

PLANNING ASSESSMENT REPORT

DELEGATE REPORT

Application Details	
Application Number:	PA20240026
Application Description:	Sale and consumption of liquor in association with a food and drink premises.
Application Received:	16 July 2024
Land / Address:	11 Wychunga Street Lascelles 3487
Zoning:	Township Zone (TZ)
Overlays:	Nil
Under what clause(s) is a permit required?	Clause 52.27 A permit is required to use land to sell or consume liquor where a licence is required under the <i>Liquor Control Reform Act 1998</i> . (Licensed premises)
VicSmart	No
Current Use & Development:	Food and drink premises
Land Use Terms:	Food and drink premises
Cultural Heritage Management Plan details	No

Proposal

The proposal is for the sale and consumption of liquor in association with an existing food and drink premises (restaurant) as specified within the red line plan. There are 6 tables indoors across two buildings, the Mallee Hen and Nearly Outback Store, which can seat up to 40 people as well as five tables for outside dining.

The café's current hours of operation are:

- 9.30 am and 9 pm Monday to Friday
- 10 am and 10 pm Saturday
- 10 am and 9 pm Sunday or public holiday

The liquor licence that is being applied for is a general licence, which would allow for the selling of alcohol both on and off the premises.

Subject Site & Locality

The address of the proposal is 11 Wychunga Street, Lascelles (Lot 193 PS006219).

The site is located on the western side of Wychunga Street and is located opposite the existing hotel within Lascelles.

The land currently has two buildings on it, one of which is used as a retail business by Antonia's Unique Creations. The second of the buildings has recently had a face lift with fresh coat of paint and recently installed Exhaust canopy, as well as new flooring to meet the current health regulations.

The land behind the site is the Lascelles Silo Art site, which forms part of the Silo Art Trail.

Site History

Building Permit

1996.00000007.001

New Garage/Carport/Shed

Planning Permit

TP25-23

Building and works and use of a building as a food and drink premises

Date of submission: 23 August 2023

Restrictive Covenant / Section 173 Agreement

Restriction Description

Covenant Nil

Agreement Nil

Public Notification

The application was advertised to adjoining owners under Section 52 of the Planning and Environment Act 1987. Council received 37 submissions which will be discussed in the assessment below. Not all submissions objected to the proposal.

Referrals

There are no referral authorities specified in the planning scheme for an application of this type.

Planning Policy Framework (PPF)

Relevant extracts from the PPF from the Yarriambiack Planning Scheme:

2.01: Context

Yarriambiack Shire is located in the north-western part of Victoria. The Shire has an area of 7158 square kilometres which extends from the Wimmera River, just north of the Grampians in the south to the centre of the Mallee in the north.

The Shire's estimated population in 2018 was 6660 persons. More than two-thirds of the population live in urban centres above 200 people. Approximately a third of the population live in Warracknabeal, the largest town in the Shire. The Shire's population is projected to decrease by more than 1000 persons by 2036, creating challenges for the planning of facilities and services.

The main employment sectors within the Shire are agriculture, community services, and wholesale and retail trade. These industries are major components of the economy of the Shire and are very important in the service role of the smaller townships.

Most townships within the Shire have excellent community and sporting facilities that have the potential for hosting special events.

Yarriambiack contains significant areas of Mallee Parks and reserved public lands that protect some of the least disturbed mallee ecosystems in Australia. High quality areas of cultural, historical and conservation value include Wyperfeld National Park, Paradise Flora and Fauna Reserve, Outlet Creek, Wathe Flora and Fauna Reserve and Albacutya Reserve. These parks and public lands contain some of the largest areas of semi-arid wilderness and mallee stands in south eastern mainland Australia.

2.02: Vision

Yarriambiack Shire's vision is to provide a viable, sustainable and vibrant future.

From a land use and development perspective, Council intends to achieve its vision through the implementation of the following objectives:

- A place to live and grow.
- A safe and active community.
- A sustainable environment.
- A planned future.

2.03: Strategic Direction

2.03-1: Settlement

The settlement pattern of Yarriambiack Shire is characterised by a number of urban centres and small towns, located in the midst of productive agricultural areas. The maintenance of a clear distinction between urban and rural areas is essential to efficient township development and continued agricultural production.

Factors contributing to the character of these townships include unique rural settings, heritage buildings and a rich community culture. The uniqueness and quality of life offered in each township is of great importance to the people of the Shire.

Some of the towns have lost the threshold population size to attract and to maintain the necessary services and facilities for residents and the surrounding farming district. Given the population thresholds and factors of location, environment and entrepreneurial initiative to rejuvenate towns, Council's settlement strategy is to consolidate development and provide infrastructure within towns in order of highest potential as follows:

- Warracknabeal
- Murtoa

- Hopetoun
- Minyip
- Rupanyup
- Beulah
- Woomelang.

Other settlements including Patchewollock, Brim, Yaapeet, Tempy, Speed and Lascelles will continue to be supported.

Strategic directions

- Direct development and growth to take place within the townships of Warracknabeal, Murtoa, Hopetoun, Minyip, Rupanyup, Beulah and Woomelang.
- Facilitate population growth to maintain threshold populations for townships and support delivery of services.
- Develop Murtoa and Hopetoun as subdistrict service centres, attracting larger developments and offering a range of services.
- Develop Beulah and Woomelang to provide local convenience shopping for surrounding farming communities.
- Develop Patchewollock, Brim, Yaapeet, Tempy, Speed, and Lascelles to continue to service the rural hinterland.
- Minimise conflict between agriculture and urban land uses.
- Avoid linear or ribbon development of highways.

2.03-7: Economic development

Commercial and retail

It is of great importance for the prosperity of the Shire that the commercial and retail centres are attractive and commercially successful. Such centres attract residents, visitors and investors. A strong network of activity centres provides focus and creates a sense of community.

Strategic directions

- Ensure the cohesive design of development in commercial and retail centres to provide functional centres with a pleasant amenity for shoppers and other visitors.
- Locate commercial, service and retail uses within the network of activity centres.

11.01-1S: Victoria

Objective

To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

Strategies

Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.

Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.

Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:

- Building on strengths and capabilities of each region across Victoria to respond sustainably to population growth and changing environments.

- Developing settlements that will support resilient communities and their ability to adapt and change.
- Balancing strategic objectives to achieve improved land use and development outcomes at a regional, catchment and local level.
- Ensure retail, office-based employment, community facilities and services are concentrated in central locations.

Policy documents

Consider as relevant:

- Wimmera Southern Mallee Regional Growth Plan (Victorian Government, 2014)

11.01-1R: Settlement - Wimmera Southern Mallee

Strategies

Support the ongoing growth and development of Edenhope, Hopetoun, Nhill, St Arnaud, Stawell and Warracknabeal as the key service hubs in their sub-regional communities of interest.

17.01-1S: Diversified economy

Objective

To strengthen and diversify the economy.

Strategies

Protect and strengthen existing and planned employment areas and plan for new employment areas.

Facilitate regional, cross-border and inter-regional relationships to harness emerging economic opportunities.

Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.

Improve access to jobs closer to where people live.

Support rural economies to grow and diversify.

17.02-1S: Business

Objective

To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

Strategies

Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.

Locate commercial facilities in existing or planned activity centres.

Provide new convenience shopping facilities to provide for the needs of the local population in new residential areas and within, or immediately adjacent to, existing commercial centres.

Provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.

Zoning

32.05: Township Zone

Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To provide for residential development and a range of commercial, industrial and other uses in small towns.

To encourage development that respects the neighbourhood character of the area.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Overlays

Nil

Particular Provisions

52.27: LICENSED PREMISES

Purpose

To ensure that licensed premises are situated in appropriate locations.

To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

Scope

These provisions apply to premises licensed, or to be licensed, under the Liquor Control Reform Act 1998.

Permit required

A permit is required to use land to sell or consume liquor if any of the following apply:

- A licence is required under the Liquor Control Reform Act 1998.
- A different licence or category of licence is required from that which is in force.
- The hours of trading allowed under a licence are to be extended.
- The number of patrons allowed under a licence is to be increased.
- The area that liquor is allowed to be consumed or supplied under a licence is to be increased.

This does not apply:

- To a limited licence.
- To a licence to manufacture liquor.
- To a variation that reduces the hours of trading allowed under a licence.
- To a variation that reduces the number of patrons allowed under a licence.
- To a variation that reduces the area within which liquor is allowed to be consumed or supplied under a licence.
- To a variation of licence at the initiative of the Victorian Liquor Commission, pursuant to Section 58 of the Liquor Control Reform Act 1998.

- To a variation of licence for a variation prescribed in Part 6, Regulation 31 of the Liquor Control Reform Regulations 2009.
- If a different licence or category of licence is required solely as a result of changes to licence categories.

Referral of applications

An application must be referred and notice of the application must be given in accordance with Clause 66 of this scheme.

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

Assessment

65.01: APPROVAL OF AN APPLICATION OR PLAN

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.

Planning response:

Section 60 of the Act states:

(1) Before deciding on an application, the responsible authority must consider—

(a) the relevant planning scheme;

This report considers the provisions of the Yarrimabick Planning Scheme.

(b) the objectives of planning in Victoria;

(1) The objectives of planning in Victoria are—

(a) to provide for the fair, orderly, economic and sustainable use, and development of land;

(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;

(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

(d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;

(e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;

(f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);

(fa) to facilitate the provision of affordable housing in Victoria;

(g) to balance the present and future interests of all Victorians.

Through the consideration of the provisions of the planning scheme and the submissions that were made on this application is considered that the objectives have been considered as part of this report. In addition to these, previous decisions by VCAT have been reviewed and where relevant will be referenced.

(c) all objections and other submissions which it has received and which have not been withdrawn;

The submissions are considered at the end of this section of the report.

(d) any decision and comments of a referral authority which it has received;

There were no referral authorities for this application.

(e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development;

It is considered that this application will not effect the environment. The overall application is to provide an additional service within an existing building and to an existing use.

(f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

It considered that any social or economic effects related to this application will be outlined in the submissions received for this application. The submissions are assessed at the end of this section of the report.

Therefore, it is considered that the matters of Section 60 of the Act have been considered as part of this assessment.

- Any significant effects the environment, including the contamination of land, may have on the use or development.

Planning response:

The land is currently used as a cafe and therefore considered that the environment will not impact on the use and development of the land.

- The Municipal Planning Strategy and the Planning Policy Framework.

Planning response:

The proposal is for the sale of liquor at a food and drink premises for both on and off premises consumption through a general licence within the main street of Lascelles. The Municipal Planning Strategy (MPS) and the Planning Policy Framework (PPF) identifies Lascelles as a township within the municipality which services the rural hinterland. Both Clauses 17.01 and 17.04 support uses that encourage economic development, such as providing for employment and business

diversification, and capitalising on developments that facilitate or are ancillary to tourism. It is considered that the proposal is consistent with the above policies as it will diversify the retail/commercial offer within the township and supporting it being a multi-functional destination, catering to both locals and tourists.

There are no specific clauses within the MPS or PPF that relate to liquor licences.

- The purpose of the zone, overlay or other provision.

Planning response:

The subject site is within the Township Zone which specifies its purpose as to provide for residential development and a range of commercial, industrial and other uses in small towns; to encourage development that respects the neighbourhood character of the area; and to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Clause 52.27 sets out the provisions for the use of land as a licensed premises. Its purpose is to ensure that licensed premises are situated in appropriate locations and to ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

- Any matter required to be considered in the zone, overlay or other provision.

Planning response:

The liquor licence that the applicant is proposing to apply for is a general licence.

A general licence allows a business to have patrons come into their venue and have a drink. People can also buy packaged liquor for takeaway from your venue. General licences are attractive to pubs, restaurants, wine bars and providores.

Other licences that other similar venues may have are:

- An *on-premises licence* allows their patrons to come into the venue and have a drink where they may or may not sell food or meals. People cannot take packaged liquor away from the venue. On-premises licences are ideal for bars, function centres, night clubs, live-music venues and restaurants.
- A *restaurant and cafe licence* allows patrons to come into the restaurant or cafe and have a drink with a meal. The preparation and serving of meals must be your main activity at all times your venue is open. The venue cannot close the kitchen and turn into a bar – if they want to do this, consideration should be given to an on-premises or general licence.

Given the use of the land is for the sale of liquor, the application requires consideration under the decision guidelines of Clause 52.27 which are:

- *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
- *The impact of the hours of operation on the amenity of the surrounding area.*
- *The impact of the number of patrons on the amenity of the surrounding area.*
- *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

The site directly adjoins residential dwellings to the north and south of the site. East of the site is The Minapre Hotel. The Lascelles caravan park is located on the north-east of the site. West of the site is a bulk grain storage facility.

The application is seeking a general licence which would allow for the sale of alcohol for both on and off premises consumption. The onsite consumption would generally be linked to the existing use of the land as a café. A planning permit for the use of the land for a food and drink premises, TP25-23, was issued by the responsible authority on 27/11/2023. The hours of operation for the site are limited to 9.30am and 9pm Monday to Friday; 10am and 10pm Saturday; and 10am and 9pm Sunday or public holiday.

Planning Practice Note 61 *Licensed premises: assessing cumulative impact* (PPN61) may be used for any planning application that would benefit from its use; however, it should be used for all applications for a new or expanded licensed premises that:

- will be licensed and open after 11pm; and
- is in an area where there is a cluster of licensed premises.

Therefore, it is considered that the practice note in this case will be considered as guidance, rather than standards to meet.

In considering the amenity impact, it is considered that the site is currently used as a cafe with tables and chairs are provided on the premises for 35 patrons in the Outback Store and a single table in the Mallee Hen, which is the primary food preparation area. Therefore, it is considered that the service of alcohol will be secondary to the primary use of the land for the service of food. It is also clear that the area currently facilitates a mixture of uses including a hotel, which doubles as a postal agency and shop, and caravan park. However, it is acknowledged that there are sensitive uses, such as residential dwellings which adjoin the site. Therefore, in considering this, if approved, any permit issued would need to be conditioned to address the amenity of the surrounding area. This could include conditions that address noise, and number of patrons.

PPN61 also gives guidance on data which can be considered to determine existing context of the area. This includes data from Council's internal complaints database, site observations, local crime statistics, and other licensed premises. There are no records in Council's complaints database regarding the existing cafe although it is noted that some objectors specified ongoing issues relating to noise from the premises. The existing permit currently conditions that the venue is to comply with the Noise Protocol as specified by the *Environment Protection Regulations 2021*.

The only other licensed premises within 500 metres is the Minapre Hotel which is located directly across from the subject site, approximately 24 metres, and is separated by the Sunraysia Highway. It currently holds a general liquor license which permits up to 157 patrons internally, 200 patrons within the beer garden and 61 patrons in the veranda area. Its licensed trading hours are as follows:

THE MINAPRE HOTEL

FOR CONSUMPTION ON THE LICENSED PREMISES:

- Sunday Between 10am and 11pm
- Good Friday & Anzac Day Between 12 noon and 11pm
- Anzac Day (not being a Sunday) Between 12 noon and 1am the following morning
- On any other day Between 7am and 1am the following morning

FOR CONSUMPTION OFF THE LICENSED PREMISES -

- Sunday Between 10am and 11pm
- Good Friday & Anzac Day Between 12 noon and 11pm
- On any other day Between 7am and 11pm

The site operates are a hotel and shop, including 'drive-in/drive-out' bottle shop which is located south of the main building.

PPN61 identifies cumulative impacts as both positive and negative that can arise from a cluster of licensed premises. As a general guide, it specifies that a cluster would occur where there are:

- three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or
- 15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.

Although the above is meant as a general guide, given the type of venue, the hours of operations of the cafe, and the lack of other licensed premises in the nearby area, it is considered that the proposal would not create a cluster of licensed premises.

The applicant submitted a patron capacity assessment conducted by a registered building surveyor who has deemed the maximum number of patrons for internal areas as 67 and 765 for external areas. This is calculated at a ratio of 0.75 persons per square meters according to methods determined to Clause D2D18 *Number of persons accommodated* as per the National Construction Code Volume 1 2022 (NCC). Given the proximity to other sensitive uses such as neighbouring residential dwellings, it is considered that, if approved, the permit should limit the number of patrons on the site at any one time.

- The orderly planning of the area.

Planning response:

The proposal will not impact on the orderly planning of the area.

- The effect on the environment, human health and amenity of the area.

Planning response:

As discussed above.

- The proximity of the land to any public land.

Planning response:

The closest public land is located approximately 30 metres from the Lascelles caravan park. This application is not considered to have a detrimental impact on the use of the public land.

- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.

Planning response:

Not applicable.

- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.

Planning response:

Not applicable.

- The extent and character of native vegetation and the likelihood of its destruction.

Planning response:

No native vegetation is proposed to be removed.

- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.

Planning response:

No native vegetation will be impacted.

- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Planning response:

Not applicable.

- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Planning response:

The premises is currently conditioned (see conditions 5 and 10 of TP25-23) to regulate delivery times and the parking of vehicles.

- The impact the use or development will have on the current and future development and operation of the transport system.

Planning response:

The proposal will not impact on the current and future development and operation of the transport system.

Submissions

Provided below are extracts of the submissions provided for the application. Some have had personal details removed.

Support:

- 1) I am writing to you today about supporting the Mallee Hen Cafe for a Liquor License. It would be good for the town of Lascelles.
- 2) In support of The Mallee Hen Cafes application for a liquor licence, not everyone wants to go to hotels so having another venue where you can go for a meal and a drink would be good.
This can only be advantages and an asset for the town of Lascelles.
- 3) I have been here on a weekly basis for years there is absolutely nothing wrong with the current arrangements for such a small community I believe it's important to have some business survival rather than have both fail.
- 4) Over the last couple of years we have had the pleasure of travel to and through Lascelles on different occasions. Often we like to stop and use the amenities and enjoy some time with our young family at the park. A few times we've recently stopped in Lascelles for a meal we've only had the option of a pub. With two young and energetic

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children, a pub is not always a great choice and by having an option of a cafe that also has a liquor licence, it would expand our choices and allow my husband to enjoy a beer with his dinner/lunch while being in a more family friendly atmosphere.

Choice is important when travelling. A permanent liquor licence would encourage more visitors on the town, be more friendly to young families and give locals a choice of where to frequent as well as supporting local industries.

Please give the Mallee Hen Cafe a permanent liquor licence.

- 5) Lascelles would greatly benefit from the Mallee Hen café having a licence. The Mallee Hen is already a favourite among locals for food and conversation. The only thing that locals including myself think could make the Mallee Hen any better is if it had a licence, most of our locals love to have a drink and chat with friends and would love to be able to do that at the Mallee Hen. The Mallee Hen since it's opening has become a staple for locals and is always recommended to friends by the tourists that come through. Providing them with a licence would only improve an already amazing business.
- 6) I am writing this letter in support of the Mallee Hen Cafe gaining a liquor licence. As a local, the larger proportion of us do not feel comfortable going to the hotel anymore. The level of drunkenness, dog hair and excrement in the bar and dining areas from the publicans dog, and poor behaviour is definitely not appreciated for families, add to that, that the owners are extremely rude to most of us. I remember many occasions where they openly stated that business would be better if the locals didn't attend. I for one, am heeding their wishes on this part. The town of Lascelles needs a quieter, family friendly place to relax in safety while dining. Where alcohol is NOT the sole focus, but a nice addition to a genuine, comfortable dining experience.
- 7) As a small business owner in Lascelles that employs 10 people, I fully support the Mallee Hen Café's application for a liquor licence. I have spoken with the management of the café and understand that their business plan would not be in direct competition with the long established Minapre Hotel as a licenced restaurant has a totally different atmosphere with a different clientele. Looking into the future and the potential for additional tourism the café offers an alternative to those not wishing to venture into a hotel.
- 8) I am writing to you on behalf of our local family. We would whole heartily support the Mallee Hen Cafe obtaining their liquor licence. Because it would provide a point of difference in our local area. Our family has multiple members with special needs and this can make it very challenging to go out and eat in public, especially in a confined space where the overhead lighting, noise levels bouncing off walls and congestion of bodies can impact sensory processing disorder often leading to challenging behaviours . We frequent the mallee hen cafe on a weekly basis and it has become an important part of our routine. The Cafe is an inclusive environment with well trained staff to deal with diverse backgrounds. The courtyard offers an open space where our family and extended family can order a meal and a drink to celebrate a birthday or milestone or achievement or just for mum and Nana not to have to cook for a night and catch up together offering socialization opportunities. It would also be seen as a safe environment to enjoy food and a drink together, without the same demographic of Pub patrons, which is a very critical difference when dealing with family members with special needs .
- 9) This letter is to voice my support for the Mallee Hen Café in Lascelles obtaining a liquor licence. The more businesses in the area that are providing eating/drinking options and

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employment opportunities in our small rural communities are few and far between and we should be encouraging and backing people to establish these services.

The café will be providing options not in direct competition with the hotel establishment but as a different alternative as a restaurant and a completely different atmosphere and likely a different clientele.

- 10) As a single local lady, I would much prefer to go to the Mallee Hen Cafe restaurant for a meal and have a quite drink, then go to a hotel where the majority of people are men.
- 11) As a resident of Lascelles have long supported the hotel but believe that granting a licence to the cafe may well improve the establishment and give me somewhere to go with my family and friends and get a warm welcome as you come in.
- 12) I have run an accommodation business in Lascelles for more than 8 years and employ local cleaners. Its clear from reading the objections that were submitted that there is a clear misunderstanding by those people who don't seem to realise that it is not the intention of the Mallee Hen Café to compete as a hotel, but to provide an alternative to the hotel culture, where people (both locals and tourists) can have a quiet meal and beverage without having to listen to the foul language from a public bar.
Over the past 2 years I personally have been slandered by the publicans at the hotel and was issued with a barring order for a month, which subsequently was overturned by liquor licencing, yet never have I received an apology for my mistreatment, so I personally would frequent the café as not welcomed at the Hotel.
The granting of a license to the café will not detract from the hotel but will present another option, which many of the elderly visitors staying in the cabins would rather.
- 13) My name is X and I would like you to know how I feel about the Malle Hens Cafe proposal to have a liquor licence.
My view is it would be amazing to be able to have a great meal with a alcoholic drink. I also know it would help thier business grow.
It is a little Town and I feel it is needed.

Object:

- 1) Has a pub already, selling alcohol in a general store will only cause havoc and unnecessary drama, especially in such a small town there's no need for a secondary consumption spot, it'll only cause the Downfall of the town
- 2) Very small town and community with a pub just across the road. No need for two establishments that sell liquor
- 3) With Lascelles being a small community there is no need for another business. The Lascelles hotel is a perfect spot to have a drink at so why would we need another business trying to take customers from the pub and ruining a business that there is nothing wrong with.
- 4) Already a pub no need for alcohol to be served out of a general store. No where for public to sit and dine encourages binge drinking and anti social behaviour.
- 5) As a local resident of 60 yrs that supports the local hotel I do not believe that township with a population of approximately 20 people needs another liquor outlet when there is a hotel situated in the town complete with bottle shop & meals that is open seven days of the week
- 6) There is a pub across the road a town of less then 100 does not need another place selling alcohol
- 7) Think it is ridiculous to open a new business to serve alcohol when there is a success pub over the road. It is going to ruin the small country pub if it goes ahead.

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- 8) *Submission deleted from this report as identifying information could not be removed.*
- 9) This is an unnecessary business for the small town of Lascelles. They are being quite rude to the pub owners (to whom they sold the pub too) please take this objection
- 10) I don't feel that there is a need for another liquor license venue in the small town of Lascelles when there is a perfectly operational Pub across the road.
- 11) Doesn't warrant to have another place to serve alcohol. If this opens up then the pub isn't going to survive so your going to close down a business that people enjoy going to.
- 12) Lascelles doesn't need a second liquor outlet as it's a small town and the local hotel is sufficient and I believe it would suffer a substantial downturn in viability to the decrement of the community as its always been the local hub for the people
- 13) A small town like Lascelles, with a population under 100, doesn't need two establishments with a liquor license. And even less, two establishments right across from each other.
The town pub already offers this service and the residents like this establishment and go there often.
Granting this license would put at risk the pub and we all know that a pub closing in a small town like Lascelles would be a disaster for the social life of the residents. It's important to keep open establishments like the Minapre hotel that is a pub, an hotel but also a meeting place for local residents.
The establishment applying for the license would not be an additional asset to the town because they will not propose a service that doesn't already exist. The pub is already an establishment where you can eat and drink, where you can get take away meals and alcohol.
- 14) I do not want this buisness to be approved for anything listed in the letter. I have various reasons which I will explain in detail. Please concider my objection as the existing shop "mallee hen" has already caused alot of disturbance to my family & life in general.
Im extremely concerned about the population capacities.
This is ruining everything I moved to this town for. Michelle and her family are difficult to deal with to resolve issues, there have been instances of theft, they have trespassed multiple times.
I moved here for the peaceful town lascelles was. I do not want or need this establishment.
If approved where in the world are 700+ people going to park? I dont believe the area is large enough. I certainly dont want the noise that this buisness will bring.
The town has a pub across the road "The Minapre" that is struggling already. The town does not need a second buisness that sells alcohol. It isnt big enough. I dont understand how they could be approved for this temporary liquor licence when the neighbouring properties werent made aware!
Why allow this family to come in and take advantage of the struggling pub and risking the livelihood of the owners.
PLEASE DO NOT ALLOW THIS TO HAPPEN
- 15) They have a pub, no need to be stepping on small businesses in small towns! Not necessary!
- 16) Hope it doesn't get approved!
- 17) We object to the application of a liquor license at 11 Wychunga St. Lascelles.
In a town of this size, there is no need for another licensed premises, when there is an established hotel directly opposite. The mentioned 'at the request of regulars' is a small minority of the town whereas a large number of locals support the hotel.

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- 18) As a resident of the Lascelles district. I don't believe the township of Lascelles, with a population of approximately 20 people, has the need for or can sustain an additional licensed premise. There is an existing Hotel already in the town which provides the community and travellers with a bottle shop, post office, general store and meals and is open 7 days a week.
- 19) I do not see the point of a cafe selling liquor especially when there is a local pub opposite to the cafe. The Minapre Hotel is a historic landmark for Lascelles, a family friendly establishment and with the cafe taking on a liquor license it will take business away from the hotel. As locals we do not want or need 2 places in town selling alcohol. We also have the post office and the shop in the hotel and we can not afford to loose these.
- 20) What's next for the town, a casino or bunnings, if the town is big enough for two pubs.
WHAT A JOKE
- 21) I feel like there already enough alcohol in the town doesn't need more disruption of the peace will encourage more people to drink and ruin the town
- 22) I am writing to you today as I do not support this decision to have another liquor license premises in Lascelles, as a small community I don't this is required. The Hotel is the heart of our community and this would take away business from that, which I do not support as the mallee hen cafe is directly across the road. A cafe is a cafe not a Pub.
- 23) There is no point of encouraging further drink driving from a small rural town. Near this premises and also the hotel and I have first hand experiences of excessive alcove use served by this person when mc dougall was the owner/ operator of the minipree hotel where an R,S,I had no limitations and her main concentration was to get money from you and no concerns of your health or safety or even how you was to get home at nights.
The current temporary permit issued on the mallee field day weekend was clearly an example of excessive alcohol use by patrons with the late night excessive noise and all the hooning and tyre burn outs that have been left on the highway out the front of premises and the hotel of 31/7/24 & the 1/8/24. Clearly for all to see what damage our small town is coming too.
I don't think we need liquor to be sold from this business when the minapre hotel is straight over the road and it is also our local store which is also our post office that is a business that we need for the long term

Response from the owner/operator of the site

As the owner and operator of the Mallee Hen Cafe, I have read over the objections and feel it is important to clarify some things.

It is not and will never be my intention to detract from the Hotels clientele. The cafe caters to locals and travellers alike that do not want to eat in a pub environment.

I have had many customers request that we apply for a liquor license after having a negative experience with the hotel and or the publican. I for one have stopped frequenting the hotel as I feel unwelcome despite multiple attempts to find a middle ground.

We also have further plans to install a static display to attract tourists to the town.

Regardless of how small the town may be, we are on a highway and in the centre of a tourist attraction, I don't understand how having a second option could possibly impact the town in any way other than positive.

Please consider that those who wish to drink at a pub will always choose a pub over a

licensed cafe, and those who wish for a quick simple and quiet environment will choose a cafe over a pub.

Location of submissions

The following table is a summary of the location of where the submitters reside. This table is provided to assess whether submitters would be specifically impacted by the proposal. The towns listed and the number indicate that the majority of the submissions did come from or within the local community.

	Support	Objection
Unknown	5	
Lascelles	6	11
Hopetoun	1	2
Speed		1
Woomelang		4
Finley (NSW)		2
Numerkah		1
Sea Lake		1
Myrtleford		1

Issues raised.

The issues raised by the submissions include:

- Competition
- Need for another venue serving alcohol
- Social behaviour
- Amenity - noise

In the VCAT Red Dot Decision (a Red Dot Decision is a decision that is has significance or a high level of interest in assisting in the interpretation of planning legislation and issues as considered by VCAT) *Hunt Club Commercial Pty Ltd v Casey CC* one of the summary dot points states:

Town planning is not a panacea for all perceived social ills, nor is planning decision-making a forum for addressing all issues of social or community concern. At its heart, planning is about the use, development and protection of land. It has a spatial context that is primarily concerned with the fair, orderly, economic and sustainable use and development of land. Town planning does not involve itself in moral judgements nor, subject to this locational or spatial perspective, in the operation of a competitive market economy in which certain goods and services are lawfully made, sold or consumed. Whilst town planning seeks to

secure a pleasant, efficient and safe working, living and recreational environment, it is not the role of town planning to address all issues of public health, nor to regulate the pricing or general availability of a product to manage the health and well being of a society.

While this covers most of the issues raised, additional comments are provided below on competition, the need for another venue and noise.

Competition

Several objectors have noted the potential adverse impact on the Minapre Hotel given the town's population and that both would sell liquor and food. However, it should be noted that planning decisions are not focused on protecting existing businesses from competition. As stated by the High Court in *Kentucky Fried Chicken Pty Ltd vs Gantidis [1979]*:

"... the mere threat of competition to existing businesses, if not accompanied by a prospect of a resultant overall adverse effect upon the extent and adequacy of facilities available to the local community if the development be proceeded with, will not be a relevant town planning consideration."

Need for another venue serving alcohol

The submissions supporting the application highlight the different atmospheres and demographics that would determine the choice of which one a customer would attend.

From a planning perspective the planning scheme mentions "community needs" which could be considered through the Township Zone which includes *to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve the local community needs* in the purposes of the zone.

The need for the liquor licence as outlined in the objections would be a commercial decision as opposed to a "community need".

Noise

When considering amenity, noise is generally the most obvious element that is raised. Conditions can be placed on a permit that can aim to limit the amount of noise that is generated or the location of where noise is generated.

If a permit was to be issued conditions on the permit could be included to limit the number of people, reducing the area to which the redline plan applies, limiting noise sources such as amplified music, and requiring the venue to provide a noise management plan to address the noise related issues.

Recommendation

That Planning Permit Application Number **PA20240026** be determined pursuant to Section 60(1) of the *Planning and Environment Act 1987* by issuing a planning permit for the sale and consumption of liquor at 11 Wychunga Street Lascelles 3487 (Lot 193 PS: PS6219) subject to the following conditions:

WHAT WILL THE PERMIT ALLOWS:

Planning Scheme Clause No.	Description of what is allowed
52.27	Use the land to sell and consume liquor

Proposed Conditions:

Approved and endorsed plans – changes required

1. Before the use starts, plans must be approved and endorsed by the responsible authority. The plans must:
 - a. be prepared to the satisfaction of the responsible authority
 - b. be drawn to scale with dimensions
 - c. submitted in electronic form
 - d. be generally in accordance with the plans forming part of the application but amended to show the following details:
 - i. works identified in the 'noise and amenity plan' as required in Condition 9 of this permit.

Layout not altered

2. The layout of the use must not be altered from the layout on the approved and endorsed plans without the written consent of the responsible authority.

Permitted Use

3. The site must continue to be used in the manner as approved through TP25-23 issued by Council on 27 November 2023. Any change in use may require further written approval from the responsible authority.

General amenity provision

4. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a. transport of materials, goods or commodities to or from the land
 - b. appearance of any building, works or materials
 - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - d. presence of vermin
 to the satisfaction of the responsible authority.

Hours of operation

5. The use must only operate between the following times, as previously approved through Planning Permit TP25-23:
 - a. 9.30 am and 9.00 pm Monday to Friday
 - b. 10.00 am and 10.00 pm Saturday
 - c. 10.00 am and 9.00 pm Sunday or public holiday.
 The responsible authority may consent in writing to vary these requirements.

Limit on number of persons

6. At any time no more than 250 persons may be present on the land. The responsible authority may consent in writing to vary this requirement.

Licensed premises – management / supervision of premises

7. At all times when the premises is open for business, a designated manager must be in charge of the premises to the satisfaction of the responsible authority. The manager must be authorised by the operator under this permit to make statements at any time on their behalf to any authorised police officer, any authorised officer of the responsible authority, or any authorised officer under the *Liquor Control Reform Act 1998*, and to take action on behalf of the operator in accordance with a direction by such officer.

Noise control

8. At all times noise emanating from the land must comply with the requirements of the *Environment Protection Regulations 2021* (as amended from time to time) as measured in accordance with the Noise Protocol to the satisfaction of the responsible authority.

Noise Protocol means the Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, published by the Environment Protection Authority on its website, as in force from time to time.

Noise and amenity plan / patron management plan

9. Before the use starts, a noise and amenity plan/ patron management plan must be approved and endorsed by the responsible authority. The noise and amenity plan/ patron management plan must be prepared by a suitably qualified person and must:
 - a. be prepared to the satisfaction of the responsible authority
 - b. be submitted to the responsible authority in electronic form
 - c. include the following details:
 - i. staffing and other measures which are designed to ensure the orderly arrival and departure of patrons
 - ii. signage to be used to encourage responsible off-site patron behaviour
 - iii. the training of staff in the management of patron behaviour
 - iv. staff communication arrangements
 - v. measures to control noise emissions from the premises, which may include changes to the redline plan, and/or construction of a noise attenuating fence.
 - vi. complaint handling process to effectively manage any complaints received. This must include a Complaints Register to be kept at the premises which records details of the complaint received, any action taken and the response provided to the complainant.

The responsible authority may consent in writing to vary any of these details.

Loudspeakers

10. No external sound amplification equipment, loudspeakers or public address system are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.

Commencement of permit

11. This permit will operate from the issued date of this permit.

Expiry – Use

12. This permit as it relates to use will expire if the use does not start within 2 years after the issued date of this permit. In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

Useful information

(The following information does not form part of this permit)

- A. The permitted development may need to comply with, or obtain the following further approvals:
 1. A liquor licence under the *Liquor Control Reform Act 1998*.

Assessing Officer

[Redacted]

[Redacted]

[Redacted]

Date: 30 August 2024