



*The City with Spirit*

## NOTICE OF MEETING

Notice is hereby given that a **Planning Authority Committee** meeting of the Devonport City Council will be held in the Aberdeen Room, paranafe centre, 137 Rooke Street, Devonport, on Monday 19 August 2019, commencing at 5:15pm.

**The meeting will be open to the public at 5:15pm.**

## QUALIFIED PERSONS

In accordance with Section 65 of the *Local Government Act 1993*, I confirm that the reports in this agenda contain advice, information and recommendations given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

Matthew Atkins  
ACTING GENERAL MANAGER

**14 AUGUST 2019**

**AGENDA FOR A MEETING OF THE PLANNING AUTHORITY COMMITTEE OF  
DEVONPORT CITY COUNCIL HELD ON MONDAY 19 AUGUST 2019  
IN THE ABERDEEN ROOM, paranapple centre, 137 ROOKE STREET, DEVONPORT AT 5:15PM**

<b>Item</b>	<b>Page No.</b>
<b>1.0 APOLOGIES.....</b>	<b>1</b>
<b>2.0 DECLARATIONS OF INTEREST .....</b>	<b>1</b>
<b>3.0 DELEGATED APPROVALS .....</b>	<b>2</b>
3.1 Planning Applications approved under Delegated Authority 24 June 2019 - 8 August 2019 ( <b>D607140</b> ) .....	2
<b>4.0 DEVELOPMENT REPORTS .....</b>	<b>4</b>
4.1 PA2019.0107 - 18 Victoria Parade Devonport ( <b>D607147</b> ) .....	4
<b>5.0 CLOSURE .....</b>	<b>16</b>

Agenda of a meeting of the Devonport City Council's **Planning Authority Committee** to be held in the Aberdeen Room, paranaple centre, 137 Rooke Street, Devonport on Monday 19, August 2019 commencing at 5:15pm.

**PRESENT**

		<b>Present</b>	<b>Apology</b>
Chairman	Cr A Rockliff (Mayor)		
	Cr J Alexiou		
	Cr P Hollister		
	Cr S Milbourne		
	Cr L Murphy		
	Cr L Perry		

**IN ATTENDANCE**

All persons in attendance are advised that it is Council policy to record Council Meetings, in accordance with Council's Audio Recording Policy. The audio recording of this meeting will be made available to the public on Council's website for a minimum period of six months.

**1.0 APOLOGIES**

**2.0 DECLARATIONS OF INTEREST**

### **3.0 DELEGATED APPROVALS**

#### **3.1 PLANNING APPLICATIONS APPROVED UNDER DELEGATED AUTHORITY 24 JUNE 2019 - 8 AUGUST 2019**

##### **ATTACHMENTS**

- [1.](#) Planning applications approved under delegated authority 24 June 2019 - 8 August 2019

##### **RECOMMENDATION**

That the list of delegated approvals be received.

Author:	Jennifer Broomhall	Endorsed By:	Kylie Lunson
Position:	Planning Administration Officer	Position:	Development Services Manager

Application No.	Location	Description	Approval Date
PA2019.0067	19-23 Don Road, Devonport	Bulky Goods Sales (Trade Store)	1/07/2019
PA2019.0068	5 Kilrush Court, Devonport	Residential (existing additions)	4/07/2019
PA2019.0071	3/2 Harold Street, Devonport	Multiple dwelling (existing sunroom)	25/06/2019
PA2019.0072	80 Nielsens Road, Tugrah	Single dwelling, Visitor Accommodation (2 cabins)	1/07/2019
PA2019.0073	34 Harris Road, Stony Rise	Permitted: Residential (single dwelling) Discretionary: Residential (shed)	26/07/2019
PA2019.0074	79 Stony Rise Road, Stony	Multiple dwellings	26/06/2019
PA2019.0075	59 Gunn Street, Devonport	Subdivision (2 lots)	11/07/2019
PA2019.0076	11 Hillcrest Road Devonport	Utility (replacement telecommunications tower)	23/07/2019
PA2019.0077	17 Henry Street, Devonport	Visitor Accommodation	26/06/2019
PA2019.0080	11 Victoria Parade, Devonport	Communal residence	27/06/2019
PA2019.0081	13 Racecourse Road, Spreyton	Media stand	2/07/2019
PA2019.0082	94-98 William Street, Devonport	Hotel industry (bottleshop)	4/07/2019
PA2019.0083	25 Harris Road, Stony Rise	Residential (dwelling)	24/07/2019
PA2019.0084	123 James Street, Devonport	Residential (shed)	18/07/2019
PA2019.0085	221 Kelcey Tier Road, Spreyton	Discretionary: Residential (shed) Permitted: Dwelling	18/07/2019
PA2019.0087	4 Nicholls Street, Devonport	Residential (single dwelling extension)	11/07/2019
PA2019.0089	13 Donvista Drive, Don	Residential (shed)	30/07/2019
PA2019.0090	2 Clare Court, Devonport	Residential (addition - garage and kitchen/laundry)	1/08/2019
PA2019.0091	11b Rundle Road, Stony Rise	Existing Tractor Shelter	17/07/2019
PA2019.0092	1 Hillwood Rise, Spreyton	Residential (garage)	1/08/2019
PA2019.0093	91 Parker Street, Devonport	Multiple dwelling (additional unit)	18/07/2019
PA2019.0095	134 Don Road, Devonport	Storage (ancillary offices)	24/07/2019
PA2019.0097	81-83 Devonport Road, Quoiba	Resource processing (ancillary alterations and extensions)	26/07/2019
PA2019.0098	1a Allanbrae Place, Devonport	Residential (multiple dwelling extension)	31/07/2019

## **4.0 DEVELOPMENT REPORTS**

### **4.1 PA2019.0107 - 18 VICTORIA PARADE DEVONPORT**

**File: 3084 D607147**

#### **RELEVANCE TO COUNCIL'S PLANS & POLICIES**

Council's Strategic Plan 2009-2030:

- Strategy 2.1.1 Apply and review the Planning Scheme as required, to ensure it delivers local community character and appropriate land use
- Strategy 2.1.2 Provide high quality, consistent and responsive development assessment and compliance processes

#### **PURPOSE**

The purpose of this report is to enable Council's Planning Authority Committee acting as a Planning Authority to make a decision regarding the discretionary component of planning application PA2019.0107.

#### **BACKGROUND**

Planning Instrument:	<i>Devonport Interim Planning Scheme 2013</i>
Applicant:	Jan Nielsen & Sally Nielsen
Owner:	Hanic Pty Limited
Proposal:	Permitted: Food Services Discretionary: Provision for parking (lesser number of spaces on site)
Existing Use:	Visitor Accommodation
Zoning:	General Residential
Decision Due:	29/08/2019

#### **SITE DESCRIPTION**

The subject site is situated at 18 Victoria Parade which is located between Lower Madden Street and Nicholls Street and has been used for visitor accommodation for over 35 years. The site has been subject to numerous applications for additions and alterations in those ensuing years and the current owners have operated the site since May 2010.

The site is also located within the Victoria Parade Conservation Area identified in the Local Heritage Code of the *Devonport Interim Planning Scheme 2013*.

#### **APPLICATION DETAILS**

The applicant has submitted their intention to have a small café/coffee bar to supplement their visitor accommodation business and attract further people to the site predominantly those people enjoying the popular walking track along Victoria Parade. Currently this part of the building is used by guests as a breakfast room as part of the existing B & B facility. This will remain for that purpose.

It has been advised by the applicant that seating for a maximum 18-20 people is possible and that the overlap of breakfast guests and café customers should not be an issue because the departure times of guests leaving the accommodation is before 8am and arrival/check in time is to be adjusted until after 4pm.

It is also submitted that there are 7 rooms on site for guests and that the parking can co-share with the visitor accommodation parking due to the management of the site in regard to departure and revised arrival times.

The applicant's submission is **reproduced as Attachment 1** of this report.

### PLANNING ISSUES

The land is zoned General Residential under the *Devonport Interim Planning Scheme 2013*.

Zone standards - The use of land for 'Food Services' which includes cafes and restaurants is permitted in this zone with three qualifications:

- Firstly, that the facility is not licenced;
- secondly, that it does not include a drive-through facility; and
- thirdly, that the seating capacity is for not more than 20 people.

In the event that the qualifications cannot be met then discretion applies in this zone with a further qualification that excludes the drive through facility only. As an aside the merits of an application for a relatively large food premises does have a permit pathway in this zone. (\*\*see further advice below)

Code standards - The land is within the Victoria Parade Conservation Area of the Local Heritage Code (Code E5). The Use Standards of this code allow for adaptive reuse of a property that is permitted in the zone. \*\*This is an important standard because any further application, in the absence of identified conservation outcomes, to entertain a discretionary application for a larger licence food premises cannot be considered in any of the Heritage Conservation Areas.

The proposal is also subject to the Traffic Generating Use and Parking Code (Code E9). The purpose of this code is to ensure that adequate onsite arrangements for parking exist on site for the proposed activity of a café.

The number of spaces required is the greater of the calculation of 15 spaces per 100m<sup>2</sup> of gross floor area (gfa) or 1 space per 3 seats. The conservative gfa of the proposed café activity excluding the outside deck is 50m<sup>2</sup>. This, when rounded up, requires 8 parking spaces to be provided on site. The applicant's advice and the permitted use qualification both allow for not more than 20 seats. A rounding up would therefore require 7 spaces.

Consequently, the greater of the two calculable options is the gfa which requires 8 spaces to be provided on the site for patrons of the café/coffee bar. Although the seasonal use of the deck (estimated at 20m<sup>2</sup> in area) is likely, the overall seating is limited to 20 people by the use qualification and any evidence of a greater number of available seats outside the breakfast times for accommodated guests would confer discretion to be considered. It was previously advised that this cannot be entertained in a Heritage Conservation Area.

The applicant has submitted that based on the number of rooms (7 nominated) a surplus of 5 spaces will occur. (the applicant advises that the site contains 12 available spaces).

Other factors submitted to support the lesser number of spaces is centred upon the frequency of some guests arriving in one car but requiring two rooms. Also other guests are collected from and dropped off back to the airport as part of the service provided by the hosts.

The applicants also propose to alter the guest visitor check in time to minimise the overlap between onsite parking for guests arriving and café clientele departing.

In summary the proposal requires a minimum of 8 parking spaces and 5 at a best-case scenario will be most likely available. Any proposal for less than the minimum requirement

has to demonstrate that the proposed car parking is adequate and appropriate to meet the:

- (i) anticipated requirement for the type, scale and intensity of the use;
- (ii) likely needs and requirements of site users; and
- (iii) likely type, number frequency and duration of vehicle parking demand.

These three tests (Performance Criteria) are the only discretionary element attached to this application.

### COMMUNITY ENGAGEMENT

On 18/07/2019, Council received an application for the above development. Under Section 57(3) of the *Land Use Planning and Approvals Act 1993*, the Planning Authority must give notice of an application for a permit. As prescribed at Section 9(1) of the *Land Use Planning and Approvals Regulations 2014*, the Planning Authority fulfilled this notification requirement by:

- (a) Advertising the application in *The Advocate* newspaper on 20/07/2019;
- (b) Making a copy of the proposal available in Council Offices from the 20/07/2019;
- (c) Notifying adjoining property owners by mail on 18/07/2019; and
- (d) Erecting a Site Notice for display from the 19/07/2019.

The period for representations to be received by Council closed on 05/08/2019.

### REPRESENTATIONS

Two representations were received within the prescribed 14 day public exhibition period required by the *Land Use Planning and Approvals Act 1993*.

The first representation is from a resident of the Riverine Apartments located at 17 Victoria Parade and is reproduced below.

Concern being "Provision for Parking" The provision is to be made for convenient, accessible and usable vehicle parking to satisfy requirements for use or development without impact for use or development of other land or for the safety and operation of any road:

-As vehicles are often parked on the street in front of the property already, an additional 5 car spaces would rarely be adequate, meaning additional cars parked on the road impacting the safe operation of the road.

-Cars trying to park in the car-park and returning to the street could hinder the safe operation of the driveway and Victoria Parade.

-As the driveway for 18 Victoria Parade is immediately beside the driveway of 17 Victoria Parade (multiple residents/units with mostly elderly residents), multiple cars figuring out which driveway to enter may hinder the safe operation of the road.

And additionally I have privacy and noise concerns with the additional vehicles expected, I understand however that these concerns may not be covered under the Planning Scheme.

The second representation is from the Body Corporate of the Riverine Apartments requesting Council to maintain the residential nature of all properties on Victoria Parade particularly to the timing and days of the proposed "Coffee Shop" operation and potential parking overflow when on-site parking is no longer available.

This representation is reproduced below.



This item of correspondence is forwarded on behalf of all fourteen (14) lot owners within “Riverine Apartments” Body Corporate situated at 17 Victoria Parade – abutting 18 Victoria Parade on the southern side.

Page 2 of the Devonport City Council Public Notice “Application for Planning Permit” clearly shows from the aerial photograph that the subject property (site) is bounded on the southern, western and northern sides (boundaries) by blocks of high density residential apartments/units suggesting that any negative result emanating from this application could severely have impact on upwards of fifty (50) plus residents. It is noted that any potential negative effect on the current amenity experienced by the owners with “Riverine Apartments” could be impacted through increased noise – due to increased vehicular movements between on-site parking spaces already provided by the applicant at the rear of the property and the Victoria Parade access point and client access to the nominated room/site designated for the “Coffee Shop”.

Due to the limited information provided by the applicant – that it is most common for guests using the Bed and Breakfast facility to leave by 0800 hours – it would be reasonable for council to consider the hours of operation for the “Coffee Shop” (Food Services) between 0900 to 1600 hours weekdays. It should be noted that the subject property is located right in the middle of high-density residential land usage and not within the Central Business District (CBD) and should not have the same hours of operation as a property/site within the CBD. The days of operation could be favourable considered as Monday to Friday inclusive with weekends and public holidays being excluded.

Limited on-street parking should also be considered in detail by Council and possibly considered only on the western side of Victoria Parade immediately in front of the subject property. As not all lots with the adjoining strata titles are occupied by “one-vehicle” residents there is an increasing need for occupants of lots to find alternative parking spaces either by using the visitor parking spaces already provided by the Body Corporate or on the Council provided roadway immediately adjacent to their lot. As such it is believed that Victoria Parade – as a main access road between the Bluff and CBD – should have restricted parking on the eastern (river) side with limited on-street parking on the western side when required or limited by time restriction in this instance.

It is fair to state that “Riverine Apartments” residents have had no prior issues with the operation of the Bed and Breakfast facility operating at 18 Victoria Parade however it is residents desire to ensure that the existing amenity be maintained by Council through the imposition of restricted trading hours of operation for the “Coffee Shop” (Food Services) between reasonable hours on weekday (public holidays excluded) and on the basis that any overflow parking from the designated on-site parking area be at an appropriately considered side on Victoria Parade – **one side not both sides** – due to perceived traffic flow needs and potential vehicular conflict.

All lot owners within “Riverine Apartments” ask that your future consideration and deliberation maintains the existing amenity that residents currently achieve and would limit any future expansion for the site other than its current use as a Bed & Breakfast and proposed “Coffee Shop” with restricted trading hours.

## **DISCUSSION**

The applicant has provided details that the existing breakfast area used by the B & B guests will be co-shared with café/coffee bar patrons. Catering for both uses can occur at the same time because the dining area has seating for 18-20 people which coincidentally satisfies both the food services qualification and the maximum number of B & B guests. Alternative seating is possible outside within the confines of the developed deck but this only likely when suitable weather exists.

It is entirely likely that on some occasions the café/coffee bar customers may also be seeking a breakfast meal. Nothing in the planning scheme prevents this co-sharing arrangement from occurring.

However, while the dining capacity for accommodated guests is governed by the number of occupants staying on site the seating numbers for later morning, lunch and afternoon patronage for the food Services activity of a café/coffee bar is limited to the 20 seats as per the use qualification for the zone. It is possible, weather permitting, for the combined number of guests to exceed the 20 person limit. However, while the logistics of catering for more persons is quite possible the weather, number of occasions and the need to improve toilet facilities will dictate that event only occurring occasionally.

The key element with this application is that the existence of 7 rooms on site for guests and that parking demand allows for some co-sharing on the site for both uses. A factor to consider also is the café/coffee bar opening times in the afternoon. As a means of alleviating any parking conflict it is the applicant's submission that checking in times for guests will be extended to 4pm. This self-imposed management strategy ensures that accommodation guests will arrive to a carpark devoid of café/coffee/bar customers. This seems a reasonable solution to alleviate the parking demand.

As a means of mitigating any concerns with traffic and noise it does not seem reasonable to restrict the café/coffee opening times to weekdays only as indicated in the representation. Any additional traffic movements on this road on the weekend or a public holiday in an area acknowledged as having a higher density residential component cannot be justified as a reason to limit opening days.

The suggestion submitted to restrict the location of any on street parking has been identified in general discussions unrelated to this application. It is perhaps a matter that needs discussion but not in the determination of this application.

## **FINANCIAL IMPLICATIONS**

No financial implications are predicted in determining this application.

## **RISK IMPLICATIONS**

Due diligence has been pursued in the assessment of this application and no associated risks have been identified.

## **CONCLUSION**

Much of the deliberation is centred about the co-sharing of the dining room and the consequent effect of not having sufficient co-shared car parking on site. Overlaps in the dining area can be sustained on those occasions but the fundamental issue to determine with this application is the inability of the site to have sufficient parking for both visitor accommodation and food services when those activities simultaneously occur.

It is important that the café/coffee bar customers park onsite whenever possible. However, it has to be acknowledged that café/coffee bar customers arriving by car will park where they think appropriate which will be quite likely on the street in the near vicinity. It is also

likely on some occasions that the onsite car park especially after morning check out will have further spaces available on site.

If the Planning Authority considers the applicants' submission to have merit in that 5 dedicated car spaces on site for the café/coffee bar are adequate and that the performance criterion have been demonstrated then the application must advance to a permit.

Conversely if the Planning Authority consider that the 5 spaces are not adequate and that the performance criterion have not or cannot be demonstrated then refusal has to occur.

## ATTACHMENTS

- [1.](#) Application - PA2019.0107 - 18 Victoria Parade

## RECOMMENDATION

That the Planning Authority, pursuant to the provisions of the *Devonport Interim Planning Scheme 2013* and Section 57 of the *Land Use Planning and Approvals Act 1993*, approve application PA2019.0107 and grant a Permit to use land identified as 18 Victoria Parade, Devonport for the following purposes:

- Permitted: Food Services
- Discretionary: Provision for parking (lesser number of spaces on site)

Subject to the following conditions:

1. The use is to be undertaken in accordance with the operational details submitted by the applicant, details of which are attached and endorsed as documents forming part of this Planning Permit. These include but are not limited to ensuring that:
  - (a) The maximum number of seats for the Food services use (café/coffee bar) is not to exceed 20 placements;
  - (b) Five (5) dedicated car parking spaces for the Food services use (café/coffee bar) are to be maintained on site;
  - (c) Suitable directional signage is placed to encourage customers to park on site.

Note: The following is provided for information purposes.

The development is to comply with the requirements of the current National Construction Code.

The developer is to obtain the necessary building and plumbing approvals and provide the required notifications and certifications in accordance with the *Building Act 2016* prior to commencing operation of the cafe. A referral to TasWater may be required to determine any trade waste requirements.

As the activities of the business include the handling and sale of food, the business operator must contact the Council to confirm their requirements under the Food Act 2003.

Author:	Shane Warren	Endorsed By:	Kylie Lunson
Position:	Planning Coordinator	Position:	Development Services Manager

This email is to explain and support our quest to operate a café in daytime and Lodge at nighttime co-sharing our 12-car space

Dannebrog lodge is a small Bed and breakfast ,7 rooms, there is no facilities, (Gym room, Bar, Pool, Foxtel). It a place for working people to have a rest and get to work next day with a full stomach. We can keep price to a minimum as there is nothing to maintain other than Bed linen and breakfast.

AS we don't have any facilities guest comes late, anything from 5 pm until last flight in 8.30- 9pm and will be on the road again by 7-8 am

As they are working guest, they don't have visitors and therefor 7 car spaces on a full house we still have a surplus of 5 spaces.

In summer (late December – early February) we have less working guest but pick up visitors. These visitors are mainly arriving on day sail (Spirit arriving around 6 pm. guest arriving at lodge 7 pm or later).

Other visitors we attract are people going on morning sail (9 am) they will leave lodge 7.20 am to be at Spirit by 7.45 am. These guests won't arrive at lodge before 6-7 pm as they have been to the mountain or coming from tours or down south of the state

Again, most visitors (summer) require 2 rooms but only arrive in one car or by Tassi link as they have been or going hiking. We operate a free pickup/ drop off from airport or spirit (by request at booking time) and busy in the summer month doing just that.



2 concreted car spot (garage is not in use it is our storage space) 4 car spots facing south



5 spaces facing North



1 space where Mini skip ( doing a garden clean up)

To overcome an overlap of the 2 seprate buisness (lodge , Café ) carspaces ,we will include in our Lodge policy which is on all promo (internet or printed material )

**checkin is 4 pm and no assurty of “on site car space” is avaiable before 4 pm .**

When we arrived in Tokyo at 8 am but checkin was 3 pm and yes, we had to walk arround Tokyo after a 14 hrs flight waiting for 3 pm,its not unusal to have the condition on late check in

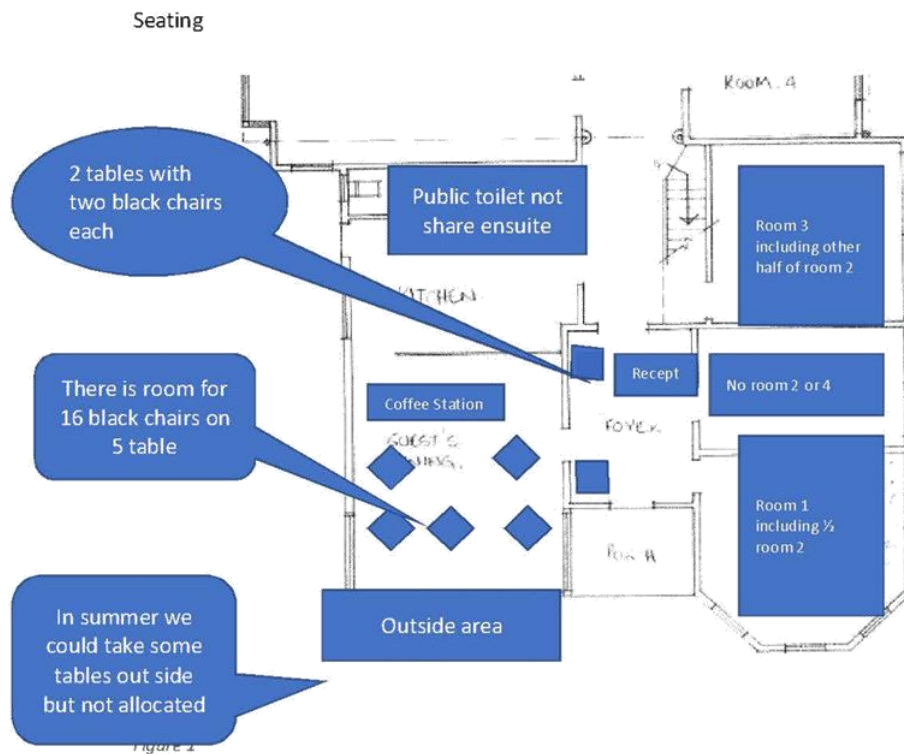
Again if a guest stays for 2 day or more I can assure ,that they will not stay past 8 am ,as they are probaly workers,we don't have any tourist in my 9 years staying 2 days or more ( there is nothing in Devonport to do for 2 days ) but if that changes, they would stii leave early, it would be a bit distressing staying in a little room with nothing other a bed and a TV .

Devonport is small city and majority of guest will use Devonport as a drive thru and with so many AirBB around us a new hotel getting built, I can't see we will increase our occupancy rates from 51 % and that is excaly the reason we wish to operate a small 18 seater café in space we all ready have and is under utilised .

Our target market will be people we know and People using track and of course our friendly neighbours living around us, who has no reason to drive and keep asking when do we open 😊



We will not increase any signage ,we keep what is already here ,



Front entry looking into shop



on balcony looking in

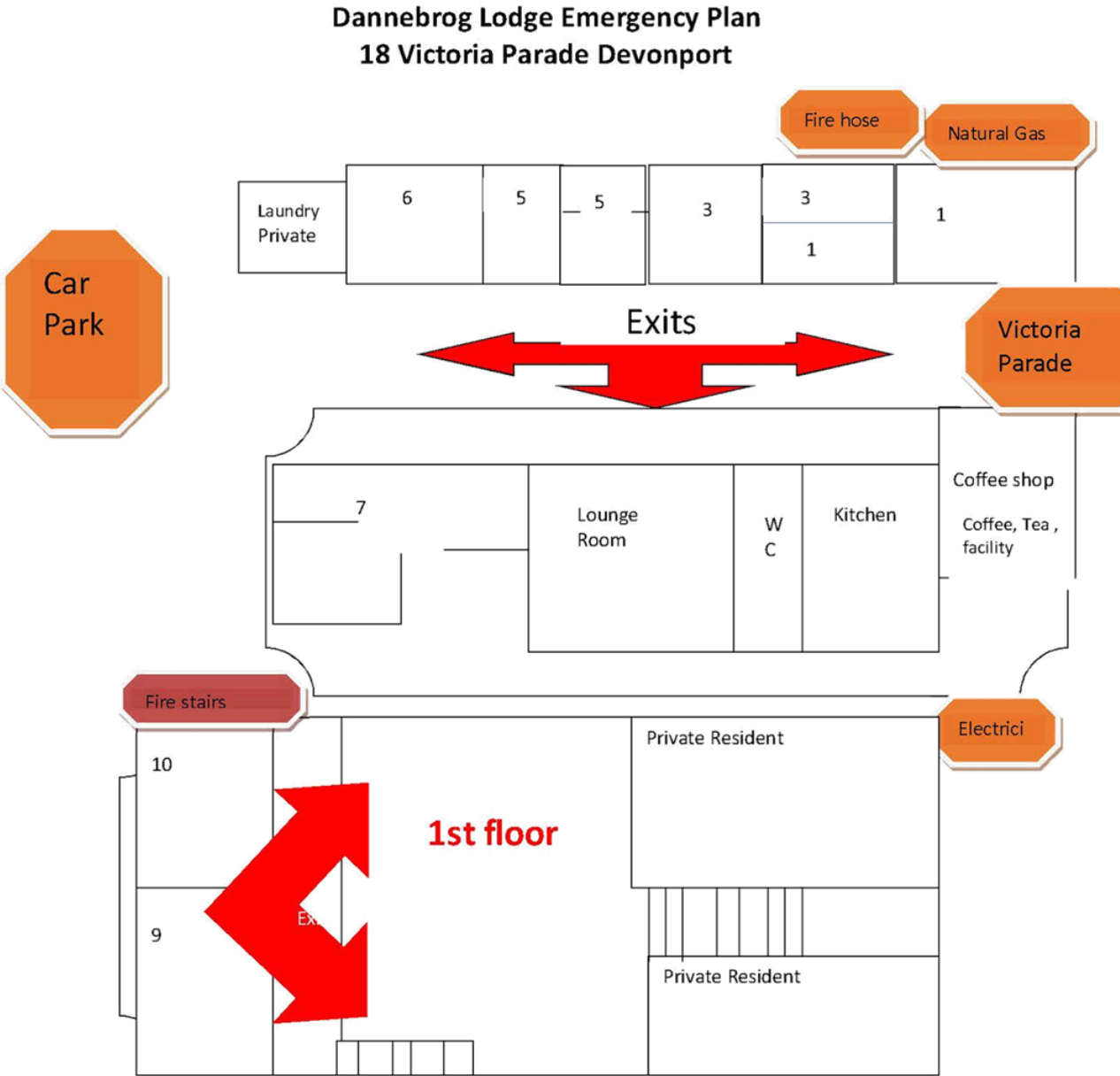




Coffee station looking out front



Coffee shop tables looking out front





We are a small and HYGLIG husband & wife businnes ,who trying to keep the dream alive and give people what they want and most important support by sponsorship the various organisations or indivual people just as we did at our restaurant.

We just want suport as indicated by talk we already have had with Devonport council ,prior to our meeting at Paranaple centre council meeting last Friday 5<sup>th</sup> July .

We are willing to get a big printed sign and put on glass balustarde also put it on our facebook page explaing what we intend to do. People on the walking track will be able to read it without crossing the road and any objection, please ring the door bell and speak to us or refer to planing devonport council , we do not want to upset any close by neighbour or create a havoc in our neghbour hood . Please just ok it by email and and an email adress and I shall get it done ASAP

Regards Jan & Sally

## **5.0 CLOSURE**

There being no further business the Chairperson declared the meeting closed at ..... pm.