distinguish the more from the less problematic premises becomes paramount in terms of planning effective interventions and/or enforcement practices to minimise alcohol-related harm.”*

14.10.2. *“We also found that several licensed premises that were hotels and have 24 hour service or extended trading, did not have repeat assaults on their premises suggesting other additional factors also contribute to the risk of violence on licensed premises”*

14.10.3. *“Low comfort, high boredom, aggressive bouncers, discounted drinks, poor ventilation, lack of cleanliness, a hostile atmosphere, overcrowding and inadequate*

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<sup>1</sup> ‘Problematic Licensed Premises for Assault in Inner Sydney, Newcastle and Wollongong.’ Susan Briscoe and Neil Donnelly (Available at <http://anj.sagepub.com/content/36/1/18.abstract>)

<sup>2</sup> International handbook of alcohol dependence and problems. Graham, K., & West, P.

*numbers of bar staff” have been “associated with alcohol related harm”. Emphasis added.*

*14.10.4. “These predictive factors which are specific to the drinking venue offer considerable potential to reduce violence on licensed premises because they are under the control of the management and relatively easy to regulate.”*

14.11. Further Ross Homel et al found that;

*14.11.1. “The civilising impact of comfort is consistent with the early qualitative research conducted in Sydney... the importance of comfortable seating being available was clear.”<sup>3</sup>*

*14.11.2. “The type of venue, the style of drinking and the placing of seats have an impact on behaviour and potential conflicts and may be as worthy of attention as hours of operation.”<sup>4</sup>*

14.12. As stated previously, the proposed premises have been designed to a very high standard and will offer high levels of comfort, and adequate space for the expected number of patrons.

14.13. The applicant is an experienced operator of hospitality venues.

14.14. Added to this, the applicant has a well-developed harm minimisation plan that they have refined from their extensive experience with Jarrah Bar & Café, The Iluka Tavern & Mister D’Arcy.

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<sup>3</sup> ‘Making licensed venues safer for patrons: what environmental factors should be the focus of interventions?’ Ross Homel, Russel Carvolth, Marge Hauritz, Gillian McIlwain and Rosie Teague (available at [https://www.griffith.edu.au/\\_data/assets/pdf\\_file/0004/82624/making.pdf](https://www.griffith.edu.au/_data/assets/pdf_file/0004/82624/making.pdf))

<sup>4</sup> ‘A continental ambience: Lessons in Managing Alcohol related Evening and Night - time Entertainment from Four European Capitals.’ Marion Roberts, Chris Turner, Steve Greenfeild and Guy Osborne ( available at <http://usj.sagepub.com/content/43/7/1105.short>)



## 15. Section 5(1)(c) of the Liquor Control Act (1988)

- 15.1. Section 5(1)(c) states that a primary object of the Act is;
  - 15.1.1. *“To cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State”;*
- 15.2. As stated in the introduction this object was elevated to the status of primary object in the May 2007 changes to the Liquor Control Act (1988) *“to place a higher emphasis on the needs of consumers”*, as the Minister stated in the Second Reading Speech at the time.
- 15.3. Being a primary object means that it is of equal importance to the other two primary objects of the Act.
- 15.4. In other words, it is just as important for the Director to cater for the requirements of consumers as stated above, as it is to minimize the potential for harm or ill-health due to the use of liquor.
- 15.5. In the end it is a weighing and balancing of these equal objects which will determine whether a liquor licence should be granted or not.
- 15.6. In his testimony to the Education and Health Standing Committee Mr. Francis Edwards, CEO of the City of Perth had the following to say;
  - 15.6.1. *“The fact is that there is a demand in our society for precincts and venues within those precincts for the enjoyment of that adult night time entertainment.”*  
([http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Evidence+Lookup+by+Com+ID\)/9B7B5961960A762048257831003C127E/\\$file/educhealth20100608-LGA-f.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Evidence+Lookup+by+Com+ID)/9B7B5961960A762048257831003C127E/$file/educhealth20100608-LGA-f.pdf) )
- 15.7. In section 6, evidence of respondents to the witness questionnaire is presented regarding the proposed style of operation of The Harbour Bar. Witnesses were asked to consider the intended manner of trade and then asked if they would likely be a customer - to which **98%** of the respondent base said **Yes**.

## 17. Conclusion

- 17.1. Clearly the evidence presented in, and with, this public interest assessment demonstrates that the applicant is experienced in the management of quality licensed premises in the popular entertainment precincts of Perth and can be trusted to manage these proposed premises capably and responsibly.
- 17.2. The applicant has extensive experience with similar sized coastal venues that are extremely popular in Perth's Northern Suburbs. Wes is a top tier hospitality operator and is known and respected as such.
- 17.3. Lastly, in the witness questionnaire, when respondents were asked if they had any other comments about the application;
  - 17.3.1. Rebecca of Ocean Reef said, *"Im hoping there will be more restaurants like Jarrah in Hillarys and will be happy for this to go ahead."*,
  - 17.3.2. Duncan of Duncraig said, *"As a regular at Jarrah Bar I believe this would be a positive addition to Hillarys Boat Harbour"*,
  - 17.3.3. Declan of Sorrento said, *"The addition of the Harbour Bar will add to the attraction of Hillarys."*,
  - 17.3.4. Louis of Perth said, *"It will be a fantastic venue for family and friends"*.
- 17.4. It is clear by the support indicated in the witness evidence, that the success of their venues, particularly Jarrah, has depended very much on a close relationship with the local community. These same relationships and integration with the community will be a large focus for Wes with The Harbour Bar as well.
- 17.5. The Harbour Bar will be a safe, friendly, and comfortable venue that combines its food and beverage experience in a responsible way, offering a new experience to the locality. Particularly to the northern side of the Harbour, in which there is currently only one dining option with a tavern licence - The Breakwater.
- 17.6. The proposal is aimed towards a mature clientele that is not likely to engage in high-risk behaviour.
- 17.7. It is, therefore, open for the licensing authority to conclude, on balance, the positive aspects of the application far outweigh any potential for negative impacts, thus clearing the way for an approval of this application.

Drafted on behalf of Harry Bridgett Pty Ltd by;

Phil Cockman  
Canford Hospitality Consultants Pty Ltd  
Wednesday, 24 January 2024

## **Attachments**

HB01 ALDI South Fremantle Decision  
HB02 Intended Manner of Trade  
HB03 Hard Copy witness questionnaire  
HB04 Map of the locality  
HB05 Draft floor plan  
HB06 Raw witness questionnaire data  
HB07 Letter from Tourism WA