

IN THE LIQUOR LICENSING DIVISION OF WESTERN AUSTRALIA

IN THE MATTER OF AN APPLICATION BY **AREOLA 51 PTY LTD** FOR A GRANT OF A **TAVERN LICENCE** FOR PREMISES KNOWN AS **AREA 51**, SITUATED AT **50 MOWATT CLOSE, WANNEROO**

SECTION 36B SUBMISSIONS

Date of Document: The 14th day of March 2025

Filed on behalf of: The Applicant

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1. The Applicant seeks a Tavern Licence for Area 51, located at 50 Mowatt Close, Wanneroo ("the Venue").

Section 36B – Legislative Framework

2. Section 36B of the Liquor Control Act 1988 provides:

"The licensing authority must not grant an application to which this section applies unless satisfied that the 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."

3. The Supreme Court in *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 266 ("Liquorland") established key principles for interpreting Section 36B, including:
 - (a) *Consumer requirements for packaged liquor* extend beyond the physical availability of liquor products and also includes factors such as shopper convenience and preferences (including the convenience of one stop shopping), product range, service, efficiency, and convenience.
 - (b) "*Cannot reasonably be met*" is an objective test, meaning consumer requirements must *sensibly or rationally* be assessed against existing offerings.
 - (c) While the *locality* refers to an area surrounding the proposed premises. The shape and size of the "locality" maybe 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".
4. We refer to and rely upon the Legal Submissions lodged as part of the PIA bundle of documents in support of the Application that specifically relate to the correct interpretation of S36B of the Act.



FIGURE 1: LOCATION OF THE VENUE IN RELATION TO WANNEROO RD & DROVERS PLACE PRECINCT

Drovers Place Central Precinct

5. As outlined in the Locality Submissions, the Venue will be located within the Drovers Place Central Precinct ("the Precinct"). The busy Precinct has Business Zoning with a variety of uses permitted which give local residents access to a variety of goods and services, this includes Drovers Market Place which has the following tenants:

- Wanneroo Early Learning Centre;
- Lollipops Playland & Café Wanneroo;
- Michael's Chemist Wanneroo;
- Richer Nails;
- Drovers Medical Centre;
- DB Hairdressing;
- Dan Murphys;
- The Oven Door Bakery at Drovers;
- Drovers Vet Hospital;
- Pet Stock;
- Eight Slices Italian Kitchen;
- Surge Fitness;
- Water Ponyz Swim School Wanneroo;
- Drovers Self-Storage.

6. The Venue will be located next to Revo Fitness Wanneroo which is already trading.

Wholesaler Licence

7. The Applicant currently operates a Wholesaler Licence (Licence No. 616218979022), which was issued in October 2022. The Applicant presently contracts or gypsey brews Area 51 products. Approval of the Application will allow the Applicant to have their own dedicated brewing facility, which will allow them to boost production to a level where they can maintain a core craft beer range, together with small batch experimental and one-off specialty craft beers that they intend to sell primarily at the Venue by way of onsite consumption and as packaged liquor.

8. Packaged liquor sales at the Venue will predominantly be via 2-litre growlers, in circumstances where there is excess product, canning will take place and once again, primarily sold at the Venue.
9. The Applicant expects that once the Venue is operational, Area 51 liquor products will be sold from the Venue and sales through the Wholesale licence will be significantly wound back, with the possible distribution of excess of Area 51 small batch product in cans from time to time.
10. The Applicant obtained the Wholesaler Licence as the first stage of moving away from home brewing to commercial brewing. Under the Wholesaler's licence, the Applicant produces 1 - 2 small batch craft beers approximately every 6 weeks.
11. At present, the Applicant does not have a core range of Area 51 products and every batch of craft beer that is produced is made slightly differently. The Applicant supplies a small number of liquor outlets in the metropolitan area with the Area 51 product that they currently produce via kegs or cubes of canned craft beer.
12. Since October 2022, the Applicant has been able to achieve the following through operating the Wholesale Licence:
 - (a) Testing of their recipes in the marketplace, with continual and ongoing refinement of their recipes;
 - (b) Refinement their brewing process;
 - (c) Building brand recognition;
 - (d) Establishing a customer base;
 - (e) Gaining valuable feedback on their beer styles to develop their proposed core craft beer range; and
 - (f) Gauging consumer interest and the assessment of potential market viability prior to investing in the proposal to establish the Venue and its microbrewery operations.

S36B Locality Assessment

13. The relevant locality under S36B (“the S36B Locality”) is bounded by Lake Joondalup Nature Reserve to the west, Pinjar Road to the east and Carramar Gold Course to the north. The suburbs of Carramar, Tapping and Ashby fall within this locality as shown in Figure 2 below.

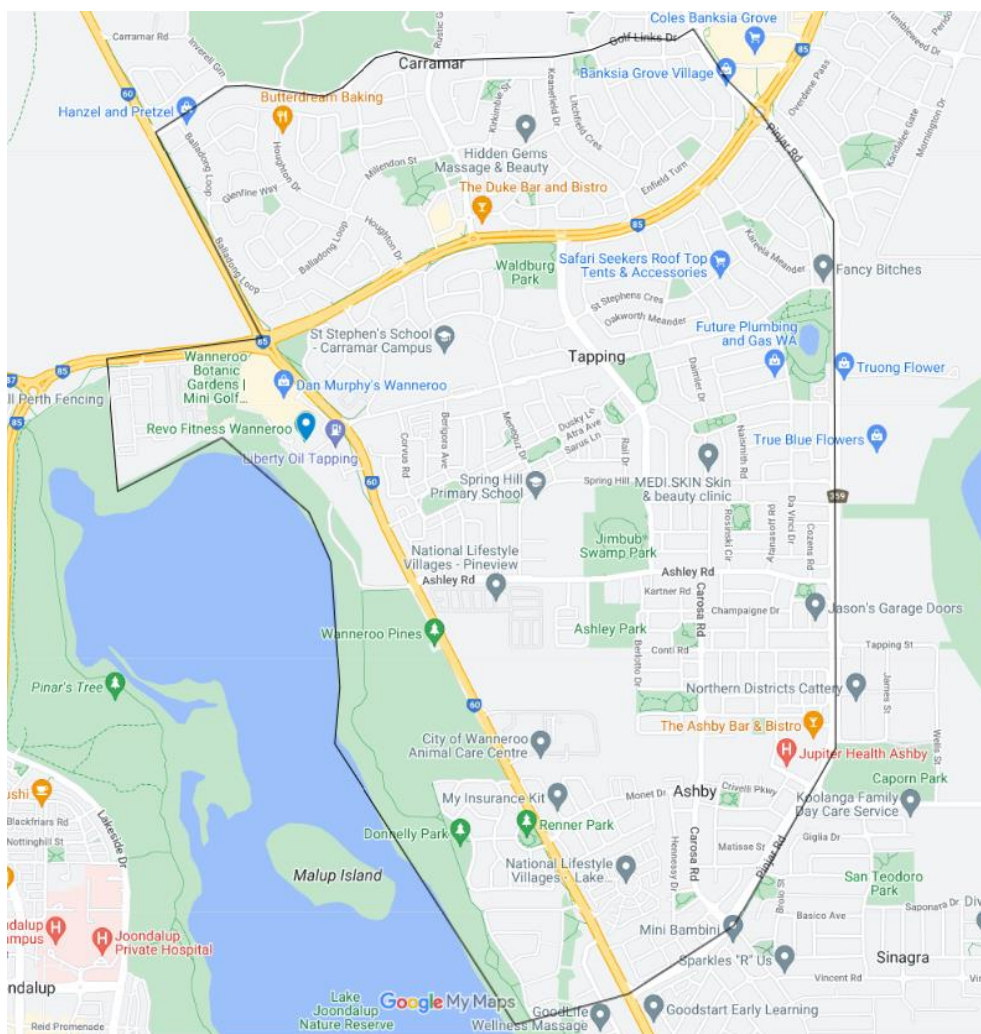


FIGURE 2: THE S36B LOCALITY
(Source: [.google.com/maps](https://www.google.com/maps))

14. As summarised in the Locality Summary (Annexure C) in the Locality Submissions, the only packaged liquor outlets that operate within the S36B Locality are:
- (a) Dan Murphy's Wanneroo operates a liquor store licence 400m from the Venue. Whilst this traditional style of liquor store offers a large of packaged liquor products. It does not sell any Area 51 product and customers do not have access to purchasing fresh tap craft beers that can be taken home in growlers.

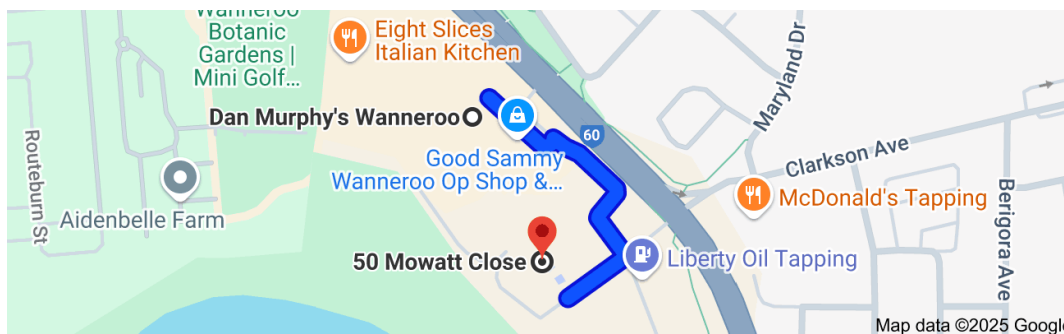


FIGURE 3: LOCATION OF DAN MURPHY'S WANNEROO
(Source: .google.com/maps)

- (b) The City's residents living in the S36B Locality can also purchase packaged liquor products from The Ashby Bar & Bistro ("the Ashby"), which is located at the Ashby Village Shopping Centre. The Ashby provides family-friendly dining and also operates a traditional bottle shop. It does sell growlers but not with Area 51 product.
- (c) The Applicant currently supplies the Ashby with 5 cubes of Area 51 product that is currently produced approximately every 6 weeks, which is sold via the Applicant's Wholesale licence. Each delivery of Area 51 product is always slightly different, as the Applicant continues to experiment and refine their recipes and techniques.
- (d) Should the Application be approved, the Applicant plans to continue supplying the Ashby from time to time with a unique small batch craft beer. The Ashby would not be supplied with Area 51's core beer range, which would only be available at the Venue through the taps. Supply to the Ashby would be irregular and would consist of excess one-off and experimental small batch brews and/or product that is no longer being sold at the Venue (i.e. discontinued range). This product will be sold in cans.
- (e) The Applicant considers that it will still be important to supply a limited supply of Area 51 product at a small number of packaged liquor outlets from time to time once the Venue is up and running (i.e. only when excess stock is available), as a way of reinforcing their brand in the marketplace and further raising its profile, which will complement the marketing and promotion of the Venue within the City and in the wider Perth metropolitan area. The Applicant proposes this would continue to include the Ashby, taking into account its strategic location south of the Venue in the Northern Suburbs of Perth. To avoid any confusion, however;
 - i) Supply to the Ashby would only occur periodically.
 - ii) Supply would only occur if there is an excess of product.

- iii) Only small batch products will be provided. The Applicant's core range of products will not be available at the Ashby.
- iv) Area 51 small batch products will only be supplied in cans to the Ashby.
- (f) The quickest route from the Venue to the Ashby is approximately 3.3kms away, however alternative routes are available, as shown in Figure 4 below, which are a distance of 3.4km and 4.3kms from the Venue. All routes require travelling through built up neighbourhoods..

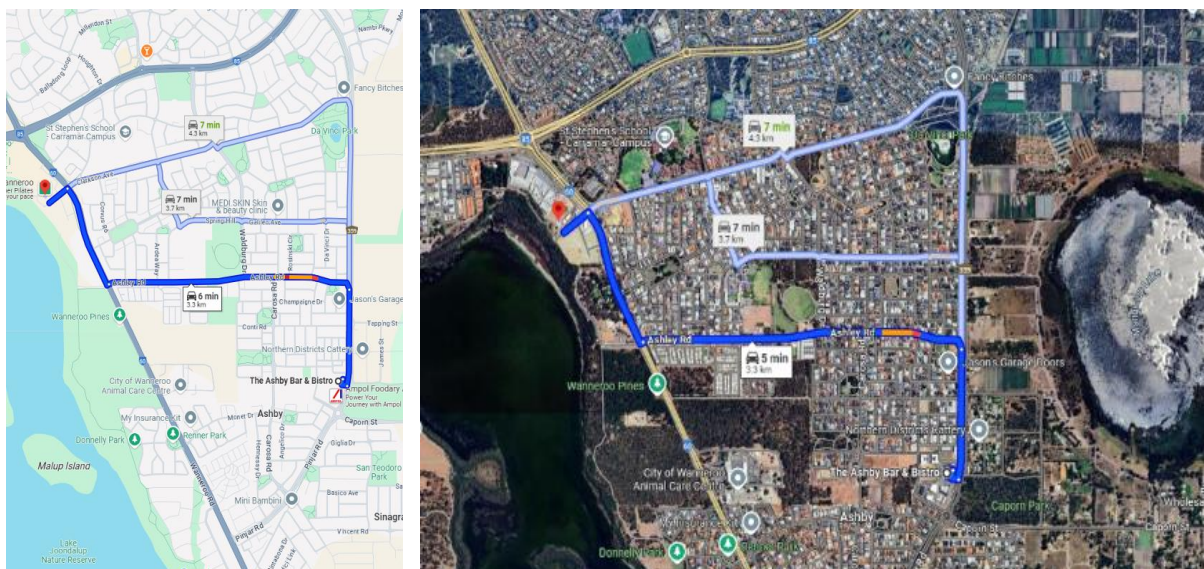


FIGURE 4 : LOCATION OF THE ASHBY BAR & BISTRO
(Source: .google.com/maps)

15. The Locality Summary in the Locality Submissions confirms that there is limited choice in packaged liquor outlets near the Venue and neither of the two (2) packaged liquor outlets identified within the S36B Locality will sell any of the Area 51 product that will be available as packaged liquor at the Venue.

Application Overview



16. The Venue will incorporate a microbrewery that will produce its own range of craft brews that will be available for onsite consumption and as packaged liquor, which will give patrons an opportunity to experience a distinctive, locally produced craft beer range.
17. As a small-batch brewery, the Venue will feature along with its core range of products, an ever-changing unique selection of handcrafted brews on tap that will ensure a constant array of flavours and styles can be experienced by craft beer lovers, that will also be available by way of packaged liquor sales.
18. In addition to producing its core range of products, the Venue will focus on creating unique, seasonal, and experimental brews, giving customers the opportunity to explore new taste profiles with every visit.
19. Having an ever-changing variety of its Area 51 product range available fresh on tap will be one of the Venue's major appeals and is a major point of distinction in the packaged liquor services that will be available at the Venue compared to what is available at the two (2) existing packaged liquor outlets within the S36B Locality. (Refer to Annexure C, Locality Submissions and paragraphs 7 – 15 above)
20. The Venue's core range will include the following products that will be available at the Venue for onsite consumption and as packaged liquor. These products will not be available elsewhere in either the Locality or S36B Locality:
 - Pilsner Mid (3.5% ABV);
 - Pilsner (5.5% ABV);
 - Hazy Mid, IPA (3.5% ABV);
 - NEIPA (6% ABV);
 - Hazy IIPA (7.5% ABV);
 - Sour Ale (6% ABV);
 - West Coast IPA (6% ABV);
 - Red Ale / Brown Ale (6.5.% ABV);
 - Sout / Porter (7% ABV);
 - Cider (5.5% ABV); and
 - Hard Seltzer (5% ABV).

21. Packaged liquor sales will predominantly be sold fresh from the tap and taken away by customers in 2-litre growlers. The product range and packaging will be distinctly different to what is available within the Locality at existing packaged liquor outlets. (Refer to Annexure C, Locality Submissions and paragraphs 7 – 15 above) 0



22. The Applicant's focus in respect to the liquor products that intends to produce at the Venue is centred on:
- (a) Freshness – Consumers experience in providing access freshly brewed beer, maintaining optimal flavour.
 - (b) Sustainability – Growlers reduce waste compared to single-use packaging.
 - (c) Consumer convenience – Patrons can purchase fresh brews to enjoy at home.
23. The Venue will not stock mass-produced packaged liquor products which are available at existing packaged liquor outlets within the S36B Locality but instead will exclusively sell its own unique Area 51 product range. Small batches of Area 51 product will be sold to a very limited number of packaged liquor outlets in the metropolitan area, only when excess product is available. At no time will the same Area 51 product range be available as packaged liquor at the Venue and at another packaged liquor outlet within the S36B Locality (i.e. the Ashby).
24. Pricing for packaged liquor will be as follows:
- (a) Growlers: \$20 - \$40 per 2-litre refill
 - (b) Cans: \$5 - \$10 per individual can, \$20 - \$40 per 4-pack

25. Another distinction in the services offered at the Venue will be the opportunity for patrons to “try before they buy” at the Tasting Bar where patrons will have the opportunity to have a tasting prior to purchase.
26. The Venue’s packaged liquor range will include its core range, together with a rotating selection of unique handcrafted brews that ensures an ever-evolving consumer offering, supporting the proper development of the liquor industry in WA, as well as tourism and economic growth within the City of Wanneroo.

Consumer Benefits & Reasonable Requirements Under S36B

27. Consumers purchasing packaged liquor from the Venue will benefit from:
 - (a) Freshness & Flavour – Growlers provide an unparalleled experience of fresh, on-tap craft beer.
 - (b) A unique core beer craft beer range that will not be available elsewhere with the S36B Locality
 - (c) Variety & Seasonal Options – Regularly changing beer selections unavailable elsewhere.
 - (d) Sustainability – Reduction of single-use packaging aligns with environmental trends.
 - (e) Convenience – Consumers can taste products on-site before deciding to purchase packaged liquor.
28. According to survey data gathered by the Applicant (Annexure E2, PIA Submissions), 98% of respondents expressed a desire to purchase Area 51 craft beers as packaged liquor, with a significant level of support for the proposed tastings at the Venue for Area 51’s product range.
29. Given all of the factors set out in these submissions, the local packaged liquor requirements cannot be reasonably be met by existing packaged liquor outlets that operate within the S36B Locality.

Conclusion

30. The Applicant submits that it is in the public interest for the Application to be granted as:
 - (a) Approval will not result in harm or ill-health due to the consumption of liquor;

- (b) The Venue would meet the reasonable requirements of consumers for a high-quality, unique and local craft beer / microbrewery experience for both onsite consumption and as packaged liquor;
 - (c) The Venue will enhance local tourism and employment opportunities, supporting local industry development, economic vitality and tourism within the City of Wanneroo.
 - (d) Approval of the Application will increase the choice and variety of packaged liquor products that are available for the local community and visitors to take home with them to enjoy at their leisure.
 - (e) The Venue will be the only location within the S36B Locality where Area 51's core range of craft beer products will be available. Area 51 products that will be available at the Venue will differ to any small batch supply of craft beer product that may from time to time become available at the Ashby or any other packaged liquor outlet within the S36B Locality in the future. The Venue will therefore fulfill an unmet demand within the local community for Area 51 craft beer product.
 - (f) The Venue will promote the responsible consumption of liquor by offering fresh, small-batch products with a focus on sustainability (i.e. packaged liquor sales in 2-litre growlers).
31. In all the circumstances, the Application should be granted.



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Solicitors for the Applicant