



**PLANNING ASSESSMENT REPORT
DELEGATE REPORT**

Application Details			
Application Number:	PA2024003	Planner:	Adam Moar
Application Description:	Sale and consumption of liquor in association with a food and drink premises (Restaurant) and reduction in car parking.		
Application Received:	30 January 2024		
Land / Address:	165-167 Scott Street Warracknabeal VIC 3393		
Zoning:	Commercial 1 Zone (C1Z)		
Overlays:	Nil		
Under what clause(s) is a permit required?	<p>Clause 52.27: A permit is required to use land to sell or consume liquor where a licence is required under the Liquor Control Reform Act 1998.</p> <p>Clause 52.06-3: A permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.</p>		
Vicsmart	No		
Current Use & Development:	Food and drink premises (restaurant)		
Land Use Terms:	Food and drink premises (restaurant)		
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 proposed red line plan. The application also requests a waiver of the car parking requirements in accordance with Clause 52.06 of the Yarriambiack Planning Scheme.

The site had previously been used as a service station, followed by a kebab shop utilising the former customer service area of the service station. The current food and drink premises is using the same area as the kebab shop and using the forecourt as outdoor dining. This proposal includes the extension of the seating area into the adjoining shed which would have previously been used for storage or the workshop when the site was servicing vehicles.

The use of land for a food and drink premises does not require a planning permit, however the associated reduction of car parking spaces and liquor licence does.

The restaurant is proposed to have up to 100 patrons at any one time and 6 staff.

The hours of operation for the liquor licence are proposed to be Monday to Saturday 7 am to 11 pm, Sunday 10 am to 11 pm, and ANZAC Day and Good Friday 12 pm to 11 pm.



Subject Site & Locality

The subject site, known as 165-167 Scott Street, Warracknabeal, is located on the corner of Lyle Street and Scott Street, has a total area of 1107 square meters and currently contains:

- a food and drink premises
- residential dwelling

The main site/locality characteristics are:

- The site is located on a major commercial activity centre along Scott Street, within a Commercial 1 Zone (C1Z) and abuts commercial properties.
- There are two service stations which neighbour the site to the west and south.
- It adjoins residential dwellings to the east and south

Site History

Building Permit		
2002.00000076.001	Commercial	

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.

Referrals

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

Planning Policy Framework (PPF)

02: MUNICIPAL PLANNING STRATEGY

02.01: 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.

02.02: 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.

02.03 Strategic Direction

02.03-1: 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

Warracknabeal has a district centre role. It is the largest centre of the Shire with the smallest rate of population decline. It is a retail, administrative and industrial centre, well serviced with educational, medical and community services. It is located on important transport routes and has potential for critical mass to support and sustain large industries. Warracknabeal is the second largest grain receival terminal after Murtoa. Graincorp's maintenance workshop is located in Warracknabeal.

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.
- Reinforce Warracknabeal as the main district service centre within the Shire, especially in terms of provision of community services and facilities, retail and business opportunities, recreational and social activities and the coordination of administrative and government functions.
- Develop an attractive commercial centre in Warracknabeal, with services and facilities that reinforce the role of the township.
- Avoid linear or ribbon development of highways.

02.03-7: 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.

Tourism

The Shire's unique and diverse natural resources provide the basis for the recreation and tourism industry, including the Big Desert State Forest, the Little Desert National Park, Wyperfeld National Park, Wathe Corridor, Wathe State Forest and Lakes Hindmarsh and Albacutya. The expansion of tourism results in opportunities for the innovative use of existing resources, including sporting, recreational facilities and housing stock within townships.

Strategic directions

- Facilitate quality tourist uses and development that are related to the productive base of the Shire, the agricultural economy and tradition, the natural environment and conservation of natural features.
- Encourage tourism-related use and development that do not impact on the environment nor detract from the character of the towns and districts.



- Protect the natural and physical features that contribute to the 'tourism experience' including the natural environment, heritage elements, landscape features and cultural activities.
- Encourage the expansion and diversification of accommodation to facilitate and promote tourism.

11 SETTLEMENT

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to recognise the need for, and as far as practicable contribute towards:

- Health, wellbeing and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of environmental sustainability, urban design and amenity.
- Climate change adaptation and mitigation.
- Prevention of land, water, air and noise pollution.
- Protecting, conserving and improving biodiversity, waterways and other natural resources.
- Accessibility.
- Land use and transport integration.
- Waste minimisation and resource recovery.

Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together.

Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.

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.

Provide for easy access to housing, education, employment and community facilities, particularly in Horsham and district towns.

11.03-1S: Activity centres

Objective

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

Strategies



Build up activity centres as a focus for high-quality development, activity and living by developing a network of activity centres that:

- Comprises a range of centres that differ in size and function.
- Is a focus for business, shopping, working, leisure and community facilities.
- Provides different types of housing, including forms of higher density housing.
- Is connected by transport.
- Maximises choices in services, employment and social interaction.

Support the role and function of each centre in the context of its classification, the policies for housing intensification, and development of the public transport network.

Undertake strategic planning for the use and development of land in and around activity centres.

Give clear direction on preferred locations for investment.

Encourage a diversity of housing types at higher densities in and around activity centres.

Reduce the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible activity centres.

Improve access by walking, cycling and public transport to services and facilities.

Support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.

Encourage economic activity and business synergies.

Improve the social, economic and environmental performance and amenity of activity centres.

Policy documents

Consider as relevant:

- Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)
- Apartment Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2021)
- Precinct Structure Planning Guidelines (Victorian Planning Authority, 2021)

17 ECONOMIC DEVELOPMENT

Planning is to provide for a strong and innovative economy, where all sectors are critical to economic prosperity.

Planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.

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

Plan for an adequate supply of commercial land in appropriate locations.

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.

Provide outlets of trade-related goods or services directly serving or ancillary to industry that have adequate on-site car parking.

Locate cinema based entertainment facilities within or on the periphery of existing or planned activity centres.

Apply a five year time limit for commencement to any planning permit for a shopping centre or shopping centre expansion of more than 1000 square metres leasable floor area.

17.04-1R: Tourism - Wimmera Southern Mallee

Strategies

Support a diverse range of tourism development on private land, particularly in designated locations where the development will:

- Have access to settlements, transport infrastructure and other services.
- Be compatible with environmental and cultural assets and values.
- Link with nearby environmental assets.
- Not be exposed to unacceptable bushfire hazards.
- Operate in conjunction with agricultural activities and be located away from intensive agriculture and mining.

Facilitate the economic opportunities presented by the region's wetlands and lakes to encourage more tourism.

Zoning

34.01: COMMERCIAL 1 ZONE

Purpose

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

To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Overlays

Nil

Particular Provisions

52.06 CAR PARKING

Purpose

To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.

To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

To support sustainable transport alternatives to the motor car.

To promote the efficient use of car parking spaces through the consolidation of car parking facilities.

To ensure that car parking does not adversely affect the amenity of the locality.

To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

52.06-1: Scope

Clause 52.06 applies to:

- a new use; or
- an increase in the floor area or site area of an existing use; or
- an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

52.06-3: Permit requirement

A permit is required to:

- Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.



- Provide some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay on another site.
- Provide more than the maximum parking provision specified in a schedule to the Parking Overlay.

52.06-5: Number of car parking spaces required under Table 1

Table 1 of this clause sets out the car parking requirement that applies to a use listed in the Table.

A car parking requirement in Table 1 may be calculated as either:

- a number of car parking spaces; or
- a percentage of the total site area that must be set aside for car parking.

A car parking requirement in Table 1 is calculated by multiplying the figure in Column A or Column B (whichever applies) by the measure (for example square metres, number of patrons or number of bedrooms) in Column C.

Where an existing use is increased by the measure specified in Column C of Table 1 for that use, the car parking requirement only applies to the increase, provided the existing number of car parking spaces currently being provided in connection with the existing use is not reduced.

If in calculating the number of car parking spaces the result is not a whole number, the required number of car parking spaces is to be rounded down to the nearest whole number.

Where the car parking requirement specified in Table 1 is calculated as a percentage of the total site area, the area to be provided for car parking includes an accessway that directly abuts any car parking spaces, but does not include any accessway or portion of an accessway that does not directly abut any car parking spaces.

The car parking requirement specified in Table 1 includes disabled car parking spaces. The proportion of spaces to be allocated as disabled spaces must be in accordance with Australian Standard AS2890.6-2009 (disabled) and the Building Code of Australia.

Use	Rate (Column A)	Car Parking Measure (Column C)
Restaurant	4	To each patron permitted

52.06-7: Application requirements and decision guidelines for permit applications

For applications to reduce the car parking requirement

An application to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be accompanied by a Car Parking Demand Assessment.

The Car Parking Demand Assessment must assess the car parking demand likely to be generated by the proposed:

- new use; or
- increase in the floor areas or site area of the existing use; or
- increase to the existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

The Car Parking Demand Assessment must address the following matters, to the satisfaction of the responsible authority:



- The likelihood of multi-purpose trips within the locality which are likely to be combined with a trip to the land in connection with the proposed use.
- The variation of car parking demand likely to be generated by the proposed use over time.
- The short-stay and long-stay car parking demand likely to be generated by the proposed use.
- The availability of public transport in the locality of the land.
- The convenience of pedestrian and cyclist access to the land.
- The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land.
- The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.
- Any empirical assessment or case study.

Before granting a permit to reduce the number of spaces, the responsible authority must consider the following, as appropriate:

- The Car Parking Demand Assessment.
- Any relevant local planning policy or incorporated plan.
- The availability of alternative car parking in the locality of the land, including:
 - Efficiencies gained from the consolidation of shared car parking spaces.
 - Public car parks intended to serve the land.
 - On street parking in non residential zones.
 - Streets in residential zones specifically managed for non-residential parking.
- On street parking in residential zones in the locality of the land that is intended to be for residential use.
- Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.
- The future growth and development of any nearby activity centre.
- Any car parking deficiency associated with the existing use of the land.
- Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.
- Local traffic management in the locality of the land.
- The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.
- The need to create safe, functional and attractive parking areas.
- Access to or provision of alternative transport modes to and from the land.
- The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.
- The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.
- Any other relevant consideration.

52.06-10: Decision guidelines

Before deciding that a plan prepared under Clause 52.06-8 is satisfactory the responsible authority must consider, as appropriate:

- The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
- The ease and safety with which vehicles access and circulate within the parking area.
- The provision for pedestrian movement within and around the parking area.
- The provision of parking facilities for cyclists and disabled people.
- The protection and enhancement of the streetscape.
- The provisions of landscaping for screening and shade.
- The measures proposed to enhance the security of people using the parking area particularly at night.
- The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.
- The workability and allocation of spaces of any mechanical parking arrangement.
- The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.
- The type and size of vehicle likely to use the parking area.
- Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
- The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
- Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).

52.27 LICENSED PREMISES

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.



- If the schedule to this clause specifies that a permit is not required to use land to sell or consume liquor under a particular type of licence.
- 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 Commission for Gambling and Liquor Regulation, 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.
- To a licence to sell only packaged liquor for consumption elsewhere issued before 8 April 2011.

The schedule to this clause may specify that a permit may not be granted to use land to sell or consume liquor under a particular type of licence.

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.

52.34 BICYCLE FACILITIES

Purpose

To encourage cycling as a mode of transport.

To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

52.34-1: Provision of bicycle facilities

A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

Where the floor area occupied by an existing use is increased, the requirement for bicycle facilities only applies to the increased floor area of the use.

52.34-2: Permit requirement

A permit may be granted to vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6.

52.34-4: Decision guidelines

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

- Whether the proposed number, location and design of bicycle facilities meets the purpose of this clause.
- The location of the proposed land use and the distance a cyclist would need to travel to reach the land.
- The users of the land and their opportunities for bicycle travel.
- Whether showers and change rooms provided on the land for users other than cyclists are available to cyclists.
- The opportunities for sharing of bicycle facilities by multiple uses, either because of variation of bicycle parking demand over time or because of efficiencies gained from the consolidation of shared bicycle facilities.
- Australian Standard AS 2890.3 1993 Parking facilities Part 3: Bicycle parking facilities.
- Any relevant bicycle parking strategy or equivalent.

52.34-5: Required bicycle facilities

Tables 1 to this clause set out the number and type of bicycle facilities required. Bicycle facilities are required if the use is listed in column 1 of the table.

If in calculating the number of bicycle facilities the result is not a whole number, the required number of bicycle facilities is the nearest whole number. If the fraction is one-half, the requirement is the next whole number.

A bicycle space for an employee or resident must be provided either in a bicycle locker or at a bicycle rail in a lockable compound.

A bicycle space for a visitor, shopper or student must be provided at a bicycle rail.

Table 1 to Clause 52.34-5 Bicycle spaces

Use	Employee/Resident	Visitor/Shopper/Student
Restaurant	1 to each 100 sq m of floor area available to the public	2 plus 1 to each 200 sq m of floor area available to the public if the floor area available to the public exceeds 400 sq m.

52.34-6: Design of bicycle spaces

Bicycle spaces should:

- Provide a space for a bicycle of minimum dimensions of 1.7 metres in length, 1.2 metres in height and 0.7 metres in width at the handlebars.
- Be located to allow a bicycle to be ridden to within 30 metres of the bicycle parking space.



- Be located to provide convenient access from surrounding bicycle routes and main building entrances.
- Not interfere with reasonable access to doorways, loading areas, access covers, furniture, services and infrastructure.
- Not cause a hazard.
- Be adequately lit during periods of use.

Bicycle rails

A bicycle rail must:

- Be securely fixed to a wall or to the floor or ground.
- Be in a highly visible location for bicycle security (when not in a compound).
- Be of a shape that allows a cyclist to easily lock the bicycle frame and wheels.
- Be located to allow easy access to park, lock and remove the bicycle.

Bicycle compounds and lockers

A bicycle compound or a bicycle locker must:

- Be located to provide convenient access to other bicycle facilities including showers and change rooms.
- Be fully enclosed.
- Be able to be locked.
- If outside, provide weather protection for the bicycle.

A bicycle locker must provide a bicycle parking space for at least one bicycle.

A bicycle compound must:

- Include wall or floor rails for bicycle parking.
- Provide an internal access path of at least 1.5 metres in width.

52.34-7: Bicycle signage

If bicycle facilities are required by this clause, bicycle signage that directs the cyclists to the bicycle facilities must be provided to the satisfaction of the responsible authority.

Bicycle signage should:

- Be at least 0.3 metres wide and 0.45 metres high.
- Display a white bicycle on a blue background on the top half of the sign.
- Display information about the direction of facilities on the bottom half of the sign.

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



- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- 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.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

Planning response:

The proposal meets the matters set out in Section 60 of the Planning and Environment Act.

It is considered that the environment will have minimal significant effects on the use of the land.

The proposal is for the serving of alcohol at an already established food and drink premises within the main activity centre of the Warracknabeal township. Therefore, it is considered that the proposal is consistent with the Municipal Planning Strategy and Planning Policy Framework.

The proposal is consistent with the purpose of the Commercial 1 Zone (C1Z) which is to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. As the proposed site is located within the main activity centre of the Warracknabeal township, it is also considered appropriately located for the purpose of Clause 52.27.

Liquor License

An application for a licensed premises requires consideration of the decision guidelines under Clause 52.27 which includes:

- *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*

The site directly adjoins an automotive repairs shops and a residential dwelling. It is surrounded by two service stations, a florist, a takeaway food premise, a bank, shops, a supermarket and more residential dwellings located along Scott, Lyle and Devereux Streets. The proposal is for a restaurant cafe liquor license and therefore the predominant activity carried out at all times on the premises will be the preparation and serving of meals to be consumed. Also tables and chairs will be provided on the premises for at least 75 percent of the patrons attending the premises at any one time. Therefore, it is considered that the service of alcohol will be secondary to the primary use of the land for the service of food. Given its location, it is also considered that light spill and noise will have minimal impact on surrounding residential dwellings. However, any permit issued will be conditioned to facilitate the amenity of the surrounding area.

- *The impact of the hours of operation on the amenity of the surrounding area.*

Any permit issued will be conditioned to limit hours of operation with ordinary trading hours of:

1. Monday to Saturday: 7am-11pm
2. Sunday: 10am to 11pm
3. ANZAC Day, Good Friday: 12pm to 11pm.

The following conditions will also be conditioned as specified by the applicant:

- Outdoor areas must close at 10pm
- Music in outdoor areas must cease at 10pm
- Entertainment noise from the venue must be in compliance with the limits prescribed in EPA Publication 1826.4.
- *The impact of the number of patrons on the amenity of the surrounding area.*

The applicant has proposed to limit the maximum number of patrons to 100 based on the red line plan area submitted. A proper assessment under the Building Act 1993 will need to be conducted by a registered building surveyor to determine patron limits for the purposes of the final liquor licence.

- *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area*

These are licensed premises in the immediate surrounding area:

- Royal Mail Hotel – 144 Scott Street: general liquor license which permits the service of alcohol between 7am-1am Monday – Saturday and 10 am-11pm on Sunday.
- Ritchies IGA Supermarket – 141 Scott Street: packaged liquor license which permits the service of alcohol 9am-11pm Monday – Saturday and 10am-11pm Sunday. Note: the business hours of operation states closing times are Monday – Friday 8pm and weekends 7pm.



Figure 1. Map of listed Liquor licenses.



A general licence has no specific requirement for meals to be served to patrons, and a packaged liquor license allows for patrons to purchase alcohol for consumption elsewhere.

The proposal is for a restaurant café liquor license which will ensure that the main business activity undertaken at the premises is the preparation and service of meals to patrons. The hours of closing will be limited to 11pm.

Other licensed premises along in the main activity centre include:

- Foodworks – 112 Scott Street: packaged liquor license which permits the sale of alcohol between 9am-11pm Monday-Saturday and 10am-11pm Sunday. Note hours of business are 8am-7pm Tuesday to Friday; 8am-8pm Saturday; and 8am-7pm Sunday.
- Taylors Palace Hotel – 99 Scott Street: general liquor license which permits the service of alcohol between 7am-11pm Monday to Saturday and Sunday 10am-11pm.
- Creekside Hotel – 2-6 Scott Street: general liquor license which permits the service of alcohol between 7am-1am Monday to Saturday and 10am-11pm Sunday.

Given the location of the proposed venue and type of license, it is considered that the application will contribute to the types of license premises available in the Warracknabeal township and will have a minimal cumulative impact on the surrounding area.

The proposal is consistent with the purpose of the zone and planning of the area.

It is considered that the impact will have a minimal impact on the amenity of the area due as discussed above and, likewise, will have minimal adverse effects on the environment or human health.

The venue is located approximately 380 metres from Anzac Park and 500 metres from the Yarriambiack Creek.

Car parking

Clause 52.06 of the Yarriambiack Planning Scheme sets the number of required car parking spaces, as identified previously in this report. Based on the provisions of the clause a restaurant would require 0.4 spaces to be provided per patron, therefore 40 spaces would be required for the proposed 100 patrons.

A car parking demand site assessment, conducted by Traffkd, has been submitted by the applicant which conducted a parking demand survey. From a total of 236 parking bays, it indicated the peak demand period during weekdays in the morning with demand dropping over the afternoon/evening period. As stated in the report, parking occupancy on a weekday ranged between 11% and 30% with an average parking demand of 22%. Parking occupancy on a weekend ranged between 6% and 19% with an average parking demand of 13%.

Council officers conducted an inspection of the site at various intervals to ascertain parking demand. Whilst is higher along the main activity centre in Scott St at peak times, ample parking remains in surrounding streets.

Site inspection conducted at 9:15am on Thursday February 15 2024



Figure 2: north into Scott Street



Figure 3: east across Scott and Lyle Street



Figure 4: south down Scott Street



Figure 5: west across Scott and Lyle Street

Site inspection conducted at 1:15pm on Thursday February 15 2024



Figure 6: south down Scott Street



Figure 7: west across Scott and Lyle Street



Figure 8: north into Scott Street



Figure 9: east across Scott and Lyle Street

Site inspection conducted at 10:30am on Friday February 16 2024



Figure 10: north into Scott Street



Figure 11: east across Scott and Lyle Street



Figure 12: south down Scott Street



Figure 13: west across Scott and Lyle Street



Figure 14: south down Scott Street (centre)

Site inspection conducted at 2:15pm on Friday February 16 2024



Figure 15: north into Scott Street



Figure 16: east across Scott and Lyle Street



Figure 17: south down Scott Street



Figure 18: west across Scott and Lyle Street



Figure 19: south down Scott Street (centre)

Site inspection conducted at 9:20am on Thursday February 22 2024



Figure 20: north into Scott Street



Figure 21: east across Scott and Lyle Street



Figure 22: south down Scott Street



Figure 23: west across Scott and Lyle Street



Figure 24: south down Scott Street (centre)



This section of the street caters to commercial businesses which share on-street parking. Neighbouring streets, including Lyle, Devereux and Jamouneau, cater to residential properties. Given the demand and number of spaces available, it is considered that this is unlikely to have a significant impact of parking availability.

The increase of patrons sought by this application is approximately a 100% increase on the current patron numbers. The above site inspections were undertaken when the restaurant was open catering for fewer customers based on existing use rights that were established by the kebab shop. Although the business has only recently opened, the site was never at capacity when visited. When the business opened, it was observed that a peak period was around 8 am for the service takeaway coffees.

It is also considered that there will be minimal, if any, adverse economic impact from a shortfall in parking capacity.

It is considered likely that there will be greater demand for car parking generated by the proposed use.

- Short-stay demand: this type of demand will be the patrons attending the site. A car parking demand site assessment, conducted by Traffkd, submitted by the applicant states that patrons are expected to attend the site for a duration of no more than 60 minutes to eat or drink.
- Long-stay demand: the business operator of the site has indicated no more than five staff will be required at the site at any one time.

It is recommended that the permit should be conditioned for the provision of bicycle parking facilities.

The site is located at the northeast corner of the intersection of Scott and Lyle Street/ Borung Highway (TR2). Scott Street is a Council Road which accommodates one traffic lane operating in a north – south direction and with kerbside angled parking. Angled parallel parking is accommodated on both sides of the carriageway proximate to the subject site. There is limited vehicular access available on the site as it has been sectioned off for outdoor dining. However, there exists a 5.7-metre-wide single crossover on Scott Street.

Given the scale of the use, it is considered that street parking on Scott and Lyle Street will be used for the purposes of loading and unloading and it is expected that loading will most likely be accommodated from a standard passenger vehicle or small commercial vehicle.

The time of day when the site is being used will also play a part in considering whether the proposal should be supported. The current number of patrons is not considered to greatly increase with the ability to serve alcohol, in particular between Monday and Friday when all the other surrounding businesses are also operating. It would be anticipated that the number of patrons to the site would increase in the evenings and on weekends when other businesses are not operating.

While the site is located in an area of higher traffic demand, it is considered that the granting of a liquor license will not significantly increase road traffic to the area.

Public Notice

This application open for public comment for a minimum period of 14 days. During this period two submissions were received.

The submissions were made by local property and business owners.

Submission 1:

As the landlord of a building occupied by a business in close proximity to above address, I object to the planning application re the sale and consumption of liquor.

REASON: We have two perfectly well-run pleasant venues building Hotels holding liquor license in Warracknabeal.



Obviously, the managers of the hotels work well together as sometimes one of the hotels is not open, meaning if consumption of liquor was in such high levels with patrons both hotels would be open at the hours allowed.

Thus, another licenses premises is not needed in Warracknabeal.

How the objector would be affected.

Again, as the landlord of a business in proximity, the parking on both sides of Scott Street, businesses are already being impacted by lack of available parking.

Submission 2:

I am concerned at the loss of parking spaces in front of and nearby my business at XXX Scott Street. This is happening now and may get worse if a liquor permit is granted.

Some mornings I cannot park at my business & have to park several shops away along Scott Street. Some vehicles remain in front of my business, blocking the view of my street display, for an hour or more while the owners have a coffee or two and sit and chat. This prevents potential customers from parking at my business, and possible lost sales.

Discussion:

Availability of parking.

As outlined above, Council officers undertook site inspections over the period of the advertising of this application. It was observed that there was ample on street parking to cater for both the existing businesses and the proposed increase proposed in this application. This was also outlined in the applicants Parking Demand Assessment.

The ability to be able to park in front of the building a customer is visiting is a convenience that is currently available within Warracknabeal. If businesses are to grow, customers will need to walk an additional, and mostly short, distance to visit the business they need to.

If the issue becomes significant that vehicles are parking in Scott Street for long periods of time, then Council could introduce time limited car parking spaces to keep the turnover of vehicles. It was observed that a number of the cars parked on Scott Street during the site inspections were there for most of the day, therefore were staff or property owners. These vehicles would be required to move if time limits were introduced.

Number of liquor licenses.

It is considered that the type of liquor license proposed for this application is different to that issued to hotel. The license proposed is for a restaurant license which requires the main business activity undertaken at the premises is the preparation and service of meals to patrons. A hotel license does not have this limitation.

Providing an alternative to a hotel environment may attract a different demographic to the restaurant and/or provide local residents with a different option for a meal.

Overall it is considered that the submissions do not provide suitable justification to refuse the application.

Recommendation

That Planning Permit Application Number **PA2024003** be determined pursuant to Section 60(1) of the *Planning and Environment Act 1987* by issuing a notice of decision to approve a planning permit for the **sale and consumption of liquor in association with a food and drink premises (Restaurant) and the reduction in car parking on 165-167 Scott Street Warracknabeal 3393** subject to the following conditions:

What will the permit allow:

Planning Scheme Clause No.	Description of what is allowed
52.06-3	Reduce the number of car parking spaces
52.27	Use the land to sell and consume liquor

No. of Conditions: 13

Proposed Conditions:

Compliance with documents approved under this permit

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

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.

Approved and endorsed plans – no changes required

3. Before the development 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 that form part of the application.

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

Service in the outdoor areas

5. The outdoor areas are to be closed by 10pm on any particular day, with music played in these areas also to cease.



Noise control

6. 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.

Hours of operation

7. The use must only operate between the following times:
 - a) 7am and 11pm Monday to Saturday
 - b) 10am and 11pm Sunday
 - c) ANZAC Day and Good Friday: 12pm to 11pm.

The responsible authority may consent in writing to vary these requirements.

Licensed premises – regulation of sale and consumption of liquor

8. The predominant activity carried out on the land must be the preparation and serving of meals for consumption on the premises.

Limit on number of persons

9. At any one time no more than 100 patrons may be present on the land.
The responsible authority may consent in writing to vary this requirement.

Number of bicycle spaces required

10. No fewer than three (3) bicycle spaces must be provided on the land in accordance with the Yarriambiack Planning Scheme.

Control of light spill

11. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.

Commencement of permit

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

Expiry - use

13. 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.

PERMIT NOTES

The permitted development may need to comply with, or obtain the following further approvals:

- A building permit under the Building Act 1993.
- A liquor license under the Liquor Control Reform Act 1998



Assessing Officer

Delegated Officer

A handwritten signature in black ink, appearing to read "J Thomas".

A handwritten signature in black ink, appearing to read "A.D. Moar".

James Thomas

Adam Moar

Development Services Officer/Student
Planner

Manager Development and Environmental Services

Date: 21 March 2024