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# Fonty's Pool

721 Seven Day Rd, Jardee WA 6258



## Application for a Tavern Licence Section 38 and Section 36(B)(4) Submissions Public Interest Assessment

May 2025

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## 1. Introduction

- 1.1. Goldbay Enterprises Pty Ltd is applying to the licensing authority for a Tavern licence for premises located at 721 Seven Day Road, Jardee WA 6258.
- 1.2. The premises will trade as Fonty's Pool - Caravan Park & Chalets.
- 1.3. Fonty's Pool is set in the picturesque heart of Western Australia's southern forests and its historical significance combined with its reputation as a beautiful place to visit has made it a destination for all to enjoy. It combines a boutique campground and chalets with a huge historical pool surrounded by manicured lawns and gardens that provides the perfect setting for day visitors or holiday makers alike.
- 1.4. The pool was initially created by Archimede "Archie" Fontanini, an Italian migrant who bought 460 acres of farmland in 1907. Damming the stream that ran through the property, over the years it became a popular local meeting place and he was encouraged to turn it into an official endeavour, opening to the public in 1925.
- 1.5. In 1973, a few years after receiving an MBE for his efforts, Archie retired from managing the pool at the age of 93 - a community outcry of support lead to the reopening of the pool in 1979.
- 1.6. Over the years the surrounding land was converted into Fonty's Pool Caravan Park and Chalets, and it wasn't closed again until 2005, when insurance issues necessitated its closure to the public and the Fontanini family sold the property to its current owners, who have undertaken significant upgrades.
- 1.7. The pool has become such a significant landmark in its nearly 100 years of public operation that it's been registered with the National Trust of Australia.
- 1.8. Approximately halfway between Pemberton and Manjimup, Fonty's Pool is about 300km from the Perth city centre, and is within the South West Boojarah region. The pool is on private property, and can be accessed by either staying at the park, or by paying a small \$3 day visitor charge.
- 1.9. The applicant seeks to licence the café and bar area, as well as a designated deck area.
- 1.10. Further, the applicant seeks to allow the sale of a limited range of packaged liquor.
- 1.11. These submissions are designed to address:
  - 1.11.1. The restrictions on the grant of certain licences authorising the sale of packaged liquor as set out in Section 36B of the Liquor Control Act 1988, and

- 1.11.2. The public interest requirements as set out in Section 38(2) of the Act.
- 1.12. 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:
  - 1.12.1. *“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”*
- 1.13. Section 38(4) sets out the matters to which the Licensing Authority may have regard in respect of public interest submissions, as follows;
  - 1.13.1. *“The harm or ill health that might be caused to people, or any group of people, due to the use of liquor; and*
  - 1.13.2. *The impact on the amenity of the locality in which the licensed premises, or proposed licensed premises are, or are to be, situated; and*
  - 1.13.3. *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*
  - 1.13.4. *Any other prescribed matter”.*
- 1.14. Section 36B(2) of the Liquor Control Act 1988 states:
  - 1.14.1. *“This section applies to an application for the grant or removal of any of the following licences -*
    - 1.14.1.1. *(a) a hotel licence without restriction;*
    - 1.14.1.2. *(b) a tavern licence;*
    - 1.14.1.3. *(c) a liquor store licence;*
    - 1.14.1.4. *(d) a special facility licence of a prescribed type.”*
- 1.15. Based on the above, Section 36B of the Liquor Control Act 1988 applies to this application, and therefore will be considered in these submissions.
- 1.16. Section 36B(3) of the Liquor Control Act 1988 states;
  - 1.16.1. *“The licensing authority must not hear or determine an application to which this section applies if –*
    - 1.16.1.1. *(a) packaged liquor premises are situated less than the prescribed distance from the proposed licensed premises; and*
    - 1.16.1.2. *(b) the area of the retail section of those packaged liquor premises exceeds the prescribed area; and*

- 1.16.1.3. *(c) the area of the retail section of the proposed licensed premises exceeds the prescribed area”.*
- 1.17. Regulations Nos. 9AAA and 9AAB of the Liquor Control Regulations 1989 stipulate the distance and area prescribed referred to in Section 36B of the Liquor Control Act.
- 1.18. Regulation No.9AAA states.
  - 1.18.1. **“Area prescribed (Act s. 36B)**
    - 1.18.1.1. *For the purposes of section 36B, the area of 400m2 is prescribed.”*
- 1.19. Regulation No. 9AAB states.
  - 1.19.1. **“Distance prescribed (Act s.36B)**
    - 1.19.1.1. *(1) For the purposes of section 36B, the following distances are prescribed -*
      - 1.19.1.1.1. *For packaged liquor premises in the metropolitan region - 5 km;*
      - 1.19.1.1.2. *For all other packaged liquor premises - 12km.*
    - 1.19.1.2. *(2) The distances referred to in subregulation (1) are to be calculated using the shortest route by road.”*
- 1.20. Section 36B(3) above does not apply to this application as the proposal is for a tavern liquor licence, and Minilya Bridge Roadhouse licensed area is not over 400sqm, and there are no packaged liquor premises within 5km.
- 1.21. Section 36B(4) of the Act states;
  - 1.21.1. **“The licensing authority must not grant an application to which this section applies unless satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality in which the proposed licensed premises are, or are to be, situated”.**
- 1.22. Section 36B(4) does apply to this application.
- 1.23. The applicant has put forward the reasons in this PIA as to why the local packaged liquor requirements in the locality cannot reasonably be met by the existing packaged liquor premises.
- 1.24. The objects of the Act are expressed at s.5 of the Act, which states that the primary objects of the Act are -
  - 1.24.1. **“To regulate the sale, supply and consumption of liquor; and**



- 1.24.2. *To minimise harm or ill-health caused to people, or any group of people, due to the use of liquor, and*
- 1.24.3. *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.”*
- 1.25. Section 5(2) of the Act lists the following Secondary Objects;
  - 1.25.1. *“To facilitate the use and development of licensed facilities,*
  - 1.25.2. *including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and*
  - 1.25.3. *To provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and*
  - 1.25.4. *To provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act, and*
  - 1.25.5. *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.”*
- 1.26. 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”.*
- 1.27. In the Aldi South Fremantle decision (A180692358, refusing an application for a conditional grant of a liquor store licence), dated 22nd March 2019, at paragraph 26, the Director said; (Attachment FP01)
  - 1.27.1. *“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>*
- 1.28. 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.

- 1.29. So, the framework exists for the granting of new liquor licences in appropriate circumstances.
- 1.30. Through these submissions, the applicant will demonstrate how this proposed tavern licence will properly and responsibly cater to the diverse consumer requirements for alcohol and related licensed services in the locality.
- 1.31. The applicant has also considered the demographics of the locality and will demonstrate in other sections of these submissions that this proposed tavern licence is well planned to provide an important service to the locality with very little potential for increased harm or ill health.
- 1.32. Further, the applicant will also demonstrate how this application is in keeping with the secondary objects of the Act, in that it caters to the diverse requirements of caravan park lodgers and day visitors to Fonty's Pool.

## 2. The Locality

2.1. In the Liquorland Karrinyup Supreme Court decision (WASC [2021] 366) Archer J made the following observations in relation to setting the appropriate locality for an application. In Liquorland Southern River WASC [2024] 128 Lemonis J agreed with these observations.

2.1.1. It denotes an area that surrounds, and is geographically close to, the location of the proposed premises. It was not intended to equate to the area(s) from which consumers would come.

2.1.2. It is intended to connote the same concept of neighbourhood and in that context means the geographical area surrounding the proposed site.

2.1.3. The legislature intended to capture the geographical area surrounding, and relatively close to, the proposed site, being the neighbourhood of the site.

2.1.4. The shape and size of the locality may be influenced by topographical features (including man-made features such as roads) and areas from which the proposed site could be accessed reasonably easily on foot or push-bike.

2.1.5. 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.

2.1.6. It is impossible to prescribe a specific test to be applied or even an exhaustive list of the factors that will or may be relevant in the determination of the locality in any given case, and

2.1.7. The locality is not to be determined by reference to a retail catchment area. However, a retail catchment area may still be of relevance, for example illuminating the ease of access to the proposed site.

2.2. The Director's Form 2A provides further guidance on the appropriate locality to be considered for a liquor licence application.

2.2.1. *"You need to provide profile information from the locality that is within a certain distance to your intended business. If your intended business is:*

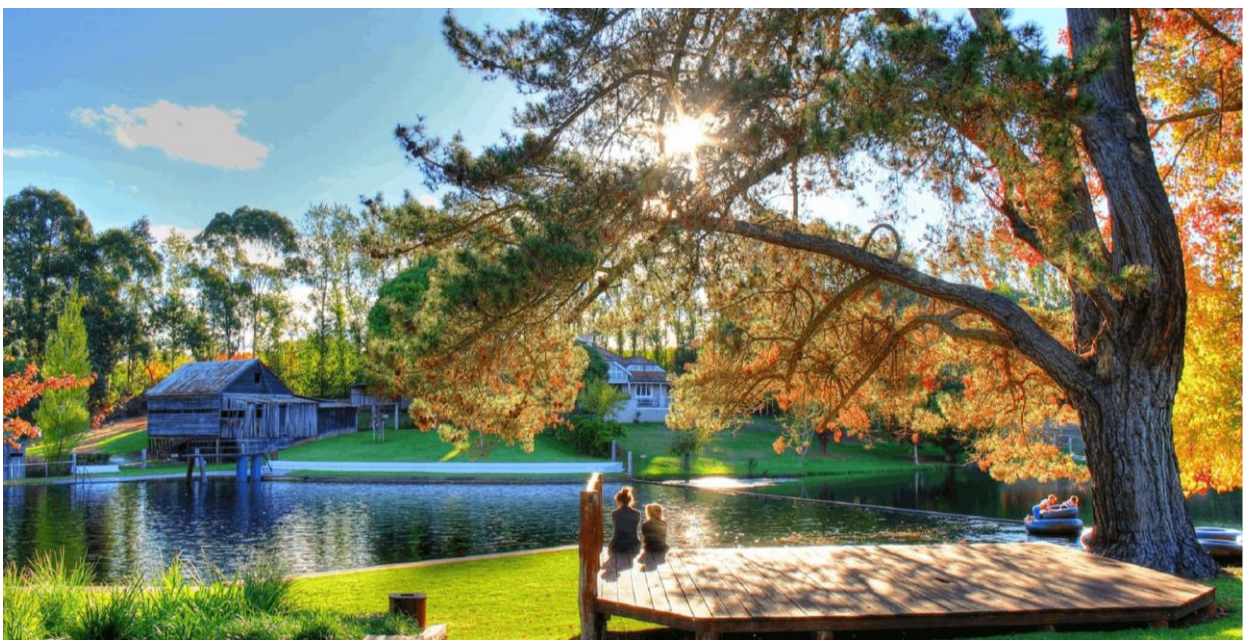
2.2.1.1. *within 15km of the Perth CBD, the locality is a radius of 2km of it*

2.2.1.2. *anywhere else (unless remote), the locality is a radius of 3km of it*

2.2.1.3. *in a remote area, you should make a submission on what the appropriate size of the locality should be. Remote areas are those where the nearest town is at least 200km away and Perth is at least 400km away.*



- 2.2.2. *If you think the above definitions of locality are not appropriate for your intended business, make a separate submission on what you think the size should be.*
- 2.2.3. *Please outline the population characteristics in the locality. Helpful demographic information will include the total population, estimated population growth, average age, income and employment status, and the type of people who live and work in the community.*
- 2.2.4. *List the community buildings in the locality If any of the following are in the locality, please provide their names and addresses: schools and educational institutions, hospitals, hospices, aged care facilities, churches/places of worship, drug and alcohol treatment centres, short term accommodation or refuges, childcare centres, or a local government.*
- 2.3. To give effect to these instructions this section will consider;
  - 2.3.1. The physical location of the subject premises,
  - 2.3.2. The presence of natural or human made boundaries that define the locality,
  - 2.3.3. The perception of the local community relevant to that locality / the community most likely to be impacted,
  - 2.3.4. The appropriate locality definition for the demographic study, and
  - 2.3.5. The appropriate locality definition for the outlet density study.
- 2.4. Further, this Policy confirms that the suburb of Jardee, where the subject premises is located, is further than 15km of the Perth CBD, but is not remote. Therefore, the policy says a 3km radius should be applied to the locality.



2.5. **The physical location of the subject premises**

2.6. The subject premises is located approximately 300km south of the Perth CBD.



2.7. It's nearest major regional town / tourist town is Manjimup (approximately 10km north by road, see map opposite).

2.8. **The presence of natural or man-made boundaries that define the locality.**

2.9. There are numerous farms in and around the subject premises.

2.10. Further there are some small lakes and dams that form natural boundaries. However the road network available helps navigate any of these boundaries. The applicant says there are no natural or man-made boundaries that significantly define the locality.

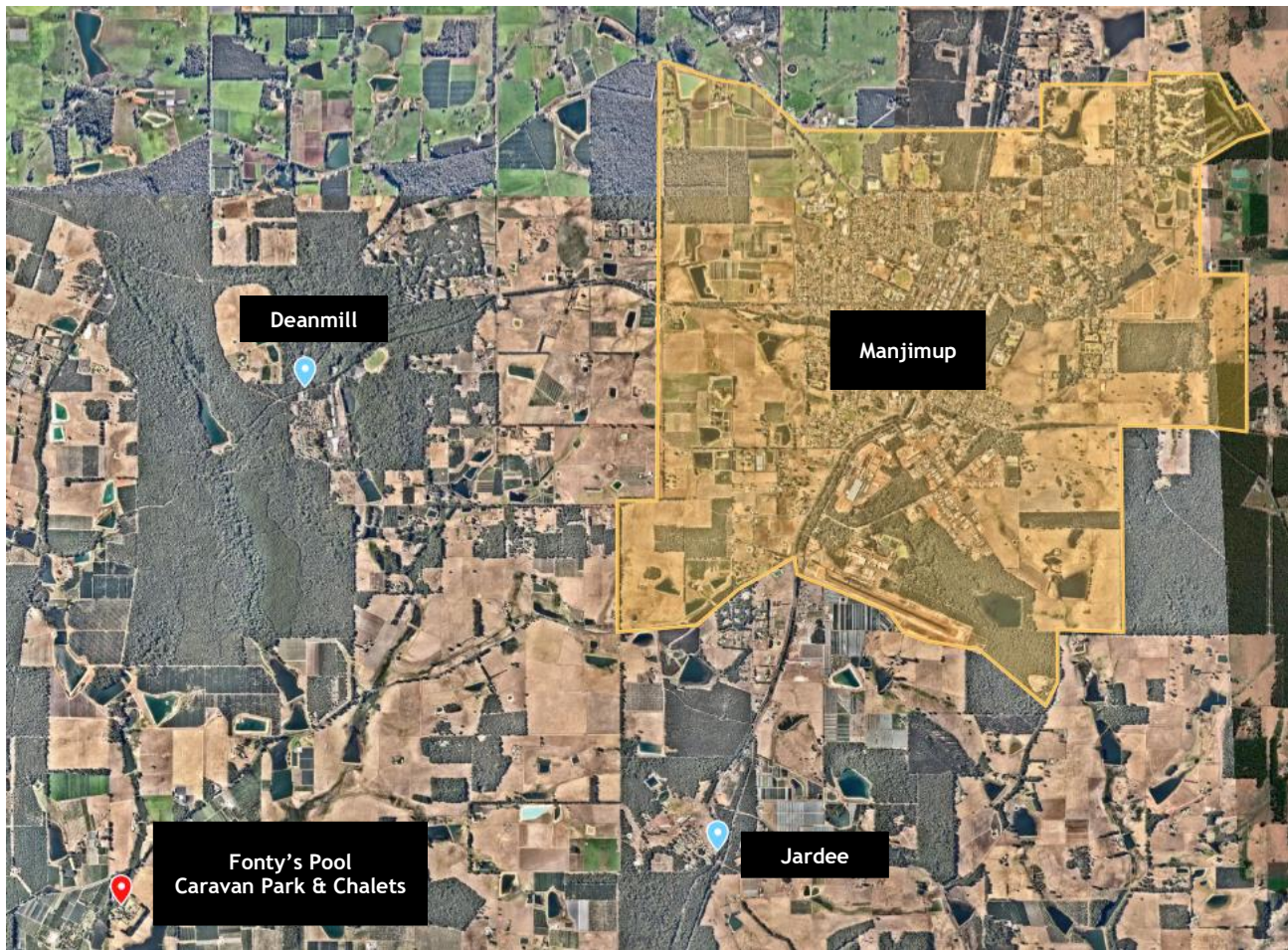
2.11. **The community most likely to be impacted by the grant of this application.**



- 2.12. Below is a map with the suburb of Manjimup outlined, as well as the location of the subject premises. Fonty's Pool is approximately 8km as the crow flies from the centre of Manjimup.
- 2.13. The immediate surrounds of the subject premises consist of bushland and farmland. Manjimup is the nearest landmark town, with smaller towns like Deanmill and Jardee being of similar distance away by road.







- 2.14. The community most likely to be impacted would be road trippers through the Shire of Manjimup, the community at Manjimup and smaller towns like Jardee and Deanmill, and specifically those who seek out Fonty's Pool for leisure or accommodation.
- 2.15. However, Fonty's Pool is sufficiently separated from population areas to conclude that it will not impact any neighbours to any significant degree.
- 2.16. **The appropriate locality for the Demographic Study**
- 2.16.1. Given the small nature of Jardee, the applicant has used the Manjimup Local Government Area data as the appropriate locality.
- 2.17. **Outlet density**
- 2.17.1. For the purposes of the outlet density study the Applicant will consider all existing licensed premises that may sell liquor for consumption on premises within 500m and all existing packaged liquor outlets within 3km.

### 3. The History of the Site and the Motivation for this Application

- 3.1. Fonty's Pool is set in the picturesque heart of Western Australia's southern forests and its historical significance combined with its reputation as a beautiful place to visit has made it a destination for all to enjoy. It combines a boutique campground and chalets with a huge historical pool surrounded by manicured lawns and gardens that provides the perfect setting for day visitors or holiday makers alike."
- 3.2. "Creation of the pool"
- 3.2.1. Italian Archimede "Archie" Fontanini arrived in Fremantle, Western Australia in 1904. He worked for a timber sawmill at Greenbushes for three years, then decided to move near Bridgetown to become a farmer. Fontanini bought 460 acres (1.9 km<sup>2</sup>) of land in what was known locally as "Archie's Oven Gulley" in 1907. He cleared the land and planted and harvested apples and various vegetables. The water in the front of the house was used to grow heavy crops, and Fontanini decided to rest the land by damming the stream with a large log and earth. He believed this would settle the silt in the water and improve the land's fertility.
- 3.2.2. Fontanini and his wife had five children, who swam regularly in the dam he created. The dam became popular with other children and adults as the district of Manjimup and timber town of Deanmill expanded. There was no public pool in Manjimup, and Fontanini was encouraged to keep the dam and charge an entry fee. This he did, and he constructed facilities, cemented the dam walls and floor and developed the surrounding gardens with little mechanical assistance.





### 3.3. "Open to the public"

- 3.3.1. The pool was officially opened to the public in 1925.
- 3.3.2. On Australia Day, 1947, a log chop was held as part of an Australia Day Sports carnival. This was held annually for eleven years.
- 3.3.3. In 1950, Fontanini retired from farming to work full-time on managing the pool and gardens. Fonty's Pool received thousands of visitors each year, and the swimming lessons were very popular. Fontanini was made a Member of the Order of the British Empire and received a Queen's honour for his contribution to the community and tourist industry in 1970.
- 3.3.4. Fontanini closed the pool to the public in 1973, because the management burden was too great. Community support saw the pool reopened in 1979 with the Australia Day Log Chops and Swimming Carnival, in celebration of Western Australia's 150th anniversary. Some 12,000 people attended the carnival. Fontanini was present at the celebration. He died in 1982.





### 3.4. "Today"

- 3.4.1. Public liability insurance issues led to the closure of Fonty's Pool in 2005, when its insurance policy was revoked. The Fontanini family sold the farm shortly afterwards. The new owners, with assistance from the National Trust of Australia, reopened the pool with a 300 metre fence around the perimeter to meet insurance requirements.
- 3.4.2. The Shire of Manjimup celebrated its centenary on Australia Day 2008 with a "Back to Fonty's" event. The celebration included swimming races, a bathtub race and a log chop competition.
- 3.4.3. Part of Fontanini's original farm now houses a winery called Fonty's Pool Wines, which is adjacent to the pool on Seven Day Road. The 330 hectare winery, established in 1989, also produces avocados.
- 3.4.4. Fonty's Pool holds 18 million litres of water, with a winter flow rate of 44,000 litres per hour. The pool covers nearly one acre.
- 3.5. The pool has therefore closed twice in its history, but each time has reopened due to public demand. It is a vital part of Manjimup's social and tourist fabric.
- 3.6. Today the operations of the very popular caravan park support the Pool financially (caravan park bookings are required a year in advance for popular holiday periods).
- 3.7. The applicant advises that it has been the practice for locals and tourists to bring liquor to Fonty's Pool with their picnics since the 1920s.

## 4. Demographics of the Locality

- 4.1. The Director advises that applicants “*need to provide profile information from the locality*”, and “*The better you capture the characteristics of the local community, the better the (Director) will be able to understand the potential impact the grant of your application could have on the public interest*”.
- 4.2. In Form 2A the Director provides guidance on the data and information he would find useful when applicants consider the demographic make up of the subject locality. In that document applicants are tasked to provide an “*outline the population characteristics in the locality. Helpful demographic information will include the total population, estimated population growth, average age, income and employment status, and the type of people who live and work in the community.*”
- 4.3. On page 39 of the Western Australian Mental Health Promotion, Mental Illness, Alcohol and Other Drug Prevention Plan 2018-2025 the following priority population groups are identified.
  - 4.3.1. Aboriginal peoples and communities.
  - 4.3.2. LGBTIQ+ individuals and communities.
  - 4.3.3. Youth.
  - 4.3.4. Victims of trauma.
  - 4.3.5. Children affected by parental mental illness and/or harmful alcohol and other drug use.
  - 4.3.6. People at-risk of experiencing homelessness.
  - 4.3.7. Military veterans.
  - 4.3.8. People within the criminal justice system.
  - 4.3.9. People with an existing mental illness.
  - 4.3.10. Regional, remote and rural populations.
  - 4.3.11. Fly-In-Fly-Out workers and families.
  - 4.3.12. Carers, families and supporters of consumers of mental health, alcohol and other drug services (in particular, children); and
  - 4.3.13. People with lived experience of mental health and/ or alcohol and other drug-related issues.
- 4.4. The applicant will consider all thirteen groups above for which data is readily available. The following groups were unable to be considered however, as data is not available for them.
  - 4.4.1. LGBTIQ+ individuals and communities.
  - 4.4.2. Victims of trauma.
  - 4.4.3. Children affected by parental mental illness and/or harmful alcohol and other drug use.
  - 4.4.4. People at-risk of experiencing homelessness.
  - 4.4.5. People within the criminal justice system.
  - 4.4.6. People with an existing mental illness.
  - 4.4.7. Fly-In-Fly-Out workers and families
  - 4.4.8. Carers, families and supporters of consumers of mental health, alcohol and other drug services (in particular, children); and
  - 4.4.9. People with lived experience of mental health and/ or alcohol

and other drug-related issues.

4.5. So, in summary, the Applicant will provide data on the following.

- 4.5.1. Total population,
- 4.5.2. Estimated population growth,
- 4.5.3. Average age,
- 4.5.4. Income,
- 4.5.5. Employment status,
- 4.5.6. Aboriginal peoples and communities,
- 4.5.7. Youth,
- 4.5.8. Military veterans, and
- 4.5.9. Regional, remote and rural populations,

4.6. 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)) for the Manjimup LGA 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).

4.7. It was not of any value to provide and consider the Census data for the suburb of Jardee due to its low population figure.

4.8. The applicant will be considering the 2021 census data relating to the Manjimup Local Government area.

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

ABS Census 2021	Manjimup LGA	Western Australia
<b>People</b>		
Median Age	47	38
<b>Aboriginal and Torres Strait Islander People</b>		
	3.3%	3.3%
<b>Age</b>		
Persons aged 15 - 24	12.1%	11.8%
Persons aged 65+	22.8%	16.1%
<b>Occupation</b>		
Managers	20.4%	12.3%
<b>Australian Defence Force</b>		
Previously Served (and not currently serving)	3.0%	2.6%
<b>Employment, hours worked</b>		
40 - 44 hours	18.6%	19.6%
45 hours or more	23.7%	22.6%
<b>Tenure Type</b>		
Owned outright	39.7%	29.2%

<b>Rent weekly payments</b>		
Renter households where rent payments are less than or equal to 30% of household income	60.0%	59.9%
<b>Mortgage monthly repayments</b>		
Owner with mortgage households where mortgage repayments are less than or equal to 30% of household income	69.0%	72.1%
Owner with mortgage households with mortgage repayments greater than 30% of household income	13.9%	13.0%

- 4.10. The purpose of considering the demographic data for the locality is to establish whether the priority population groups identified earlier in this section are over or underrepresented in the locality.
- 4.11. The figures for aboriginal people and communities and for young people in the locality were unremarkable.
- 4.12. Older adults.
- 4.12.1. The percentage of persons aged 65+ in the Manjimup LGA is somewhat higher than the State figure.
- 4.12.2. Conclusion - This priority group is overrepresented in the locality.
- 4.13. People from rural and remote communities.
- 4.13.1. The locality is rural, being over 10km from Manjimup.
- 4.14. When comparing the socio-economic data in the 2021 Census for the Manjimup LGA to the figures for WA as a whole.
- 3.16.1. The rate of hours worked (45 or more) is higher in the Manjimup LGA than the State average.
- 3.16.2. The percentage of households owned outright is significantly higher in the Manjimup LGA.
- 3.16.3. There are similar levels of low rental stress in the Manjimup LGA as there is across the State.
- 3.16.4. Mortgage stress is also very similar in the LGA when compared to the State.
- 4.15. The applicant concludes that the Manjimup LGA is largely unremarkable in its representation of priority population groups.

## 5. Profile of the local community

5.1. Per the directive of Form 2A, at paragraph 3.3, available on the Public Interest Assessment policy website (last amended September 2024);

5.1.1. *“If any of the following are in the locality, please provide their names and addresses: Schools and educational institutions, hospitals, hospices, aged care facilities, churches/places of worship, drug and alcohol treatment centres, short term accommodation or refuges, childcare centres, or a local Government”.*

5.2. After a thorough search the applicant declares none of the sensitive venues listed above exist within 3km of the subject premises.

## 6. Outlet Density

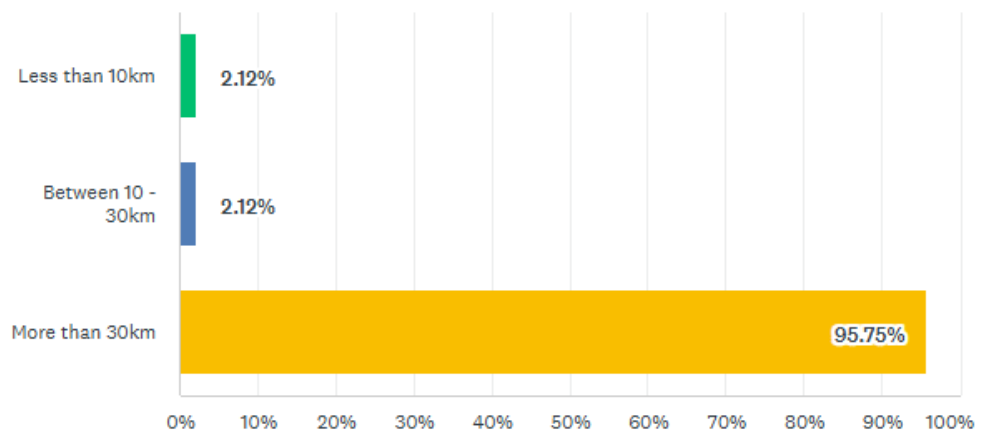
- 6.1. The subject premises is located at 721 Seven Day Road, Jardee WA 6258.
- 6.2. According to the policy document "Public Interest Assessment", the applicant is required to consider licensed premises, which may trade in a manner similar to what is proposed, within 500 metres of the planned premises for on-premises consumption, and 3km for off-premises consumption. As this is an application for a tavern licence - both will be considered.
- 6.3. The updated policy has no specific, stated requirement for this to be undertaken. In the absence of more recent guidance the applicant has adopted these two radii for this PIA.
- 6.4. In April 2025, the applicant searched the website of the Department of Racing, Gaming and Liquor, for existing liquor licences within 500m of the proposed premises for on-premises consumption, and within 3km for off-premises consumption (take-away liquor).
- 6.5. The applicant then:
  - 6.5.1. Eliminated any premises which may not trade in a manner similar to a tavern; and
  - 6.5.2. Eliminated any premises from that list located outside the locality.
- 6.6. This resulted in **0 premises** within the locality which trade in a similar manner to a liquor store.
- 6.7. The licensed services proposed to be offered at this premises are modest and mostly focused on accommodation guests and tourists, as well as those making use of the pool facilities.



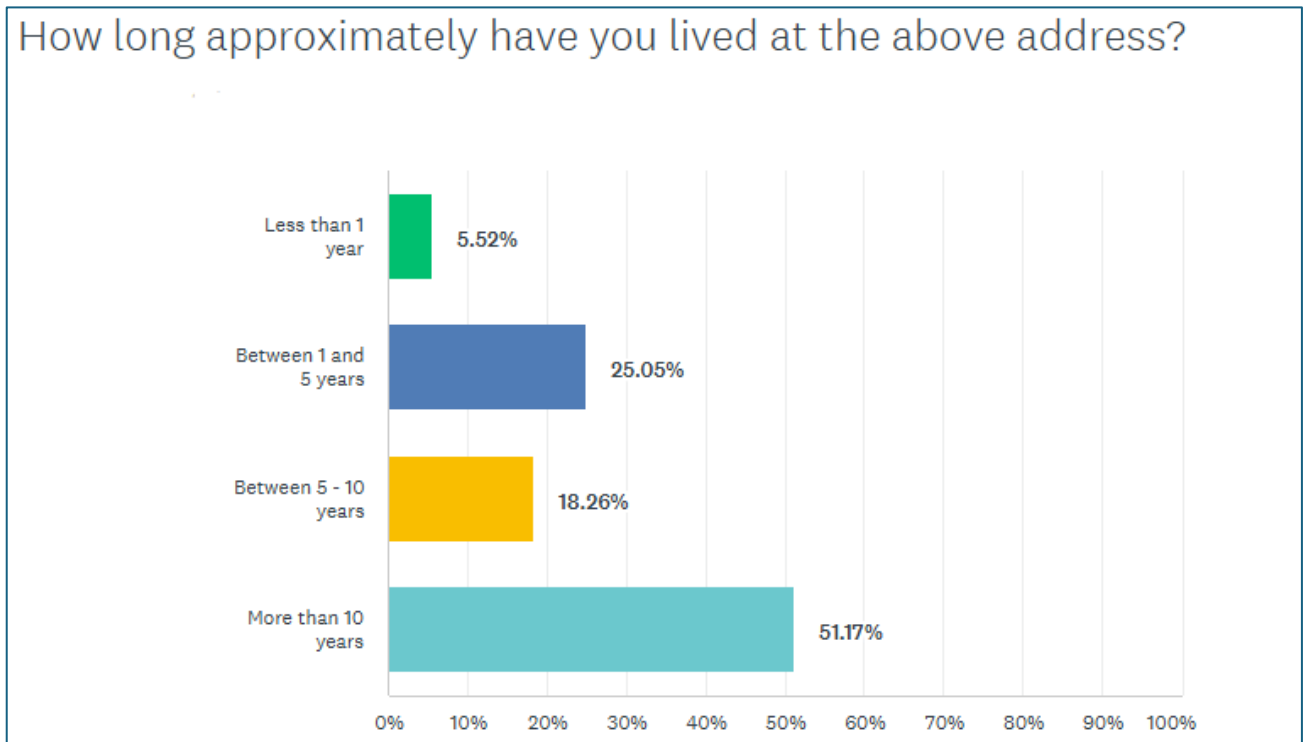
## 7. Objective Public Interest Evidence

- 7.1. Throughout April 2025, the applicant implemented a witness response strategy both online and in-person, to gather objective evidence for these submissions.
- 7.2. A hard copy of the witness questionnaire can be found at attachment FP02
- 7.3. The following information / documentation was made available to potential respondents.
  - 7.3.1. Floor plans (attachment FP03),
  - 7.3.2. Map of the locality (attachment FP04),
  - 7.3.3. Draft stock-list (attachment FP05), and
  - 7.3.4. Intended Manner of Trade document (attachment FP06).
- 7.4. In total, the applicant has gathered 478 responses. It should be noted that a further 129 questionnaires were attempted, but no data was entered. They have been removed from final consideration as they have no bearing on the final data.
- 7.5. The following family / staff took part in the questionnaire.
  - 7.5.1. Jenny Tesch
  - 7.5.2. Todd Jones
  - 7.5.3. Adele Peters
  - 7.5.4. Adam Peters.
- 7.6. As expected, giving the very regional location of Fonty's Pool, the majority of respondents live more than 30km away.

### Approximately how far do you live from Fonty's Pool?

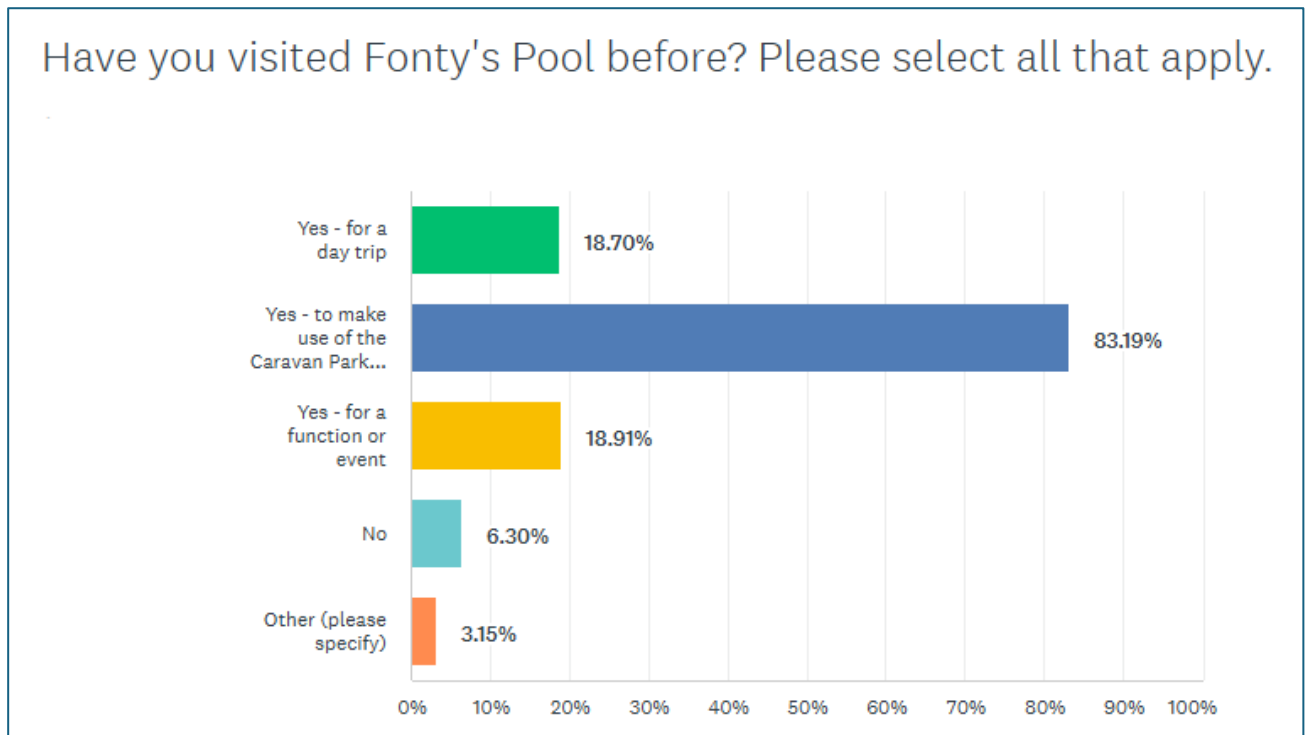


- 7.7. 471 respondents answered the question above. The same number of respondents answered how long they've lived at their address. Their answers are below;



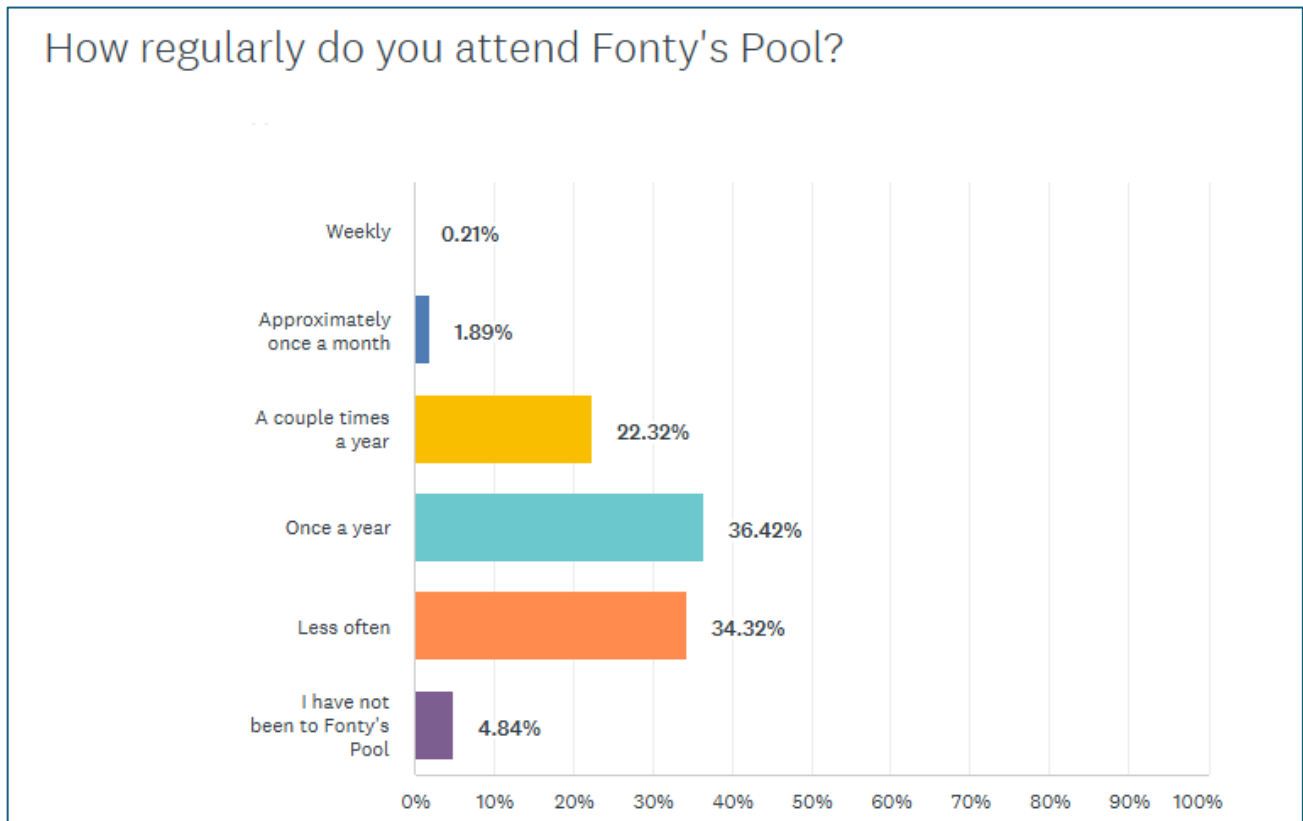
- 7.8. Over half of the respondents have lived at their current address for 10+ years.

- 7.9. Respondents were then asked to establish their relationship with Fonty's Pool, Caravan Park and Chalet's, and were allowed to select more than one option.



- 7.10. As can be seen, 396 of the 476 respondents (**83%**) said they visit to make use of the Caravan Park and Chalets.
- 7.11. Further, **nearly a fifth** of respondents said they have visited Fonty's Pool on a day trip, or have been there for a function or event.

- 7.12. Next, respondents were asked, *“How regularly do you attend Fonty’s Pool?”*. Their answers are below.



- 7.13. Given this application is for those who are familiar, who have visited / patronised the recreational facilities or made use of the accommodation services at Fonty’s Pool, the applicant submits that this respondent pool is made up a very appropriate demographic.
- 7.14. As this application is about adding a on-premises and off-premises liquor service to the venue, the Applicant was seeking the responses of those who are familiar with Fonty’s Pool.
- 7.15. The applicant reiterates the following;
- 7.15.1. Around 96% of respondents live 30+km away (which is not an unreasonable distance in such a regional location), with half of them having been at their addresses for 10+ years,
- 7.15.2. Only 6% of the 470+ respondents have not been to Fonty’s Pool before, and
- 7.15.3. Around 60% visit Fonty’s Pool once a year, with 95% of respondents having been to Fonty’s Pool at least once
- 7.16. The Applicant submits the objective evidence presented so far throughout this section shows this respondent pool to be an accurate representation of the community who would be impacted by the approval of this liquor licence application.

- 7.17. The applicant notes some concerns were raised by respondents when answering questions based on the public interest sections of the Liquor Control Act (1988).
- 7.18. The following concerns were cited as potential issues of this licence being granted;
- 7.18.1. Disruption to the quiet atmosphere of the park or camping grounds,
  - 7.18.2. Commercialisation of the property with it no longer feeling secluded (i.e. becoming an events space),
  - 7.18.3. Safety concerns for children attending and playing in the pool areas,
  - 7.18.4. Alcohol around water,
  - 7.18.5. Containment of noise for those camping / caravanning, and
  - 7.18.6. General drunkenness and rowdiness.
- 7.19. The applicant responds by stating that;
- 7.19.1. The proposed trading hours are short (by contemporary standards),
  - 7.19.2. It has been the habit for a great many years for visitors to Fonty's Pool to bring their own alcohol.
  - 7.19.3. The premises has held many events with the service of alcohol in the past without complaint.
  - 7.19.4. The proposed licensed area is;
    - 7.19.4.1. Small,
    - 7.19.4.2. Open and easily monitored, and
    - 7.19.4.3. Is separated from the pool.
  - 7.19.5. Appropriate harm and safety posters will be displayed throughout the premises.
  - 7.19.6. No unaccompanied juveniles will be permitted within the licensed area.
  - 7.19.7. The Applicant has a strong harm minimisation plan and strategy in place.
- 7.20. 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).

## 8. Proposed Style of Operation

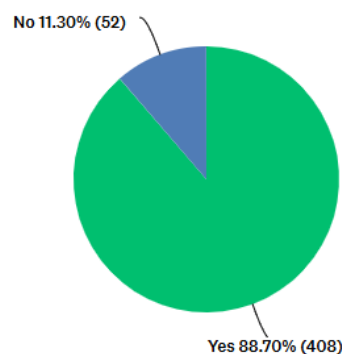
- 8.1. Fonty's Pool is a very popular Southwest destination for vacation and day visitation alike. Historically many people have brought BYO alcohol to the pool grounds.
- 8.2. During peak periods (summer, holidays and long weekends) can see 250+ persons staying in the park and sometimes 100-150 extra visiting for the day. This is weather dependant with weekends busier than midweek. Numbers drop off in off-peak periods and in the winter months.
- 8.3. Under this new licence, the following is proposed;
  - 8.3.1. A small bar area with a self-service deli with charcuterie, cheeses, breads etc overlooking Fonty's Pool that will be operational during afternoon daylight hours.
  - 8.3.2. The beverage offering will include mainstream beers, wines, champagne and spirit offerings, with occasional regional wine tasting events.
  - 8.3.3. This bar will also enable Fonty's Pool to hold small events such as music afternoons, movie nights, celebratory events, not for profit afternoons etc.
  - 8.3.4. There will also be the option to purchase packaged (take-away) liquor at the bar.
  - 8.3.5. This bar is intended to service everyone at the premises - including those in the Caravan park.
- 8.4. The licensed area will be restricted to a defined area in front of the existing café and will be delineated by a retaining wall and garden beds that are mostly already in place.
- 8.5. A short new wall will be required, as well as signage and furniture. Point of sale and other operational infrastructure are already in place. It's likely that cost of renovation will be below \$25,000.
- 8.6. Developments to some of Fonty's Pool's "day visitation area" have been carried out with the sole purpose of being able to conduct and contain successful events that involve alcohol consumption. The Applicants have constructed a lock up bar with a serving area and cool room on site and have enclosed the alcohol consumption area with garden beds and retaining walls.
- 8.7. This new area is sited immediately below and in full view of their administration area for assistance with event control. The area is accessible via industry compliant concrete path and ramp located for ease of supervision of ingress and exit.
- 8.8. Consequently, there will be only a few additional renovations required to facilitate the proposed permanent licensed area, additionally the applicant has the benefit of many years of operations to enable its successful implementation.



- 8.9. The applicant intends to conduct wine tastings in association with local wineries and have a Fonty's Pool branded beer on offer.
- 8.10. In respect of the limited packaged liquor offer, the applicant will not look to compete with pricing from larger retailers in Manjimup (in any case they are more than 10km away), but will commit to providing popular varieties as required.
- 8.11. There will be no dedicated packaged liquor facility on site. However packaged liquor will be offered over the counter to persons staying at the Caravan Park, and people who have been visiting Fonty's Pool. The premises is not in any town, is not near any major residential area, nor is it on a busy street. All these factors point to a limited demand for packaged liquor, but it is a service the Applicant wants to be able to offer.
- 8.12. The packaged liquor offer is initially likely to be;
  - 8.12.1. 9 local Truffle Hill Wines,
  - 8.12.2. 1 Champagne - Sparkling Pinot
  - 8.12.3. 9 beers and ciders - inclusive of the following Fonty's Pool exclusive products.
    - 8.12.3.1. Fonty's Pool IPA,
    - 8.12.3.2. Fonty's Pool Lager, and
    - 8.12.3.3. Fonty's Pool Ginger Beer
    - 8.12.3.4. 5 different RTD's.
- 8.13. The on-premises liquor offer will mirror what is available for takeaway.
- 8.14. A liquor licence will open the door to other small event opportunities like Melbourne Cup days, film nights, music events, etc.
- 8.15. Fonty's has an existing kitchen that has been used extensively for weddings and large events, but no day-to-day offerings. A licence will provide an opportunity to supply food and beverages on a regular basis.
  - 8.15.1. The food offering will include a smattering of Deli Fridge Picnic Basket snacks - cheeses, breads, charcuterie, smoked products, pickles, dried fruits & preserves, as well as
  - 8.15.2. Wood fired pizzas and chips.
- 8.16. A licensed venue here will also open the door for other small event opportunities like Melbourne Cup days, film nights, music events, etc. which, the Applicant believes will be a popular addition to what the region already has on offer and might encourage people to stay longer.
- 8.17. A licence will also enable one off opportunities like celebrity chefs and occasional restaurant events, something the Applicant has done successfully with Truffle Kerfuffle.

- 8.18. There will be no dedicated packaged liquor facility on site. However packaged liquor will be offered over the counter to persons staying at the Caravan Park, and people who have been visiting Fonty's Pool.
- 8.19. These self-imposed conditions will ensure that Fonty's Pool and Caravan Park will remain a very low risk licensed venue and will not contribute in any way to alcohol related harm or ill-health in the locality.
- 8.20. It is proposed that Fonty's Pool will not seek any extended trading hours and will trade within the hours permitted for taverns under the Liquor Control Act.
- 8.21. In normal circumstances the proposed trading hours will be limited to afternoon daylight hours in the summer and office hours at off peak times.
- 8.21.1. Given the nature of the business, the Applicant expects, and is accustomed to, having a number of days each year where they do not open at all.
- 8.21.2. Their core business is the caravan park and they will seek to ensure that this new development doesn't impact patrons camping there in any way.
- 8.22. Staff at the premises will include 3 full time managers, 4-6 permanent/part time and 2-4 casuals. Staff numbers are normally in place in season, and Fonty's Pool will shift them around the various areas and draw upon them as required.
- 8.23. In the witness questionnaire, respondents were asked, *"As seen in the intended manner of trade document provided - Fonty's Pool will be creating a 'Day Bar' licensed bar area and beer garden, available to visitors during daylight hours. Would you be likely to become a customer of Fonty's Pool's new Day Bar?"*
- 8.23.1. Of the 460 responses to this question, **408 (88.7%)** said, **"Yes"**.

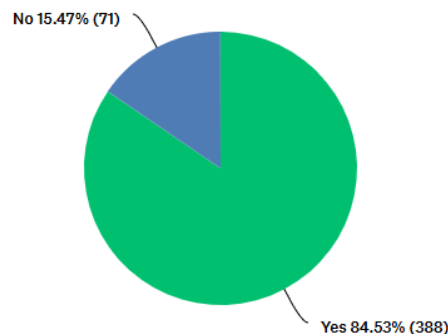
As seen in the intended manner of trade document provided – Fonty's Pool will be creating a "Day Bar" licensed bar area and beer garden, available to visitors during daylight hours. Would you be likely to become a customer of Fonty's Pool's new Day Bar?



- 8.24. Following this, respondents were then asked, *“As seen in the intended manner of trade document provided - Fonty's Pool will create a packaged liquor offering... would you be likely to become a customer of Fonty's Pool and purchase from their packaged (takeaway) liquor range?”*

8.24.1. Of the 459 responses, **388 (84.53%)** said, **“Yes”**.

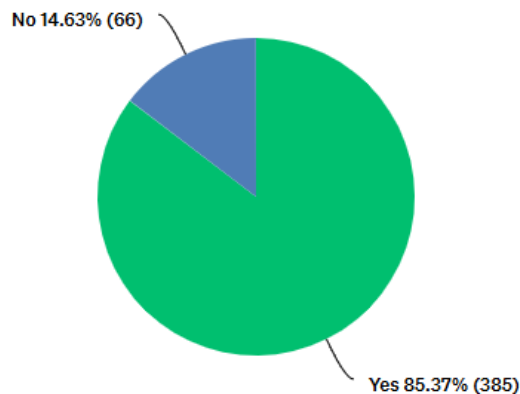
As seen in the intended manner of trade document provided – Fonty's Pool will create a packaged liquor offering consisting of; 9 local Truffle Hill Wines, 1 Champagne – Sparkling Pinot 9 beers and ciders – inclusive of the following Fonty's Pool exclusive products; Fonty's Pool IPA, Fonty's Pool Lager, and Fonty's Pool Ginger Beer 5 different RTDs (Ready-to-drink). Would you be likely to become a customer of Fonty's Pool and purchase from their packaged (takeaway) liquor range?



- 8.25. Respondents were then asked about matters of convenience, *“If you answered yes to question 8 (and with the nearest bottleshop being in town, 10km away), would you then find it convenient / important to you to have access to packaged (takeaway) liquor at Fonty's Pool?”*

8.26. As can be seen, over **85%** of respondents said they find it convenient & important.

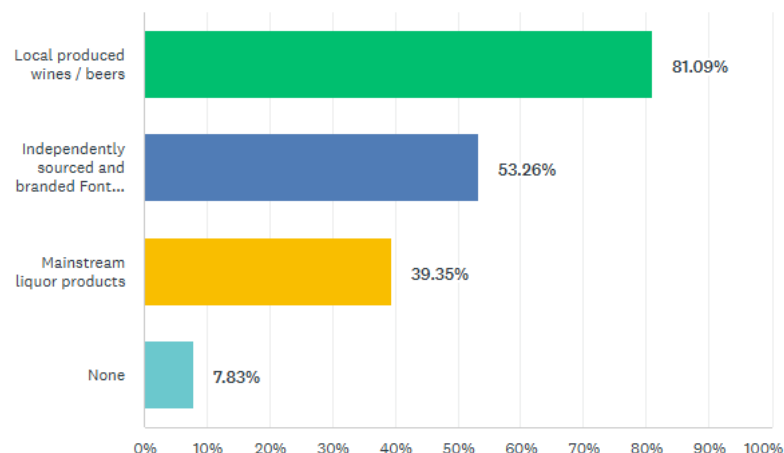
If you answered yes to question 8 (and with the nearest bottleshop being in town, 10km away), would you then find it convenient / important to you to have access to packaged (takeaway) liquor at Fonty's Pool?



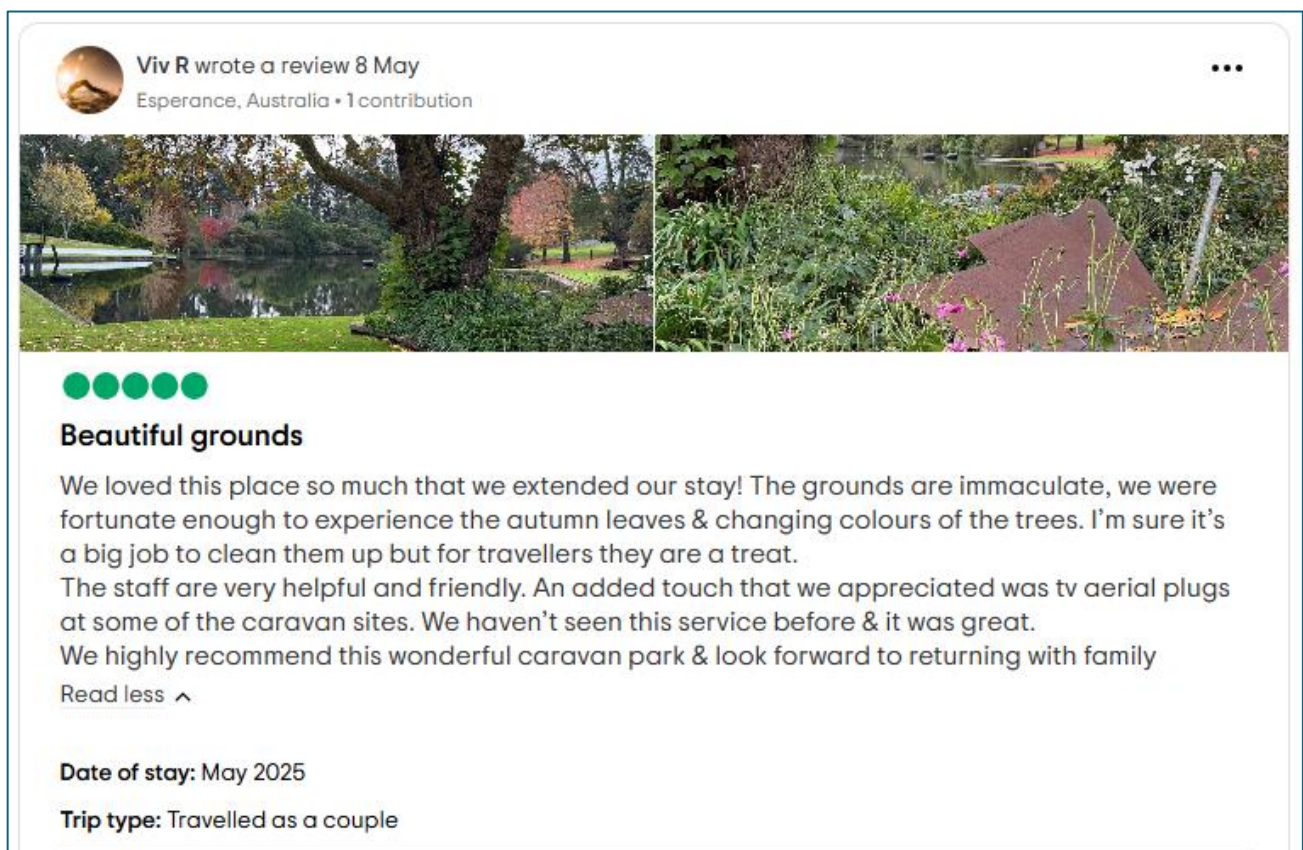
8.27. Lastly, on matters of Fonty's Pool's proposed style of operation, respondents were asked, "*Which products would you be likely to buy take-away? Please check all that apply.*"

8.28. With respondents allowed to select more than one option, **81%** said they would buy locally produced wines / beers for takeaway. Further, **over half** of the respondents said they would opt for independently sourced and branded Fonty's Pool Beers. **39%** said they would buy mainstream liquor products takeaway. And only **7.83%** said they would not buy take-away products from Fonty's Pool.

Which products would you be likely to buy take-away? Please check all that apply.



- 8.29. Mr. Beissel has provided a signed statement about Fonty's Pool, the day-to-day operations of the premises and what is envisioned for the premises in the future. The signed statement can be viewed at attachment FP07.
- 8.30. Below are a couple quotes that provide some further context to the motivation behind this liquor licence application.
- 8.30.1. *"As the grounds are large that's not an easy exercise and becoming more impractical with the changing public liability environment. It's a natural progression for us to license the venue with area restriction and, thereby, assume control of consumption and responsible service, while enabling the historical practice of alcohol availability at Fonty's to continue."*
- 8.30.2. *"Fonty's Pool is a very popular Southwest destination, renowned for its beauty and historical significance. The modern habits of our patrons trends towards more instantaneous behaviour and the endless disappointment of visitors discovering this amazing location and not being able to enjoy an alcoholic drink and food is becoming hard to disregard."*
- 8.31. It should be noted that Fonty's Pool is consistently reviewed well on popular trip sites like Tripadvisor. Below are a number of reviews, to provide some insight.







suebreen3 wrote a review Apr 2025

Perth, Australia • 50 contributions • 3 helpful votes



### Lovely Experience once more

We had a wonderful stay at Fonty's yet again - this beautiful place never disappoints. A relaxing idyllic place to swim, sight see, drink wine and eat fabulous local produce. Great camp kitchen and very clean well-appointed amenities. The staff are lovely relaxed and friendly. Can't wait until our next visit.

[Read more](#) ▾

**Date of stay:** March 2025



Kurt N wrote a review Feb 2025

2 contributions



### Top Holiday Resort

Discover the ultimate getaway at the most captivating caravan park in South West WA! Picture yourself diving into the refreshing natural pool, surrounded by breathtaking greenery that simply takes your breath away. We initially planned to stay for just a couple of nights, but we were so enchanted that we extended our visit to over a week! The warm hospitality and unwavering support from the staff truly made our experience unforgettable. Don't miss out—come see for yourself why this caravan park is the perfect destination for your next adventure!

[Read more](#) ▾

**Date of stay:** February 2025



Sacha L wrote a review Jan 2025  
2 contributions



### Happy Campers

Pristine location! As soon as you drive in you can tell how well cared for the park is. All amenities were clean and modern and the family ensuite's were great for people with small children. The park was dog friendly and very peaceful. The pool is beautiful and a great spot to spend the day.

[Read more](#) ▾

**Date of stay:** January 2025

1.

#### "Simply the Best!"

—

**April 2024**

"The moment we arrived, we were greeted with incredibly helpful and welcoming reception personnel. The facilities are absolutely spotless and well maintained. Great facilities, fabulous pool area, and camp kitchen. Highly recommend!"

— [Tripadvisor](#)

2.

#### "A Timeless Retreat"

—

**March 2024**

"What a wonderful place. Fonty's is a timeless retreat. The staff couldn't be friendlier, the grounds are incredibly well kept, as are the facilities. One of the best places we've stayed!"

— [Tripadvisor](#)

3.

#### "Fontys Pool is Simply the Best"

—

**May 2024**

"Can't fault the place – friendly staff, super clean facilities, and awesome pool and grass areas. We'll be back every year from now on."

4.

#### "Top Holiday Resort"

—

5.

**"A Wonderful Family Getaway"**

—

**May 2024**

"Fantastic family spot. The pool was a hit with the kids, and the green lawns made for relaxing afternoons. Clean, well maintained, and peaceful."

6.

**"Great Facilities, Location and Value"**

—

**May 2024**

"This place ticks all the boxes – good value, spotless amenities, beautiful surroundings, and friendly service. Loved our stay."

7.

**"Seniors Cycle Club Camp"**

—

**November 2024**

"We brought 40 people for a cycling camp – everything was immaculate. The staff, cleanliness, and setting were all top-notch. Couldn't ask for a better venue."

8.

**"Great Place to Stay"**

—

**December 2024**

"Clean, quiet, and beautifully maintained. The camp kitchen and BBQs were excellent, and the lawns and pool were perfect for relaxing."

## 9. Background and Experience of the Applicant.

- 9.1. Being offered for sale by the Fontanini family, who had held it since its first habitation in 1907, Fonty's Pool provided the ideal challenge and lifestyle for Jeremy and Kelly Beissel and their young family.
- 9.2. Prior to this, they operated a successful Rock Lobster business from Leeman on the WA coast for 15 years and still maintain a significant investment in that industry.
- 9.3. Additionally, Mr. Beissel has spent time as vice president of the Leeman Football club and organised / ran several fundraising events under occasional licences.
- 9.4. They have been the owners/operators of Fonty's Pool Chalets and Caravan Park since they bought it as a closed and rundown property/business in Manjimup 20 years ago. In this time, they have spent endless hours rejuvenating it into the premises seen today.
- 9.5. At the time it had been operating under management as a small caravan park with 30 powered sites and 4 small cabins but had become run down and unviable. Since then it has morphed into an iconic Southwest holiday park with over 100 caravan/camping sites and 10 chalets and cabins achieving Gold Star rating year on year from the Australian Tourism Industry Council.
- 9.6. Fontys also has a popular day area offering centered around its iconic natural pool and historical buildings.
- 9.7. Fonty's Pool has held over 120 weddings to date and while the patrons supply their own alcohol in our wedding package, we are responsible for its service and have successfully done so without incident on all occasions.
- 9.8. Similarly, Fonty's Pool has held several one-off liquor licences for charity events, P&F organizations and football clubs that Mr. Beissel has been the administrator for.
- 9.9. For the last 12 years, the premises has also hosted the Truffle Kerfuffle, a large winter gourmet event with up to 3000 persons in attendance and entirely operated under license for 3 days.
- 9.10. Lastly, the applicant confirms that they have received no liquor infringements from the licensing authority with regard to any events / venues, nor have they received any warnings / formal complaints from police, Council and/or neighbours.
- 9.11. This is a family-owned and operated business, close to the hearts of the applicants. With this new licence, they hope to elevate the service offering for the benefit of all who visit Fonty's Pool.



## 10. Section 36B(4) of the Act - Restrictions on Grant or Removal of Certain Licences Authorising Sale of Packaged Liquor

- 10.1. In the Second Reading Speech on the introduction of the Liquor Control Amendment Bill 2018 dated 20th February 2018, the Minister for Racing and Gaming, Mr. Paul Papalia stated:
  - 10.1.1. *“.....to prevent the further proliferation of small and medium packaged liquor outlets across the state, the act will be amended so that the licensing authority must not grant an application unless it is satisfied that existing premises in the locality cannot reasonably meet the requirements for packaged liquor.”*
- 10.2. Subsequently, a new Section 36B(4) of the Liquor Control Act (WA) 1988 was proclaimed and came into effect on 2<sup>nd</sup> November 2019. Section 36B(4) reads as follows:
  - 10.2.1. *“The licensing authority must not grant an application to which this section applies unless satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality in which the proposed licensed premises are, or are to be, situated”.*
- 10.3. In this section the applicant considers whether the local packaged liquor requirements are reasonably met by the existing packaged liquor premises in the locality.
- 10.4. The licensing authority has consistently noted this clause states the licensing authority **must not** grant an application to which this section applies unless satisfied in respect of other matters. It is a clear directive, with no room for manoeuvre.
- 10.5. However, Parliament has tailored the wording of this section to provide the licensing authority with some discretion. This is not a directive to refuse all liquor licence applications to which this section applies. If that were so, the licensing authority would simply not accept any such applications as each one would be a waste of everyone's time and money.
- 10.6. The licensing authority **MAY GRANT** an application to which this section applies if it is *“satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality in which the proposed licensed premises are, or are to be, situated”.*
- 10.7. In the Supreme Court decision relating to Liquorland Karrinyup (LIQUORLAND (AUSTRALIA) PTY LTD v DIRECTOR OF LIQUOR LICENSING [2021] WASC 366) Archer J provided guidance on the meaning of reasonable and was critical of the Liquor Commission for searching for great difficulty and great inconvenience, when the correct test is to identify sensible and rational inconvenience.
- 10.8. In paragraph 121 of that decision she stated;
  - 10.8.1. *“I do not accept this. It is plain from the paragraphs extracted above that the Commission mistakenly thought that the Difficulty Test applied to the 'reasonable requirements' phrase. Further, although*



*appearing to state on those two occasions that these matters were alternatives, on another occasion, the Commission appeared to find that an alleged consumer requirement did not satisfy the Consumer Requirements condition because it did not 'constitute a "great difficulty or inconvenience"'. "*

10.9. And at 127 of the same decision;

10.9.1. *"Having regard to all of the matters I have outlined, it is not entirely clear what the Commission considered the test to be. Nevertheless, having regard to the Decision as a whole, I am satisfied that the Commission interpreted the phrase 'cannot reasonably be met' as meaning 'cannot be met without causing great difficulty or inconvenience'."*

10.10. And further in 130 and 131;

10.10.1. *"The word 'reasonable' has been said to import a degree of objectivity in that the word reasonable means sensible; not irrational, absurd or ridiculous; not going beyond the limit assigned by reason; not extravagant or excessive."*

10.10.2. *In my view, the word 'reasonably' in s 36B(4) is intended to bear the same meaning. Accordingly, the phrase 'cannot reasonably be met' means 'cannot sensibly or rationally be met'."*

10.11. So, the intent of the legislative change was to reduce the pace of approvals for packaged liquor outlets, to manage the process, to bring a level of control. Evidently, the mechanism still exists for the granting of new packaged liquor outlets when the evidence presented in an individual application merits a grant.

10.12. These submissions have concluded that there is no existing packaged liquor outlet in the locality capable of selling packaged liquor to the public.

10.13. It therefore follows that consumer requirements for packaged liquor are not currently being met.

10.14. The evidence of the witness survey (see paragraphs 9.24. - 9.28.) shows that (1) there is a requirement for this proposed new packaged liquor offer, (2) a large majority of respondents are interested in purchasing specific types of packaged liquor from Fonty's Pool, and (3) an overwhelming majority say it is important / convenient for them to have access to this packaged liquor offer, given how far away the next nearest existing packaged liquor outlet is located.

## 11. Section 38(4)(a) - Harm or Ill-health

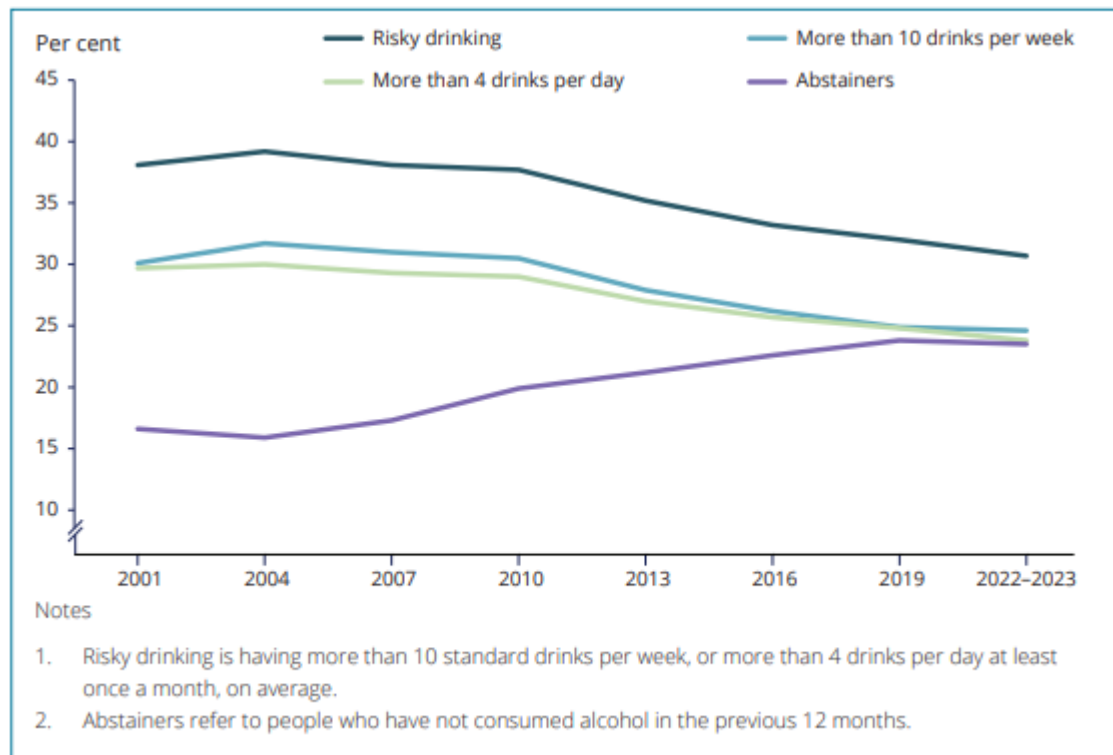
- 11.1. Section 38(4)(a) of the Liquor Control Act (1988) asks the applicant to consider “the harm or ill-health that might be caused to people, or any group of people, due to the use of liquor.”
- 11.2. In this section the applicant assesses the risk with respect to the harm or ill-health that might be caused to people, or groups of people within the locality should this licence be granted.
- 11.3. The demographics of the locality have been discussed in Section 4 of these submissions and concluded there are no significant concerns in respect of the identified priority groups.
- 11.4. The below snippet is taken from Australia's Health 2024 in brief (a report from the Australian Institute of Health and Welfare).

### Long-term decline in risky drinking

In December 2020, the National Health and Medical Research Council (NHMRC) released revised Australian guidelines to reduce health risks from drinking alcohol. Consuming more than 10 standard drinks per week, or more than 4 in a single day is likely to increase the risk of harm from alcohol-related disease or injury.

Between 2004 and 2022-2023, the proportion of people aged 14 and over:

- drinking alcohol in ways that put their health at risk declined – from 39% to 31%
- putting their health at risk by drinking more than 10 standard drinks per week on average declined – from 32% to 25%
- putting their health at risk by drinking more than 4 standard drinks in a single day at least once a month declined – from 30% to 24%.



11.5. Other points of note from this report, specific to alcohol consumption;

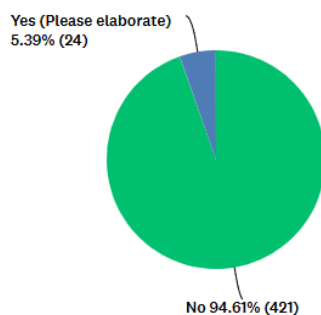
11.5.1. Abstaining from alcohol is increasing - the proportion of First Nations people aged 18 and over who reported they 'had not consumed alcohol in the last 12 months or have never consumed alcohol' rose from 19% in 2001 to 26% in 2018-19.

11.5.2. 3 in 10 (31%) people aged 14 and over consumed alcohol in ways that put their health at risk in 2022 - 2023 - down from 4 in 10 (39%) in 2004.

11.6. In a separate Alcohol Factsheet provided as part of this report, it is noted that;

- 11.6.1. The proportion (%) of Australians aged 14+ drinking daily continues to decline (6% in 2016, to 5.4% in 2019 and most recently, 5.2% in 2022-23).
- 11.7. The applicant has provided a detailed Harm Minimisation Plan which is included in the application documents to manage any potential for increased harm or ill-health.
- 11.8. **Criminal/offence Statistics**
- 11.9. To further satisfy Section 38(4)(a), the applicant sought to investigate the incidence of alcohol related offences within the locality as recorded by the WA police. However, no statistics were available on the WA Police website in relation to alcohol related crime for any towns or suburbs in WA.
- 11.10. Jardee, the subject suburb, only had a population of 157 in 2021, and only 4 reported crimes in 2024. With such a low population any offence data will not be reliable.
- 11.11. The WA police do not provide data on local government areas, and, in any case, even if such a data set was available it would be heavily skewed by the town of Manjimup, being the major population centre of the LGA, and Majimup town site is over 10km from the subject premises.
- 11.12. 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 liquor licence application? If yes, who? And how would they be at risk?”*
- 11.13. Of the 445 responses to this question, **421** said, **“No”**.

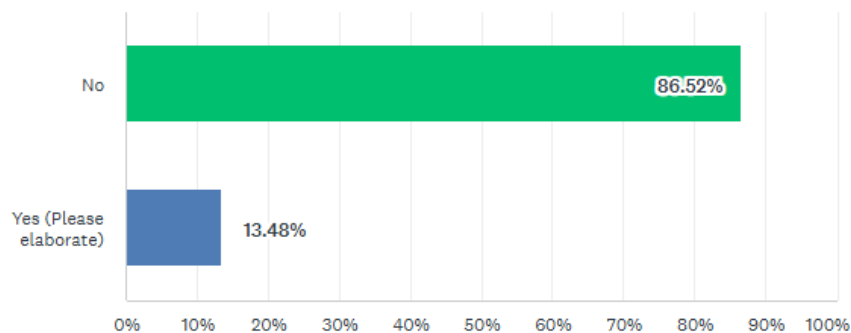
Are there any people or any groups of people in the locality who, in your opinion, would be at risk of increased and undue harm as a result of the granting of this liquor licence application? If yes, who? And how would they be at risk?



## 12. Section 38(4)(b) - A Report on the amenity of the Locality

- 12.1. Section 38(4)(b) of the Liquor Control Act, asks the applicant to consider *“whether the amenity, quiet or good order of the locality in which the licensed premises or proposed licensed premises are, or are to be, situated might in some manner be lessened”*.
- 12.2. The applicant believes that through this proposed licence they will be adding to the amenity of Fonty's Pool and thereby, the locality, by providing licensed services for travellers, tourists and locals alike.
- 12.3. Not only that but they believe that they will be doing so in a very responsible way, and the proposed licensed services will become a very welcome addition to what is an iconic regional tourist attraction.
- 12.4. Further, given the regional nature of the Manjimup LGA and the Jardee suburb, the addition of this licensed service is extremely unlikely to affect the amenity, quiet or good order of the locality it's in.
- 12.5. In the witness questionnaire, 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 yes, please explain.”*
- 12.6. Of the 445 responses, **385 (87%)** said, **“No”**.

Should this application be granted, do you think the amenity, quiet or good order of the locality might in some manner be lessened? If yes, please explain.

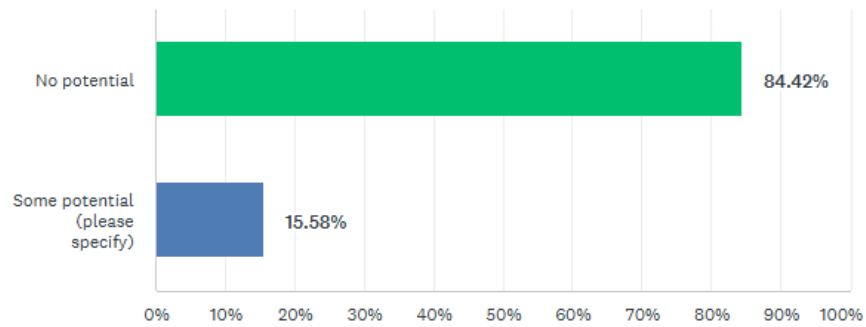




### 13. Section 38(4)(c) Offence, Annoyance, Disturbance or Inconvenience

- 13.1. Section 38(4)(c) of the Liquor Control Act (1988) asks the applicant to consider *“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”*.
- 13.2. The premises will not be attractive to those who are looking to rapidly consume cheap liquor. Fonty's Pool will not present itself as a pub. It is a family friendly, holidaying and tourist destination.
- 13.3. Given Fonty's Pool is around 400m away from the nearest farm property, over 4km from the nearest town (Deanmill), and over 10km by road from Manjimup town, the potential for noise related issues will be minimal. The applicant reiterates to the Director that;
  - 13.3.1. This premises is already functioning, with people making use of the overnight facilities at the caravan park, on top of the busy Pool area during the day, and
  - 13.3.2. They have not received any formal noise complaints from locals, the Shire or the Police.
- 13.4. The premises will be managed by a licensee who has been operating Fonty's Pool for over 20 years. It is a family-owned business and they invested members of the community. Further, Mr Beissel has some experience in managing temporary liquor licences and larger scale events both at Fonty's Pool and other venues. Putting this all together, the applicant, along with their employed staff who will be trained in the responsible service of alcohol, will have the know-how to properly manage these premises and ensure they do not negatively impact on any locals or those making use of the tourist / accommodation facilities.
- 13.5. The Applicant has a vested interest in ensuring there is no noise, or other disturbance to guests in the caravan / camping facilities.
- 13.6. Witnesses were asked if, in their opinion, the granting of this application would cause annoyance, offence, inconvenience or disturbance to those who live, work, visit or otherwise resort to the locality.
- 13.7. The vast majority (84%) of respondents agreed that this application has no potential to cause annoyance, offence, inconvenience or disturbance to anyone in the locality.

What do you say about the potential for annoyance, offence, disturbance or inconvenience that the granting of this licence may cause to people who live, work, visit or otherwise resort to the locality?

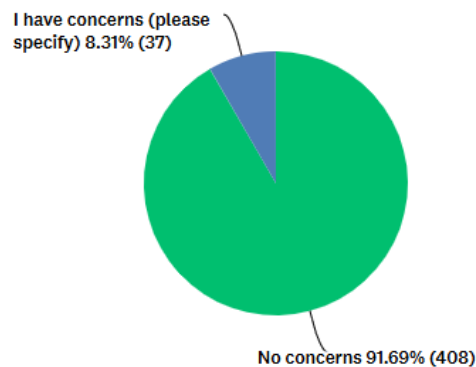


## 14. Impact on tourism, culture and the community

14.1. In the witness questionnaire, respondents were asked, *“What concerns (if any) do you have about the possible impact of this proposed licence on the locality?”*

14.2. Of the 445 responses, **408 (92%)** said, **“No concerns”**.

What concerns (if any) do you have about the possible impact of this proposed licence on the locality?



14.3. Managing director of Tourism WA, Anneke Brown, has provided a letter of support for this application, found in attachment FP08.

14.3.1. *“Fonty’s Pool, located in the Southern Forests and Valleys region, comprises camping and chalet accommodation with food & beverage operations and a historical pool. In 2024, this region attracted 337,000 overnight visitors who stayed 1.2 million nights and contributed \$192 million to the local economy.*

14.3.2. *It is Tourism WA’s understanding that the applicant is seeking a tavern licence to allow the service of alcoholic beverages in a small bar and beer garden overlooking Fonty’s Pool. Packaged liquor sales will be offered as a convenience for guests staying on site and will include the sale of exclusive Fonty’s Pool branded craft beer and ginger beers. It is noted that the licenced operations will be limited to trading in afternoon daylight hours and office hours in off-peak times.*

14.3.3. *The applicant has indicated an intent to showcase local producers and to partner with local wineries to conduct tastings with purchases to be enjoyed on site or as takeaway. Additionally, the licence will enable Fonty’s Pool to host and attract additional small-scale events including regional tasting events. It is recognised that Fonty’s Pool has previously hosted the popular Truffle Kerfuffle event, which showcases the region’s gourmet produce, beverages and truffle products.*

14.3.4. *On this basis, Tourism WA is pleased to offer this letter of support for the tavern licence application for Fonty’s Pool.”*

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

- 15.1. Section 5(1)(a) states that a primary object of the Act is;
  - 15.1.1. *“to regulate the sale, supply and consumption of liquor”*;
- 15.2. Being one of three primary objects means that it is of equal importance to the other two primary objects of the Act.
- 15.3. To regulate means;
  - 15.3.1. *“to control or direct according to rule, principle, or law”* or
  - 15.3.2. *“to put or maintain in order”*
- 15.4. It does not mean to restrict or to reduce.
- 15.5. 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”.
- 15.6. It is possible to “regulate” and to “increase” at the same time.
- 15.7. Therefore, this primary object should not, of itself, prevent this application from being granted.
- 15.8. It is possible to properly regulate the sale, supply and consumption of liquor and grant this application.
- 15.9. As mentioned through these submissions, this application is for the benefit of tourists, those holidaying from Perth, those who enjoy camping / caravanning and those who live in the Manjimup region of WA.
- 15.10. The provision of this controlled on and off premises licensed service will be welcomed by all (on the objective evidence supplied with these submissions).
- 15.11. All staff involved in the sale & supply of liquor to patrons of the day bar, or accommodation area will have the necessary RSA training completed and will strictly adhere to the Harm Minimisation Plan lodged with this application.

## 16. Section 5(1)(b) of the Liquor Control Act (1988)

- 16.1. Section 5(1)(b) states that a primary object of the Act is;
  - 16.1.1. *“to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor”*;
- 16.2. Being one of three primary objects means that it is of equal importance to the other two primary objects of the Act.
- 16.3. In its decision granting a liquor store licence to Woolworths Warnbro the Liquor Commission noted;
  - 16.3.1. 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*:
  - 16.3.2. “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.”
  - 16.3.3. 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.
- 16.4. In paragraph 46 of the Supreme Court decision in respect of the National Hotel, Fremantle, the following conclusion is found;
  - 16.4.1. *“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.”*
- 16.5. Paragraph 62 of that same decision reads;
  - 16.5.1. *“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.”*



- 16.6. In this application, therefore, 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 reasonable to minimise harm and ill-health that could potentially occur if this application is granted, and that any potential for harm or ill-health is minimised and is not “undue”. The applicant refers to the witness evidence presented at the end of section 11.
- 16.7. The applicant does not consider there to be any potential detrimental health effects through an increased supply of liquor into the community due to the following reasons;
- 16.7.1. Staff will be adequately briefed and trained in responsible service of alcohol,
  - 16.7.2. All packaged liquor will be kept behind the counter, in an effort to curtail any potential for theft,
  - 16.7.3. The proposed licensed area is open and easily monitored, and
  - 16.7.4. There will be health, harm and safety posters throughout the premises with information on consumption of alcohol in licensed areas & direction on where juveniles can / cannot access.
- 16.8. It is then a matter for the licensing authority to weigh and balance the potential for harm and ill-health against the identified public benefits of this proposed licensed venue.
- 16.9. The applicant believes that it has shown very clearly there is little potential for any additional undue harm or ill-health that could result from the granting of this application.

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

- 17.1. Section 5(1)(c) states that a primary object of the Act is;
  - 17.1.1. *“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”*;
- 17.2. Being one of three primary objects means that it is of equal importance to the other two primary objects of the Act.
- 17.3. 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 minimise the potential for harm or ill-health due to the use of liquor.
- 17.4. In the end it is a weighing and balancing of these equal objects which will determine whether this application should be granted or not.
- 17.5. This application can be seen to be very much in line with that legislative intent, for if this application is approved, what will be created is a flexible, low risk venue, promoting responsible drinking practices in a regional tourist attraction which is very important to the local economy.
- 17.6. It is therefore open for the licensing authority to conclude the granting of this licence will be completely in accordance with the primary object stated in section 5(1)(c) of the Act.
- 17.7. It is very significant that in the locality the subject of this application there are no other similarly trading licensed premises.
- 17.8. Further, being a tourist attraction and holiday destination - the applicant submits the granting of this licence constitutes proper development of the tourism industry.

## 19. Conclusion

- 19.1. In summary this is an application for a tavern licence for an iconic regional tourist venue with outstanding historical interest.
- 19.2. For over 100 years (with a couple of interruptions) Fonty's Pool has welcomed the local population and provided recreation and relaxation opportunities. For many decades it has provided short-stay accommodation that is now so popular you must book a year in advance (for peak periods).
- 19.3. It is quite apparent from the witness survey, both in the number of responses received, but also in what the respondents had to say, that the proposed licensed services will be very welcome here.
- 19.4. On proper analysis of the evidence provided here it is open for the Director to conclude that the Applicant has satisfied both sections 36B(4) and 38 of the Act.
- 19.5. Lastly, in the witness questionnaire, respondents were asked if they had any other comments regarding the application.
  - 19.5.1. Respondent 600 said, *"It sounds like a really exciting new venture that will allow added opportunity to increase tourism and entertainment in Manjimup."*
  - 19.5.2. Respondent 586 said, *"Being a resident in Manjimup for 44 years and very familiar with Fontys Pool Caravan Park I think the business should be definitely granted a liquor license (sic)."*
  - 19.5.3. Respondent 582 said, *"This would be a great asset for the region and boost our tourism offering. Summer afternoons with music and drinks at Fonty's Pool sounds lovely."*
  - 19.5.4. Respondent 571 said, *"Great location People have to purposefully made (sic) their way there. Great community minded owners. Community will support small business It will bring people in and keep them in the area. Give the locals somewhere special to celebrate/ meet/ get together. Opportunity to source local products Promote local talents. Promote local area. Safe and friendly environment."*
  - 19.5.5. Respondent 543 said, *"The applicants are of the highest integrity. I have known one of the owners since infancy. Brought up from upstanding dedicated parents to their community. Am sure Jeremy and Kelly Beissel will follow in their parents (sic) footsteps."*
  - 19.5.6. Respondent 498 said, *"I think the new licence would only be a positive move forward. Fonty's Pool has always been impeccably managed and I don't see any negatives for a licence. It would in fact be a welcomed (sic) addition and somewhere safe and beautiful to enjoy a drink."*
  - 19.5.7. Respondent 144 said, *"I thinks (sic) it's a great idea, good luck to those involved. Very clear to see the owners have transformed Fonty's pool into a world class place, I am sure they would not be looking to do anything that detracts from this."*

- 19.5.8. Respondent 122, *"I think it would ideal when we stay (sic) there it was a pain going into town especially when first arrived, finding it hard to get a meal and a drink , we came (to) fonty's for the ambiance, and would enjoy the convenience of a drink and a meal even if it's just an afternoon drink overlooking the pool area. I'm for it",*
- 19.5.9. Respondent 20 said, *"I think it will be a fabulous addition to an already amazing venue. Although we live locally, we often camp out there as it is one of the best facilities in the state, if not Australia. Having the ability to enjoy the ambience of the location, while tasting local wines, and enjoying possible live music events and other functions, this will ensure that Fonty's Pool will continue to be a drawcard for tourists and locals alike. We love Fonty's Pool and the venue has an amazing atmosphere with potential to expand into various events. The tourist dollars are extremely important to our region, and having licensed facilities available for all to enjoy will only continue to improve the site and our region."*
- 19.6. More comments can be viewed in the raw witness data at attachment FP09
- 19.7. The licensed services proposed here are modest, and it is open for the licensing authority to conclude the granting of this application is very much in the public interest and will promote and enhance the tourist product of Manjimup.

Drafted for and on behalf of Goldbay Enterprises Pty Ltd by;

Phil Cockman  
Canford Hospitality Consultants Pty Ltd  
Friday, May 16, 2025

## Attachments

FP01	ALDI South Fremantle Decision
FP02	Hard Copy witness questionnaire
FP03	Floor Plans
FP04	Map of the locality
FP05	Draft stock list
FP06	Intended Manner of Trade document
FP07	Signed statement of Jeremy Biessel
FP08	Signed letter from Tourism WA
FP09	Raw witness data