



Colac Otway
SHIRE

AGENDA

PLANNING COMMITTEE MEETING
OF THE
COLAC-OTWAY SHIRE
COUNCIL

13 MARCH 2013

at 10:30 AM

COPACC Meeting Rooms

An audio recording of this meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1982.

COLAC-OTWAY SHIRE PLANNING COMMITTEE MEETING

13 MARCH 2013

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NOTICE is hereby given that the next *PLANNING COMMITTEE MEETING OF THE COLAC-OTWAY SHIRE COUNCIL* will be held in COPACC Meeting Rooms on 13 March 2013 at 10.30 am.

AGENDA

1. OPENING PRAYER

Almighty God, we seek your blessing and guidance in our deliberations on behalf of the people of the Colac Otway Shire. Enable this Council's decisions to be those that contribute to the true welfare and betterment of our community.

AMEN

2. PRESENT

3. APOLOGIES

4. MAYORAL STATEMENT

Colac Otway Shire acknowledges the original custodians and law makers of this land, their elders past and present and welcomes any descendents here today.

Colac Otway Shire encourages community input and participation in Council decisions.

Council meetings enable Councillors to debate matters prior to decisions being made. I ask that we all behave in a courteous manner.

An audio recording of this meeting is being made for the purpose of ensuring the minutes of the meeting are accurate. In some circumstances the recording may be disclosed, such as where Council is compelled to do so by court order, warrant, subpoena or by any other law, such as the Freedom of Information Act 1982. It is an offence to make an unauthorised recording of the meeting.

5. DECLARATION OF INTEREST

6. VERBAL SUBMISSIONS FROM APPLICANTS/OBJECTORS

The Mayor is to read out the names of those applicants and objectors who have confirmed in writing that they wish to make a verbal submission. These verbal submissions will be made in relation to each respective agenda item and must be directly relevant to the respective agenda item. A time limit of 5 minutes will apply.

7. CONFIRMATION OF MINUTES

- Planning Committee held on the 13/02/13.

Recommendation

That Council confirm the above minutes.

OFFICERS' REPORTS

Sustainable Planning and Development

PC131303-1 PLANNING & BUILDING STATISTICAL REPORT
PC131303-2 CHANGE OF USE TO FOOD AND DRINK PREMISES (TEAROOM) AND
ART GALLERY, REDUCTION IN THE CAR PARKING, ADVERTISING
SIGNAGE AT 17 DUVERNEY STREET, CRESSY - PP265/2012-1

Rob Small
Chief Executive Officer

PC131303-1

PLANNING & BUILDING STATISTICAL REPORT

AUTHOR:	Janole Cass	ENDORSED:	Jack Green
DEPARTMENT:	Sustainable Planning & Development	FILE REF:	F11/2683

Summary

This report provides statistics relating to the month of February 2013.

Planning

22 Planning Permit Applications were received for the period 1 February 2013 – 28 February 2013.

14 Planning Permit Applications were considered for the period 1 February 2013 – 28 February 2013.

3 Planning Permit Applications were either withdrawn, lapsed or a permit was not required.

Building Statistics

Please note that the Building Commission website has been updated to December 2012.

Attachments

1. Planning Statistical Report - February 2013

Recommendation(s)

That Council's Planning Committee note the statistical report for February 2013.

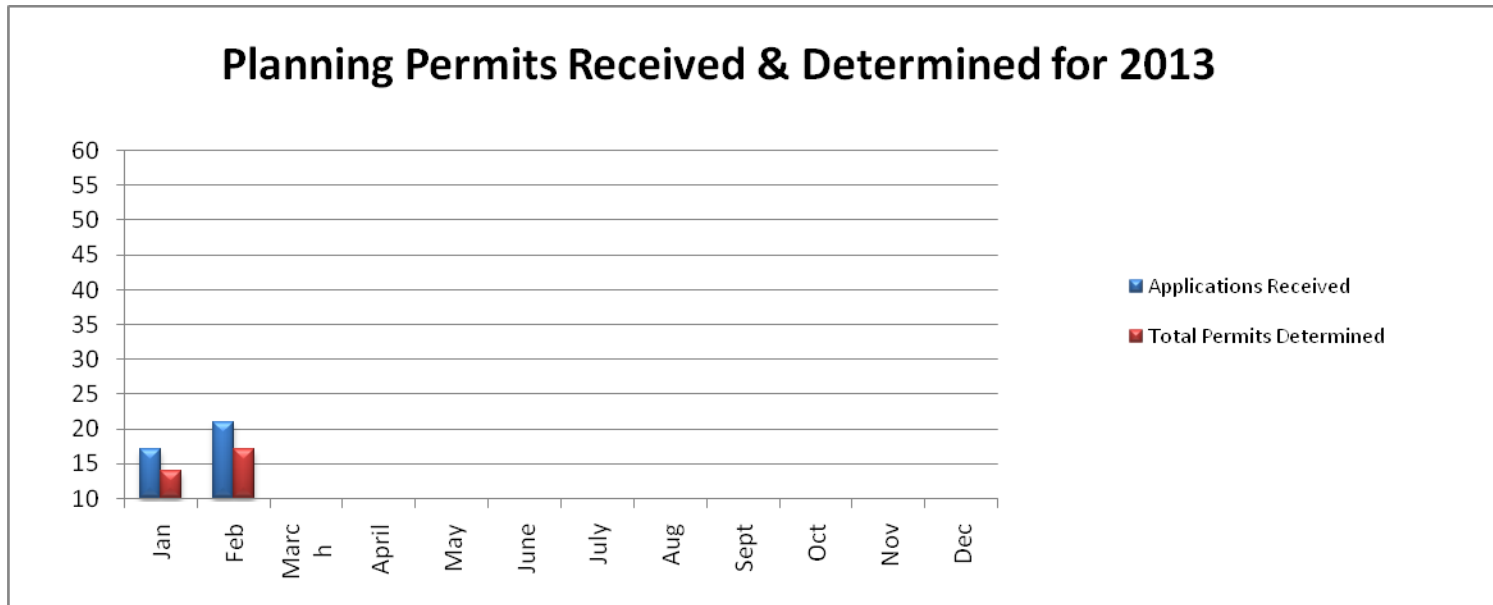
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## PLANNING STATISTICAL REPORT – FEBRUARY 2013 – (DETERMINATIONS)

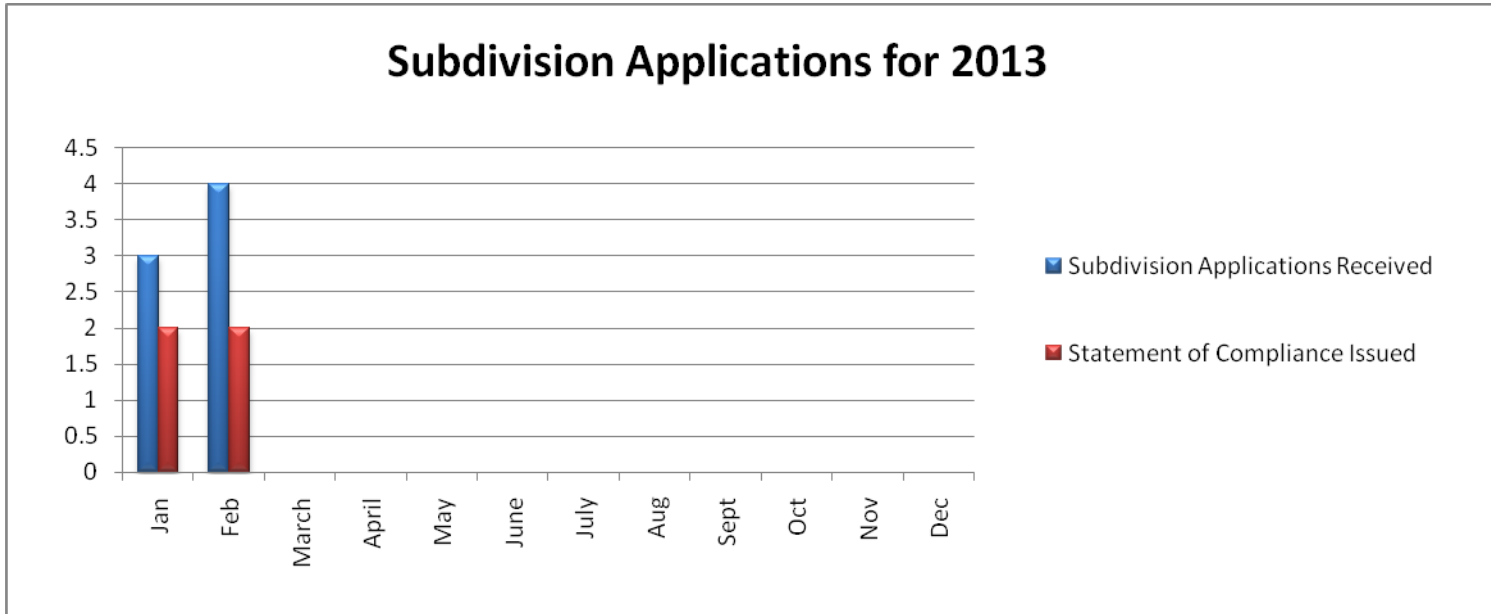
| APPLICATION NUMBER | DATE RECEIVED | LOCATION                               | PROPOSAL                                                                                                                             | ACTUAL TIME | DATE DETERMINED | DETERMINATION & AUTHORITY                            |
|--------------------|---------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|------------------------------------------------------|
| 74/2010-1          | 23 MAR 2010   | 3036 COLAC FORREST ROAD FORREST        | EIGHT (8) LOT SUBDIVISION & ASSOCIATED WORKS                                                                                         | 200         | 14 FEB 2013     | REFUSAL TO GRANT <b>COUNCIL</b>                      |
| 52/2012-2          | 9 JAN 2013    | 790 CORANGAMITE LAKE ROAD CORAGULAC    | USE AND DEVELOPMENT OF THE LAND FOR A DWELLING, OUTBUILDINGS AND CREATION OF ACCESS TO ROAD IN A ROAD ZONE CATEGORY 1 – AMENDMENT    | 30          | 8 FEB 2013      | PERMIT ISSUED <b>DELEGATE</b>                        |
| 160/2012-1         | 23 JUL 2012   | 27-29 TULLOH STREET ELLIMINYT          | SUBDIVISION OF LAND INTO FIVE (5) LOTS                                                                                               | 160         | 25 FEB 2013     | NOTICE OF DECISION TO GRANT A PERMIT <b>DELEGATE</b> |
| 168/2012-1         | 1 AUG 2012    | 10 PLEASANT PLACE GELLIBRAND           | BUILDINGS AND WORKS COMPRISING AN EXTENSION TO AN EXISTING DWELLING                                                                  | 174         | 19 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 205/2012-1         | 25 SEP 2012   | 110-116 MURRAY STREET COLAC            | INCREASE IN AREA OF LIQUOR LICENCE AND ASSOCIATED BUILDINGS AND WORKS INCLUDING DECK, FENCE AND LIGHTING AND LATERATIONS TO BUILDING | 116         | 25 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 223/2012-1         | 23 OCT 2012   | 4-6 MOORE STREET APOLLO BAY            | INCREASE RED LINE AREA FOR LIQUOR LICENCE                                                                                            | 78          | 12 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 225/2012-1         | 19 OCT 2012   | 965 COLAC LAVERS HILL ROAD BARONGAROOK | CONSTRUCTION OF REPLACEMENT DWELLING                                                                                                 | 106         | 20 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 229/2012-1         | 30 OCT 2012   | 34 GREAT OCEAN ROAD LAVERS HILL        | ALTERATIONS & ADDITIONS TO EXISTING DWELLING                                                                                         | 100         | 22 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 231/2012-1         | 2 NOV 2012    | 5 CASSIDY DRIVE KENNETT RIVER          | BUILDINGS AND WORKS COMPRISING ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING                                                     | 95          | 8 FEB 2013      | PERMIT ISSUED <b>DELEGATE</b>                        |
| 242/2012-1         | 20 NOV 2012   | 360 CORANGAMITE LAKE ROAD COROROOKE    | REALIGNMENT OF BOUNDARY                                                                                                              | 97          | 25 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 251/2012-1         | 17 NOV 2012   | 1-13 GREAT OCEAN ROAD KENNETT RIVER    | INSTALLATION OF TWO (2) UNREGISTERED MOVABLE DWELLINGS                                                                               | 70          | 25 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 257/2012-1         | 3 DEC 2012    | 4 MAIN STREET BIRREGURRA               | USE AND DEVELOPMENT OF A STORAGE SHED ANCILLIARY TO EXISTING DWELLING                                                                | 75          | 27 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
| 270/2012-1         | 19 DEC 2012   | 145-167 MURRAY STREET COLAC            | REMOVAL OF EXISTING AWNING AND CONSTRUCTION OF REPLACEMENT AWNING                                                                    | 49          | 6 FEB 2013      | PERMIT ISSUED <b>DELEGATE</b>                        |
| 205/2012-1         | 25 SEP 2012   | 110-116 MURRAY STREET COLAC            | DISPLAY OF SIGNAGE                                                                                                                   | 33          | 12 FEB 2013     | PERMIT ISSUED <b>DELEGATE</b>                        |
|                    |               |                                        | AVERAGE DAYS TO PROCESS PLANNING APPLICATIONS                                                                                        | 99          |                 |                                                      |

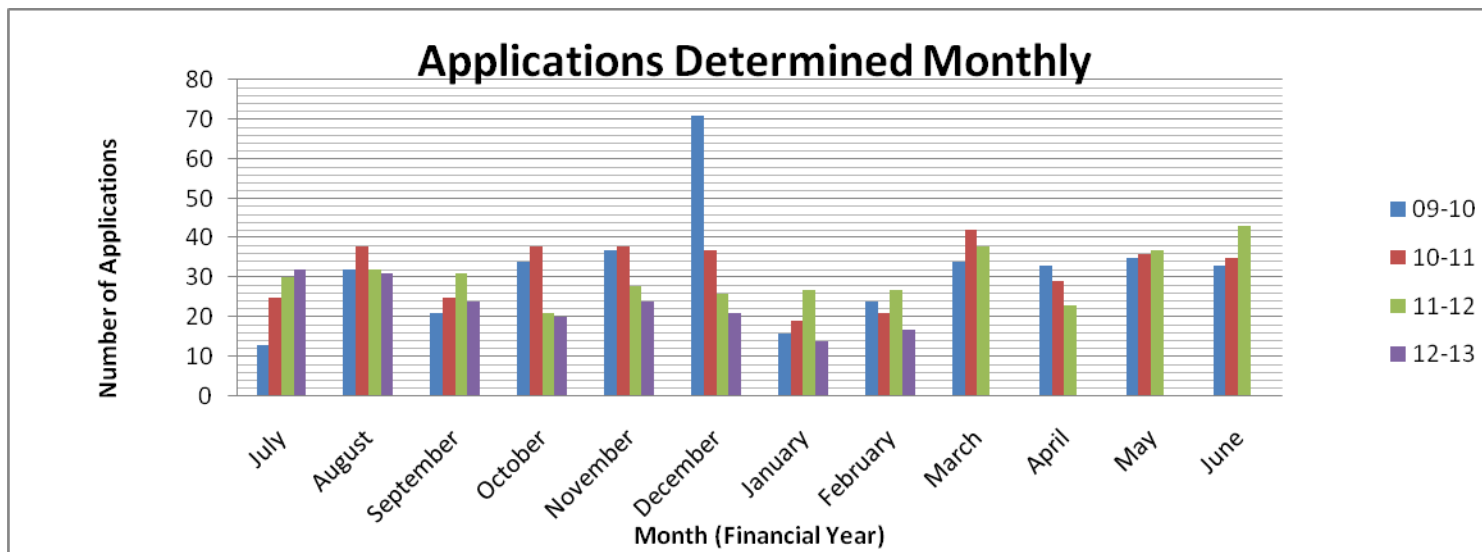
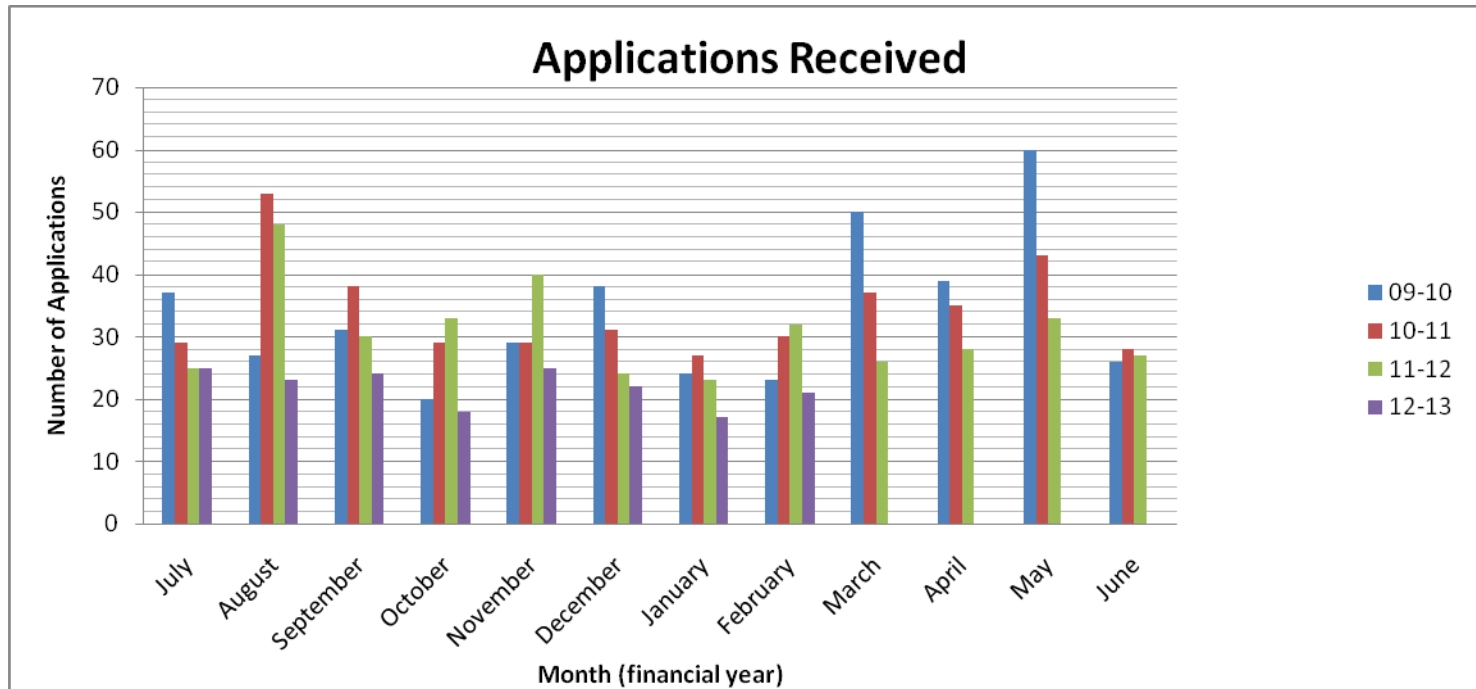
**PLANNING STATISTICAL REPORT – FEBRUARY 2013 (PERMIT NOT REQUIRED, WITHDRAWN & LAPSED APPLICATIONS)**

| APPLICATION NUMBER | DATE RECEIVED | LOCATION                           | PROPOSAL                                                                                                       | DATE DETERMINED | DETERMINATION & AUTHORITY |
|--------------------|---------------|------------------------------------|----------------------------------------------------------------------------------------------------------------|-----------------|---------------------------|
| 354/2010-1         | 16 DEC 2010   | 230 HORDERN VALE ROAD HORDERN VALE | FOUR (4) LOT SUBDIVISION                                                                                       | 12 FEB 2012     | APPLICATION WITHDRAWN     |
| 71/2012-1          | 3 APR 2012    | 1/5 OAK AVENUE APOLLO BAY          | BUILDINGS AND WORKS COMPRISING ALTERATIONS AND ADDITIONS TO AN EXISTING BUILDING AND A TWO (2) LOT SUBDIVISION | 12 FEB 2012     | APPLICATION WITHDRAWN     |
| 16/2013-1          | 5 FEB 2013    | 25 BELVERDERE DRIVE ELLIMINYT      | ERECT STORAGE SHED FOR CARAVAN                                                                                 | 20 FEB 2013     | PERMIT NOT REQUIRED       |

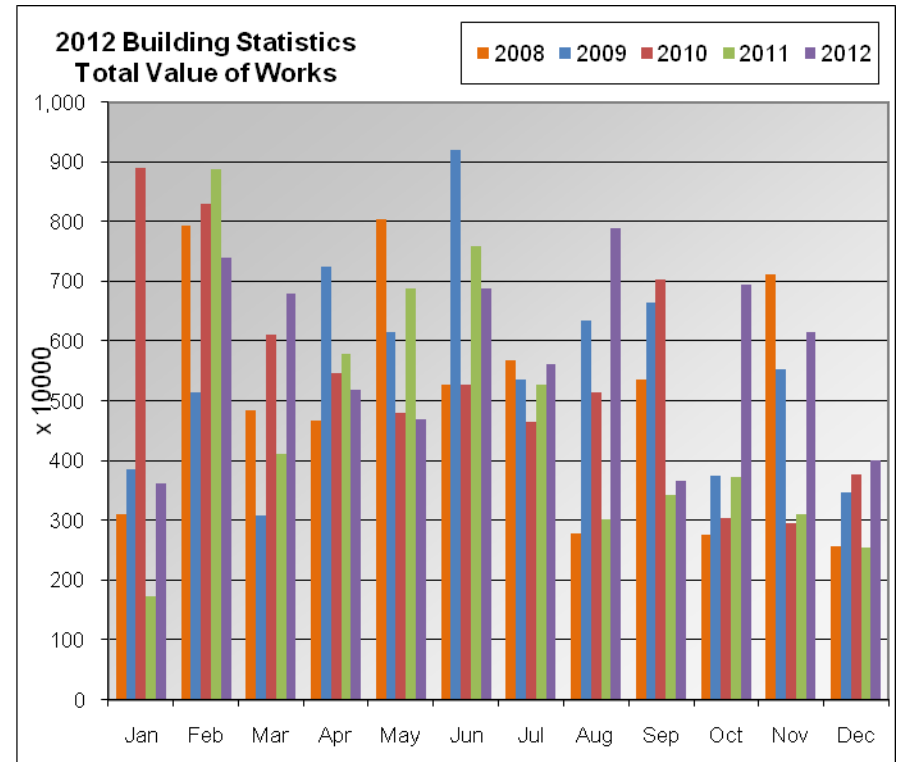
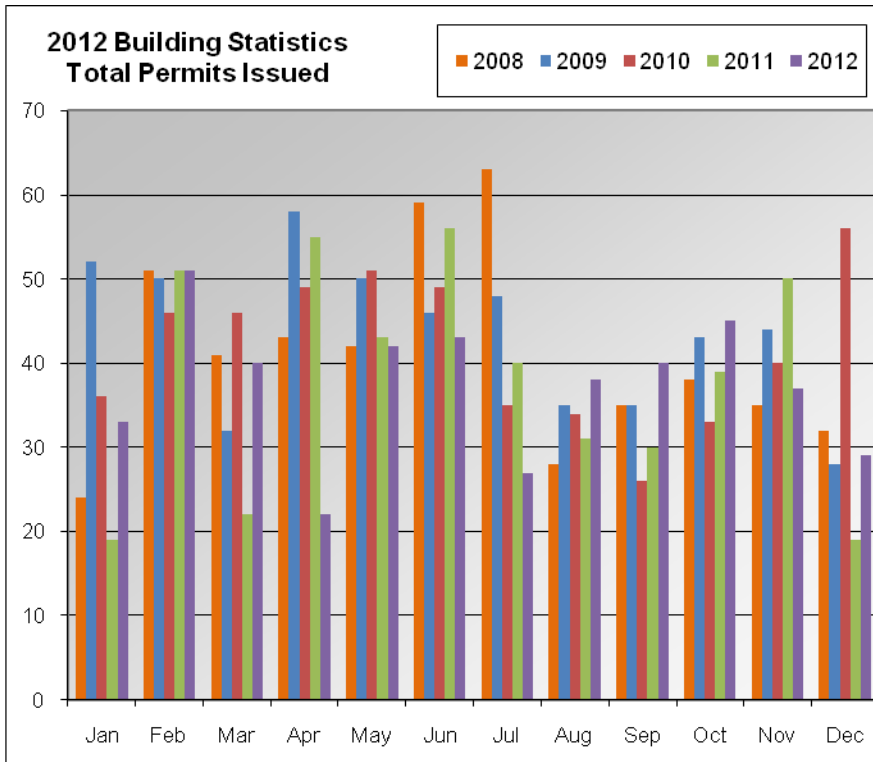








|               | Domestic   |                   | Residential* |                  | Commercial |                  | Retail    |                | Industrial |                   | Hospital/HealthCare |                  | Public Buildings |                  | Municipal Totals |                   |
|---------------|------------|-------------------|--------------|------------------|------------|------------------|-----------|----------------|------------|-------------------|---------------------|------------------|------------------|------------------|------------------|-------------------|
|               | No of BP   | Value (\$)        | No of BP     | Value (\$)       | No of BP   | Value (\$)       | No of BP  | Value (\$)     | No of BP   | Value (\$)        | No of BP            | Value (\$)       | No of BP         | Value (\$)       | No of BP         | Value (\$)        |
| Jan           | 23         | 2,632,772         | 0            | 0                | 4          | 356,809          | 2         | 410,000        | 1          | 27,000            | 0                   | 0                | 3                | 210,173          | 33               | 3,636,754         |
| Feb           | 36         | 4,147,416         | 0            | 0                | 7          | 229,380          | 2         | 66,500         | 4          | 2,910,222         | 0                   | 0                | 2                | 56,000           | 51               | 7,409,518         |
| Mar           | 30         | 4,901,928         | 0            | 0                | 4          | 143,000          | 2         | 30,000         | 2          | 520,000           | 0                   | 0                | 2                | 1,217,137        | 40               | 6,812,065         |
| Apr           | 18         | 1,600,096         | 1            | 15,666           | 2          | 368,000          | 0         | 0              | 1          | 3,200,000         | 0                   | 0                | 0                | 0                | 22               | 5,183,762         |
| May           | 29         | 3,543,672         | 2            | 135,000          | 3          | 152,362          | 2         | 161,500        | 3          | 328,554           | 0                   | 0                | 3                | 368,000          | 42               | 4,689,088         |
| Jun           | 35         | 4,637,580         | 1            | 1,200,000        | 4          | 1,008,450        | 1         | 10,000         | 0          | 0                 | 0                   | 0                | 2                | 26,200           | 43               | 6,882,230         |
| Jul           | 21         | 2,453,226         | 0            | 0                | 2          | 46,000           | 0         | 0              | 2          | 214,000           | 1                   | 100000           | 1                | 2,813,840        | 27               | 5,627,066         |
| Aug           | 32         | 4,675,264         | 0            | 0                | 3          | 53,168           | 0         | 0              | 2          | 3,068,750         |                     | 0                | 1                | 93,800           | 38               | 7,890,982         |
| Sep           | 28         | 2,256,760         | 0            | 0                | 3          | 107,100          | 0         | 0              | 2          | 110,000           | 1                   | 1132000          | 6                | 64,624           | 40               | 3,670,484         |
| Oct           | 36         | 4,358,423         | 1            | 1,400,419        | 3          | 540,700          | 1         | 2,000          | 0          | 0                 | 0                   | 0                | 4                | 650,179          | 45               | 6,951,721         |
| Nov           | 28         | 5,312,227         | 1            | 160,000          | 5          | 138,270          | 2         | 79,730         | 0          | 0                 | 0                   | 0                | 1                | 465,082          | 37               | 6,155,309         |
| Dec           | 24         | 3,707,769         | 0            | 0                | 4          | 285,529          | 0         | 0              | 0          | 0                 | 0                   | 0                | 1                | 11,800           | 29               | 4,005,098         |
| <b>Totals</b> | <b>340</b> | <b>44,227,133</b> | <b>6</b>     | <b>2,911,085</b> | <b>44</b>  | <b>3,428,768</b> | <b>12</b> | <b>759,730</b> | <b>17</b>  | <b>10,378,526</b> | <b>2</b>            | <b>1,232,000</b> | <b>26</b>        | <b>5,976,835</b> | <b>447</b>       | <b>68,914,077</b> |



**CHANGE OF USE TO FOOD AND DRINK PREMISES  
(TEAROOM) AND ART GALLERY, REDUCTION IN THE CAR  
PARKING, ADVERTISING SIGNAGE AT 17 DUVERNEY  
STREET, CRESSY - PP265/2012-1**

|             |                                       |           |            |
|-------------|---------------------------------------|-----------|------------|
| AUTHOR:     | Carl Menze                            | ENDORSED: | Jack Green |
| DEPARTMENT: | Sustainable Planning<br>& Development | FILE REF: | F12/10520  |

**Location:** 17 Duverney Street, Cressy

**Zoning:** Township Zone (TZ)

**Overlay controls:** Heritage Overlay Schedule 311 (HO311)

**Proposed Amendments:** Nil

**Purpose:**

This application seeks a planning permit to use an existing dependent person's unit as a Food and Drink Premises (Tearoom) and Art Gallery, together with a reduction in the car parking requirement and the display of business identification signage.

The application is before Council for consideration as the proposal seeks a reduction in the car parking requirement.

It is recommended that a Notice of Decision to Grant a Planning Permit be issued subject to conditions.

**Declaration of Interests**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**Summary**

- This application seeks a permit to use an existing dependent person's unit as a Food and Drink Premises (Tearoom) and Art Gallery. Both of these uses are Section 2 Uses (permit required) under the provisions of the Township Zone.
- Planning approval is also required for a reduction in the car parking requirement pursuant to Clause 52.06, and for the display of business identification signage, pursuant to Clause 52.05 (Advertising Signs) and 43.01 (Heritage Overlay).
- The applicant has advised that it is anticipated that a maximum of twelve (12) patrons would be present on-site at any given time.
- Public notification of the application was undertaken, with one (1) objection being received from the owners of the neighbouring property. The main reason for objecting related to concerns about car parking and potential problems accessing their property.
- It is considered that the proposed use of the site would be acceptable in terms of the character and amenity of the area, taking account of the fact that it is within a heritage precinct. No buildings or works are proposed and the only impact on the streetscape would be from the limited signage proposed, which is considered acceptable.

- Given the limited size of the proposed operation, and the hours proposed, it is not considered that the proposal would significantly affect the residential amenity of neighbouring properties.
- The reduction of one (1) parking space is considered acceptable, given the likely parking demand generated by the proposal and the availability of on-street parking.
- Given the above, it is considered that a Notice of Decision to Grant a Permit could reasonably be issued, subject to conditions.

### **Background**

There are no previous planning permit applications on record for the subject land.

### **Issues / Options**

Council has the options of:

- a) Supporting the application by issuing a Notice of Decision to Grant a Planning Permit subject to conditions;
- b) Supporting the application with changes;
- c) Refusing to grant a permit.

The key issues are whether the proposed use of the premises is acceptable in this location, taking account of the character and amenity of the area, and whether a reduction of car parking spaces is appropriate.

It is recommended that Option (a) is supported.

### **Proposal**

The application seeks a permit to use an existing dependent person's unit to the rear of the dwelling at 17 Duverney Street as a Food and Drink Premises (Tearoom) and Art Gallery, together with a reduction in the car parking requirement and display of business identification signage.

The subject land contains a single-storey dwelling, a dependent person's unit and some sheds. The dependent persons unit is located to the rear of the garage at No. 17, near the boundary shared with No. 19 Duverney Street.

The applicant described the aim of the proposal as:

*'...to showcase Art works, and serve quality refreshments, including Devonshire Teas and good Espresso Coffee.'*

The proposed tearoom would have six (6) tables, with seating for up to 12 patrons. Whilst the proposal provides seating for up to 12 persons at any given time, the applicant believes that realistically no more than six (6) patrons would be present at any given time. The tearooms are proposed to operate seven (7) days a weeks, between the hours of 9am and 5pm.

A maximum of two (2) staff would run the operation on the weekends, whilst one (1) staff member would work on weekdays. The applicant has indicated that staff would comprise an owner/operator with the help of a family member when required. It is not proposed to sell or serve alcohol at the premises.

With respect to the art gallery element the applicant states:

*'There will be art work hung on the walls of the tearooms in the seating areas, taking advantage of bare wall space, keeping in mind the aesthetic value of the rooms and the safety of the patrons.'*

It is proposed to erect a 1260mm x 840mm business identification sign on the south-east facing elevation of the existing dwelling. The sign would be of a rustic appearance, with white lettering on a blue background. The wording on the sign would read 'Cressy Gallery and Tea Rooms'.

An 'A-board' sign is also proposed, however this does not form part of the application as Council's Local Laws Department administers such signage.

The applicant has indicated that sufficient space for up to four (4) vehicles is provided within the existing driveway. This is tandem parking, and as such it is considered that it should remain available for use in association with the dwelling. It is not considered appropriate for this to be used for patron parking.

No external buildings and works are required.

Deliveries are expected to be minimal according to the applicant, with a small food van visiting once a fortnight and other deliveries as necessary.

### **Site & Surrounds**

The subject site is located on the south west side of Duverney Street, Cressy. The site is rectangular in shape, with an area of 970sqm. The site contains a single-storey Victorian era dwelling, which is set back 5.5m from the street frontage. A garage is located immediately to the south-east of the existing dwelling, with a single-storey, 1-bed, dependent person's unit located to the rear of the garage. The dependent person's unit, which it is proposed to convert to a tearoom and art gallery, is set 1m off the property boundary shared with No. 19 Duverney Street and 7.2m from the rear property boundary.

A driveway, approximately 17m in length, accesses the garage serving the dwelling.

The site is not within an area of cultural heritage sensitivity, and there are no restrictions on title.

The area in the immediate vicinity of the subject land along Duverney Street is characterised by predominately Victorian era dwellings set on medium sized allotments within a flat topography. The Colac Heritage Study gives a more detailed physical description of the area:

*Duverney Street is a remnant example of Victorian rural town layout and urban design. It consists of an oval drive around a large central landscaped park which has mass plantings of specimen trees such as mature nineteenth century cypress, elm and more recent native Australian trees. A few remnant trees survive on the opposite side of the road. The road is largely in its unformed original state, comprising on the private allotment side, a wide grass verge with an open concrete channel running down the centre, street trees are planted near the vehicular carriage way and a grassy unformed footpath is on the other side of the drain, only where the verandahs of the two commercial properties stretch over the footpath is it sealed.*

*There are no street gutters or stormwater drains and only latterly has a concrete kerb been installed to define the boundary of the central park.*

*The town centre was relocated before the street was fully developed so the land has only partially been taken (sic) up, leaving areas to the west along the river flats vacant, likewise several allotments facing west remain empty. The southern side consists of several scattered nineteenth century timber weather board villas set at irregular distances from the road, with one attractive timber bungalow hall-like building with zero set back. There are two weatherboard nineteenth century commercial properties located at each extremity of the street, both with deep verandahs and supported by timber posts, which stretch across the footpath. Both buildings appear to be late nineteenth century or early twentieth century weatherboard structures with original double fronted shop fronts and interesting signage panels with traces of original advertisement and lettering.*

Cressy is a small township at the northern extremity of the Colac Otway Shire. The town is located on the Colac Ballarat Road, approximately 700m south of the Hamilton Highway. The town contains a number of dwellings, a general store/café, 2 churches, bowling club, community hall, sports oval and cemetery. The town is surrounded by farmland.

### **Public Notice**

Public notice of the application was given in accordance with Section 52 of the Planning and Environment Act by sending letters to adjoining owners/occupiers and by placing a sign on site.

The applicant has provided a Statutory Declaration stating that the advertising has been carried out in accordance with Council's requirements.

At the conclusion of the notification period, one (1) objection was received from the owners of the neighbouring property at No. 19 Duverney Street. The grounds of objection are summarised as follows:

- Amenity impacts associated with proposed use.
- Concerns about plans to run art classes, encourage minibus visits and install signage near the main road.
- Loss of on-street parking spaces; impact on ability to park adjacent to their property.
- Future owner may not have respect for amenity of neighbours.

The objector's concerns regarding amenity and parking impacts are addressed later in this report however the following general comments are made about the concern relating to any future owner.

It is noted that property ownership can and will change overtime. A planning permit runs with the subject land; therefore any future landowner would be entitled to operate the business in accordance with any planning permit issued for the subject land. Any future landowners would be required to adhere to the conditions of any planning permit issued.

### **Referrals**

The application was referred to Council's Health Department, which raised no concerns with the proposal.



## **Planning Controls**

### **a. State and Local Planning Policy Frameworks**

The State and Local Planning Policy Frameworks seek to ensure that the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social, and economic factors in the interests of net community benefit and sustainable development. The following policies are relevant to the consideration of this application.

- Clause 11.05 – Regional Development
- Clause 15.01-1 – Urban Design
- Clause 15.03 – Heritage
- Clause 17.01-1 – Business
- Clause 18.02-5 – Car Parking
- Clause 21.02-2 – Land Use Vision
- Clause 21.03-7 – Smaller Townships
- Clause 21.05-4 – Tourism
- Clause 22.01 – Heritage Places and Areas

The above policies support the co-location, multiple use and sharing of facilities, and seek to minimise the effects of commercial development on the amenity of the neighbouring area. The policies encourage the efficient provision of car parking and promote high quality urban design outcomes.

The proposal is considered to accord with the principles of the State and Local Planning Policy Frameworks. It is considered that the proposed use would assist in meeting the community's need for commercial facilities. The site is appropriately located within the town centre.

### **b. Zone provisions**

The purpose of the Township Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage residential development that respects the neighbourhood character.

A 'Food and Drink Premises' (Retail Premises) and an 'Art Gallery' (Exhibition Centre/Place of Assembly) are both Section 2 Uses (permit required) under the Township Zone provisions.

Advertising sign requirements are at Clause 52.05. This zone is in Category 3.

### **c. Overlay Provisions**

The objectives of the Heritage Overlay are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.

- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

A permit is required to construct or display a sign, pursuant to Clause 43.01 of the Colac Otway Planning Scheme.

d. Particular Provisions – Clause 52.05 - Advertising Signs

Pursuant to Clause 52.05 planning approval is required for business identification signage.

The proposal incorporates 1.05sqm of advertising signage, which would be located on the south-east facing elevation of the existing dwelling. An 'A-board is also proposed; this type of signage is dealt with by Local Laws and does not form part of the permit application.

e. Particular Provisions – Clause 52.06 Car Parking

Pursuant to Clause 52.06, a permit is required to:

- *“Reduce (including reduce to zero) the requirement to provide the number of car parking spaces required under this clause”*

The primary new use proposed on the land would be the tearooms, which are defined as a 'Food and Drink Premises'.

A Food and Drink Premises has a car parking rate of four (4) spaces per 100sqm of net floor area.

The Department of Planning and Community Development Practice Note 22 – 'Using the Car Parking Provisions' states:

*“Where the car parking calculation results in a requirement that is not a whole number, the number of spaces should be rounded down to the nearest whole number.”*

The proposed premises has a floor area of 48sqm, therefore the proposal would generate a car parking requirement of 1.92 spaces rounded down to one (1).

Whilst on-site car parking is provided, as noted earlier in this report these parking spaces are tandem spaces and it is considered that they should remain associated with the existing dwelling.

## **Consideration of the Proposal**

### Proposed Use

The site is located within a residential area within the Cressy town centre. The subject site is currently in residential use, as are neighbouring properties on both sides.

It is considered that the use of an existing single-storey building towards the rear of the subject site as a small Tearooms and Art Gallery would be at an intensity that would not have a detrimental impact upon the general amenity of the area. Whilst the location behind an existing dwelling and garage is unusual, and normally such uses would be expected to have street frontage and presence, it is not considered that the proposed location towards the rear of the site would render the proposal unacceptable. It is considered that the small scale of the proposed operation would ensure it would not adversely affect neighbouring properties. In addition, the proposal would not significantly affect the streetscape or the character of the area, as the building in which the Tearooms and Art Gallery would be located is not visible from the street and signage would only be on display during opening hours. It is acknowledged that the proposed signage would be necessary to give the premises appropriate street presence during opening hours.

The proposed hours of operation are from 9am to 5pm seven days a week, which is considered to be reasonable within a residential setting. The applicant has advised that it is anticipated that a maximum of 12 patrons would be on-site at any given time, but that realistically it is envisaged that the maximum number of patrons at any time would be six (6).

The proposed Tearooms and Art Gallery would occupy an existing dependent person's unit located to the rear of the subject site, adjacent to the boundary shared with No. 19 Duverney Street. No. 19 is occupied by a dwelling which is set back approximately 5.5m from the street frontage and 1m from the common boundary with 17 Duverney Street. The building in which the Tearooms and Art Gallery would be located abuts the rear yard of No. 19. The Tearooms and Art Gallery building contains two (2) small windows serving a bathroom and kitchen in the south east facing elevation. As this building is single-storey, issues of overlooking should not arise. It is noted that the proposal does not propose any external alterations to the building in which the Tearooms and Art Gallery would be located.

It is not envisaged that the nature of the proposed use would cause any significant detrimental amenity impacts on adjoining properties through noise, odour or any other means. Whilst the use as a tearoom and art gallery would result in more people occupying the building, the numbers of patrons would be limited, patrons would be contained within the building and would only be present between 9am and 5pm. It is also noted that whilst adjacent to the boundary shared with No. 19 Duverney Street, the building itself is orientated toward the north-west away from 19.

It is considered imperative that any permit issued include a condition limiting the number of patrons to twelve (12) at any time. This would ensure the use of the Tea Rooms/Art Gallery is kept to a low intensity which would be sympathetic with its residential setting. It would also assist in addressing the concerns of neighbours about how the premises would run if ownership changes in the future. It is also recommended that the hours of operation be controlled by condition, given the residential location of the site. In addition, it is recommended that the use be limited to taking place within the building, preventing the potential disturbance to neighbours from any alfresco areas.

On balance, the proposal is considered to be in keeping with a key purpose of the Township Zone which is *to provide for residential development and a range of commercial, industrial and other uses in small towns*. Overall, given the limited potential amenity impacts, it is considered that the proposed use could make a positive contribution to the Cressy Township.

#### Car Parking Reduction

As noted earlier, a Food and Drink Premises has a car parking rate of four (4) spaces per 100sqm of net floor area, under the provisions of Clause 52.06 of the Planning Scheme.

The proposed Tearooms and Art Gallery has a floor area of 48sqm and therefore the proposal generates a car parking requirement of 1.92 spaces, rounded down to one (1). The applicant has advised that four (4) car parking spaces exist within the driveway of No. 17 Duverney Street. However, given the existing on-site parking is associated with the dwelling, and parking on the driveway is tandem parking, it is not considered that the additional parking required by the proposed use could be provided on site. It is noted however that the main staff member is a resident of the dwelling, and therefore it is reasonable to assume the main staff member would utilise the existing on-site parking.

As discussed above, the proposed use has a car parking requirement of one (1) space. For the reasons previously mentioned this car parking space will have to be provided on-street, therefore requiring planning approval for a car parking reduction. Duverney Street has no parking restrictions and it is considered that there is sufficient space in the vicinity of the site for the parking of more than one (1) vehicle on the street.

The objectors have raised concerns about the loss of on-street parking in front of their own dwelling. The proposal only requires approval for the reduction of one (1) car parking space, which is considered to be minimal. Whilst it is appreciated that the objectors wish to maintain access to on-street parking in front of their residence, all on-street parking spaces are available to the general public. The objector has indicated that they will approach Council's Local Laws Department to try to gain 'resident only' restrictions in front of their property. It is unlikely that this would be successful given the availability of parking in Cressy and the fact that resident only parking is not in place in any other location in the municipality. Whether or not this request is successful, it is considered that ample on-street parking facilities would remain within the street if a permit is issued for the proposed Tearooms and Art Gallery.

The reduction of one (1) space is considered acceptable in this instance, given the likely parking demand generated by the proposal and the availability of on-street parking within the area.

#### Signage

The proposal seeks approval of a 1260mm x 840mm business identification sign, to be erected on the south-east facing elevation of the existing dwelling. The sign would be of a rustic appearance, with white lettering on a blue background. The sign would be removable, and would hang from hooks on the dwelling. As such, it could be put up and taken down each day, although this is not considered necessary from a planning viewpoint.

It is considered that the proposed sign would be sympathetic to the heritage significance of the site and surrounds. The sign would not block views of any significant element of the contributory dwelling. The form, style and colours of the proposed sign are considered to be in keeping with the era of the dwelling and would not look out of place when viewed from the streetscape.

The proposed sign would serve its purpose in identifying the proposed business without creating any visual clutter.

#### **Council Plan / Other Strategies / Policy Leadership and Governance**

Council will engage, plan and make decisions about land use and development that takes into account the regulatory role of Council, its diverse geography, social, community, economic and environmental impacts for current and future generations.

It is considered that the proposal is in accordance with the above objective.

### **Financial & Other Resource Implications**

There are no financial implications arising from this report.

### **Risk Management & Compliance Issues**

There are no risk management or compliance implications arising from this report.

### **Environmental Consideration / Climate Change**

There are no environmental or climate change implications arising from this proposal.

### **Communication Strategy / Consultation Period**

Community consultation in the form of public notification has been undertaken as part of this assessment process in accordance with the Planning and Environment Act.

### **Conclusion**

It is considered that the proposal would not cause detriment to the existing streetscape and general amenity of the site and surrounds. The reduction of one (1) car parking space is considered acceptable given the likely low level of parking demand generated by the proposal and the substantial on-street parking available. As such, it is considered that a permit could reasonably be issued for the proposed use, the reduction in the car parking requirement and the proposed signage.

### **Attachments**

Nil

### **Recommendation(s)**

***That Council's Planning Committee resolves to issue a Notice of Decision to Grant a Planning Permit for the Change of Use of Dependent Person's Unit to Food and Drink Premises (Tearoom) and Art Gallery, Reduction in the Car Parking Requirement and Display of Business Identification Signage at 17 Duverney Street, Cressy subject to the following conditions:***

### **Endorsed Plans**

- 1. The use as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.***
- 2. The location and details of the sign as shown on the endorsed plans, including any supporting structure, must not be altered without the written consent of the Responsible Authority.***

### **Signage**

- 3. The sign must not be illuminated by external or internal light, or contain any flashing light, except with the prior written consent of the Responsible Authority.***
- 4. The sign must be constructed and maintained to the satisfaction of the Responsible Authority.***

### **Restrictions on Use**

- 5. No more than twelve (12) patrons may be present on the premises at any one time, unless the prior approval of the Responsible Authority is obtained to any variation.***

6. *The use hereby permitted shall only operate between the hours of 9:00am and 5:00pm on any given day.*
7. *No patron parking may be provided within the existing driveway of No. 17 Duverney Street, which must be retained for use by residents of the dwelling.*
8. *The use hereby permitted must only take place within the building as shown on the endorsed plans. Unless otherwise approved by the Responsible Authority, no external seating or other outdoor areas may be made available for use by patrons.*

**General Amenity**

9. *The use hereby permitted 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.*

**Expiry**

10. *This permit will expire if the use is not commenced within two (2) years of the date of this permit.*

*The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires, or within three months afterwards.*

11. *The signage element of this permit will also expire if the sign hereby permitted is not displayed in accordance with the endorsed plans within two years of the date of this permit.*

*The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.*

**Note:**

1. *The applicant is advised to contact Council's Environmental Health Department regarding the proposed tearoom, and Council's Local Laws Department regarding the proposed A-board sign, prior to the commencement of the use hereby permitted.*

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