

### **3 BUILDINGS AND WORKS ASSOCIATED WITH A FOOD AND DRINK PREMISES AT 12-14 OLD PRINCES HIGHWAY, BEACONSFIELD**

FILE REFERENCE INT1813657

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Dean Haeusler

#### **RECOMMENDATION**

That a Notice of Decision to Grant Planning Permit T170703 be issued for Buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe) at 12-14 Old Princes Highway, Beaconsfield VIC 3807 subject to the conditions attached to this report.

#### **Attachments**

- |   |  |         |
|---|--|---------|
| 1 | Locality plan  | 1 Page  |
| 2 | Development plans                                    | 6 Pages |
| 3 | Letters of objections circulated to councillors only | 4 Pages |

#### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T170703
APPLICANT:	Mr Joerge Meelky
LAND:	12-14 Old Princes Highway, Beaconsfield VIC 3807
PROPOSAL:	Buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe)
PLANNING CONTROLS:	Commercial 1 Zone
NOTIFICATION & OBJECTIONS:	<p>Notice of the application was given by way of sending notices to adjoining and near-by land owners/occupiers and by placing a sign on each frontage and advertising in the local paper.</p> <p>Council has received four objections to date</p>
KEY PLANNING CONSIDERATIONS:	Reduction of Car Parking requirements Impact of liquor licence
RECOMMENDATION:	Approval

#### **BACKGROUND:**

The existing building was previously used as a Sandwich Bar/News Agency.

#### **SUBJECT SITE**

The site is located on the west side of Old Princes Highway and forms part of the Beaconsfield Commercial precinct. It is situated within a row of single-storey premises with a mixture of retail and commercial uses on an 897 square metres allotment.

The site contained one food and drink premises (sandwich bar/news agency), open disused back yard area with one large tree and scattered shrubs, surrounding full height fencing. The building has a traditional shopfront façade, constructed of painted brick with front verandah and large glazed windows stretching the length of the Old Princes Highway frontage.

The area is identified with the Beaconsfield Township Strategy (2013) and forms part of a gateway precinct from the North. It is characterised by a mixture of uses with a number of restaurants, grocery, convenience stores and retail premises on the west side of the highway.

The primary uses identified on the adjacent properties is as follows:

North: Accountant; Real Estate agency and various takeaway/restaurants

East: Old Princes Hwy; Beaconsfield Shopping Precinct including two large Supermarkets, smaller convenience stores and Hotel

South: Café; Florist and Takeaway store; Pet Store

West: Bob Burgess Reserve, Cardinia Creek

## **PROPOSAL**

Approval is sought for buildings and works associated with a food and drink premises (Gelato Shop and Café), a liquor licence and waiver of car parking requirements for three spaces.

The proposed business will comprise of two key components:

### *Café*

The primary use will be for a café including the sale and consumption of liquor on premises. Buildings and works will include internal rearrangements, minor alterations to the front façade windows and the construction of an outdoor seating area to accommodate approximately 36 patrons in addition to the 90 internal seats that will be available inside. The existing floor area is 350 square metres which will be increased to 425 square metres with the outdoor seating. The restaurant is to operate between the hours of 7.00am - 16:00pm from Monday - Sunday

### *Liquor*

A 'restaurant and café' liquor licence is to be applied for this premises through the VCGLR. The licence allows the serving of alcohol predominantly with meals and to be consumed on-site only. A Cumulative Impact Assessment has been provided with the application to assess the combined influence of multiple liquor licences within the Beaconsfield precinct.

### *Gelato Shop*

A smaller Gelato shop also forms part of the application and will be established to compliment the proposed Café. The two premises will operate separately, however internal access will allow movement between the two areas. The Gelateria is to operate with extended hours of 7.00am - 23.00pm, Monday - Sunday. No liquor is to be sold or consumed within this area.

### *Car Parking*

There is no car parking available on premise and no provision for additional car parking to be made on the subject site. Based on the increased floor area of 75 square metres, a waiver of three car spaces is requested. A Traffic Report was prepared and supported the waiver.

### *Signage*

A non-illuminated sign will be erected in place of the existing veranda signage while an additional illuminated sign will replace the existing illuminated sign beneath. These will be both contained within the dimensions of the existing signs and therefore do not require planning consent.

## **PLANNING SCHEME PROVISIONS**

### **State Planning Policy Framework (SPPF)**

The relevant clauses of the SPPF are:

- 11.06 Metropolitan Melbourne
- 15 Built Environment and Heritage
- 17 Economic Development

### **Local Planning Policy Framework (LPPF)**

The relevant clauses of the SPPF are:

- 21.01 Cardinia Shire Key Issues and Strategic Vision
- 21.04 Economic Development
- 21.06 Particular Uses and Development

### **Relevant particular/general provisions and relevant incorporated or reference documents**

The relevant provisions/documents are:

- 52.06 Car Parking
- 52.27 Licenced Premises
- 63 Existing Uses
- 66 Referral and Notice Provisions

### **Zone**

The land is subject to the Commercial 1 Zone

### **Overlays**

The land is not subject to any overlays.

## **PLANNING PERMIT TRIGGERS**

The proposal for buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 34.01 of the Commercial 1 Zone a permit is required to construct or carry out works

- Pursuant to Clause 52.06 of the Car Parking provision a permit is required to reduce the number of car parking spaces required
- Pursuant to Clause 52.27 of the Licenced Premises provision a permit is required to use the land to sell and consume liquor

## **PUBLIC NOTIFICATION**

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing a sign on site
- Placing a notice in the Pakenham Gazette newspaper

Council has received four objections to date.

The key issues that were raised in the objections are:

Lack of available car parking – reduction in car parking will exacerbate existing issue  
Liquor licence concerns – large amount of businesses in the area with liquor licences

## **DISCUSSION**

### *State and Local Planning Policy*

The proposal responds to the relevant state and local policies including Clauses 17 and 21.04 that concerns economic development. The proposal is well located within an existing commercial precinct and will provide local employment opportunities to the surrounding area. The proposal is also expected to add greater vitality to the streetscape during the day and into the night.

Furthermore, the proposal is also consistent with Clause 21.06 - Particular Uses and Development policy as the sale and consumption of alcohol is positioned centrally within the existing commercial areas with good public transport options and away from residential areas. The concentration will also assist in isolating alcohol consumption to particular areas that can be better managed and are well serviced by bus and train public transport.

### *Beaconsfield Structure Plan (2013)*

The structure plan envisages the subject site within the gateway area with broad potential for growth. The plan encourages greater integration with the public and private realms, focusing on creating a stronger link between Cardinia Creek/Bob Burgess Reserve and the adjacent retail strip.

The proposal is modest in scope and does not propose a transformation of the subject site but rather revitalisation of the existing premises. External alterations are limited to cosmetic changes of the front façade and the alterations of the rear to utilise the backyard of the subject site to provide open air dining and provide a stronger link between reserve and commercial strip.

Through these alterations including footpath seating, the proposal will positively contribute to the activation of the street and draw patrons to the west side of the highway as well as establish a connection between Bob Burgess reserve/Cardinia Creek areas. By creating these interfaces and allowing extended trading hours a positive impact may also be felt for public safety.

### *Commercial 1 Zone*

The use of the land for a Café/Gelateria (food and drink premises) is considered an 'as of right use' under Section 1 of the Commercial 1 Zone and does not require planning consent.

The proposed building alterations are modest and remain complimentary to the adjacent businesses and broader commercial precinct. Tiling and bi-fold windows to the Gelato shop are proposed for the street façade however access and window arrangements will be primarily unchanged. The rear decking extension will create an open-air dining area and will accommodate approximately 35 patrons. This addition is unlikely to adversely impact adjacent businesses or land owners given the limited café and liquor licencing hours.

### **Clause 52.06 - Car Parking**

The proposed Café and Gelateria both fall within the category of a Food and Drink premises under the Planning Scheme with a requirement to provide 4 spaces for every 100 square metres of leasable floor area. The subject site does not contain any car parking spaces on site, however considering the existing and proposed businesses fall under the same use; the subject has car-parking credits for the existing total floor area.

The proposed buildings and works include an additional 75 square metre decking to the rear of the building. Based on car parking requirements, an additional three parking spaces are required that cannot be contained on site.

A Traffic Impact report was prepared by SALT to assess the car parking demand of the wider precinct, on both sides of the highway. The report concludes there is peak availability of parking spaces during the middle of the day with reduced availability of spaces into the evening (5-8pm). This compliments the proposed uses as the primary hours of operation fall between 7.00-16.00 – with the majority of demand to be generated by the café component of the proposal. The reduced car parking availability in the evening coincides with the closed hours of the Café, leading to surplus parking allocation (based on existing car parking credit) available for the Gelato Shop to operate until 11pm.

Whilst the existing car parking pressures of the Beaconsfield commercial area are acknowledged, given the above report and primary hours of operation, the proposed reduction of three spaces is not considered to have an unreasonable impact to the availability of car parks.

### **Clause 52.27 - Licenced Premises**

Clause 52.27 aims to ensure that licensed premises are situated in appropriate locations and that the impact of the licensed premises on the amenity of the surrounding area is considered. The relevant decision guidelines include:

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

The Café premises proposes to operate during the hours of 7.00-16.00 Monday – Sunday with liquor consumption limited to the Café in both the indoor and outdoor entertaining areas. This is demonstrated on the 'Red Line' plan submitted to Council.

The proposed licence, as a Café and Restaurant' Liquor licence, authorises consumption of liquor on-premises where the predominant activity carried out on the premises is the serving of meals.

Given the purpose of the proposed licence and daytime hours that are applied for, it is considered the impact of the venue and net impact of an additional liquor licence would not be excessive. Any impacts are also further reduced as the location is central to the commercial/retail zone and the business is well buffered from sensitive residential areas.

Based on the Cumulative Impact Assessment there are 18 premises with varying liquor licences within a 500-metre radius of the subject site. The majority of these licences are noted as 'On Premises' licences situated along the Old Princes Hwy strip. By comparison, the licence sought for this proposal is more restrictive compared to those of the neighbouring businesses and therefore, additional impacts born by a Café/Restaurant licence for consumption during daylight hours are likely to be low.

It is noted that liquor is not proposed to be sold or consumed within the Gelataria and therefore, a condition will be placed on the permit to provide an updated Red Line plan to reflect the exclude area.

#### **Clause 66 – Referral and Notice Provisions**

Pursuant to Clause 52 of the Planning and Environment Act notification has been provided to Victoria Police due to the proposed liquor licence. To date, no response has been received.

#### *Objections*

The proposal has been advertised via notice, sign and newspaper on 18 December 2017 where four objections were received. These objections can be summarised as concerns relating to inadequate car parking availability and excessive liquor licencing for the area.

#### *Car Parking*

While the existing car parking issues of Beaconsfield are recognised and acknowledged, given the comparatively small waiver of three spaces in contrast to the car parking credits for this site, a minor reduction is unlikely to seriously affect the wider availability of car spaces. This is further justified when considering the proposed café closing hours of 4pm each day. These trading hours will ensure car parking during high demand after school/work times will be mostly unaffected and allow the Gelataria to operate with surplus parking allocation into the evening. Furthermore, the general make-up of the Beaconsfield Precinct presents as one with a diversity of retail and commercial outlets, therefore the addition of a café/ice cream shop will likely form part of a multipurpose trip rather than a single destination point, with demand distributed accordingly.

#### *Additional liquor licencing*

The liquor component of the application is understood as a secondary use where the majority of consumption is likely to be had in conjunction with meals and in moderation. The addition of a Café/Restaurant liquor licence during the proposed hours is likely to have very limited amenity impacts. Considering the Café will be situated within an activity centre with existing restaurants and bars, any foreseeable issues are isolated to an area with good visibility, public transport alternatives and isolated from residential areas.

## **CONCLUSION**

The proposal is consistent with the relevant State and Local policies, the Commercial zoning of the land and applicable particular provisions that apply to the proposal. Acknowledging the car parking

pressures and existing alcohol licences in the area, on balance the proposed Café and Gelateria are likely to have a positive net impact on the precinct by improving the local economy and provide a greater range of eateries.

The façade revisions and proposed decking area contribute to the vitality of the commercial strip whilst activating the street further and encouraging a stronger connection with the precinct and reserve. The proposal will complement the establishing character of the Beaconsfield area with a proportionately low impact to the wider amenity.

It is recommended that a Notice of Decision for Planning Permit T170703 be issued for Buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe) at 12-14 Old Princes Highway, Beaconsfield subject to the following conditions.

## **CONDITIONS**

### **Amended Plans**

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and be generally in accordance with the plans submitted with the application but modified to show:
  - a. The Red Line plan excluding the Gelato Shop from areas of sale and consumption of liquor
  - b. Rear (southern) elevations of the premises

### **Endorsed Plans**

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The licenced premises as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
4. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.

### **Use**

5. Except with the written consent of the Responsible Authority the sale and consumption of liquor must only occur between the following days/times:
  - a. Monday to Sunday: 7am – 4pm
6. Sale and consumption of liquor is limited to all areas excluding the Gelato Shop
7. Without further consent of the Responsible Authority, the sale and consumption of liquor shall occur only within the confines of the premises and the designated licensed area, as specified on the endorsed plan.
8. At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises

and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the area (referred to in this permit as "the manager").

9. The manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any officer of the Responsible Authority and of the Victoria Police and/or of Liquor Licensing Victoria authorised under Section 129 of the Liquor Control Reform Act 1998; and/or to take action on his/her behalf in accordance with a direction by such officer.
10. A copy of this permit must be displayed in a conspicuous position on the premises and, where applicable, adjacent to any statutory notices required to be exhibited.
11. The approved use must not cause any unreasonable nuisance or annoyance to persons beyond the land because of emission of noise or otherwise to the satisfaction of the Responsible Authority.
12. Cigarette disposal facilities must be placed in appropriate external locations to ensure any customer smoking litter is contained.
13. External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land whilst providing appropriate measures to ensure adequate lighting and security while the premises is in operation to the satisfaction of the Responsible Authority.
14. Noise levels emanating from the manufacturing of beer must not exceed those permissible under State Environment Protection Policy (Control of Noise from Commerce Industry and Trade) No. N-1, 5 or applicable state policy.
15. All amplified music must be within the approved building on the land to the satisfaction of the Responsible Authority.
16. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
17. The use and development must not detrimentally affect the amenity of the area, 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.
18. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
19. All goods and materials must be stored out of view or so as not to be unsightly when viewed from the nearby roads or lands to the satisfaction of the Responsible Authority.



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**Expiry**

A permit for the development and use of land expires if—

- a) the development does not start within two (2) years after the issue of the permit; or
- b) the development is not completed within four (4) years after the issue of the permit; or
- c) the use does not start within two (2) years after the completion of the development; or
- d) the use is discontinued for a period of two (2) years.

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 periods referred to in this condition.

**Notes:**

- i. A Building Permit will be required for this development. To obtain a building permit you will need to contact a registered building surveyor.
- ii. Should the future development be used for a commercial enterprise involving handling of food or drink, hairdressing, beauty therapy, myotherapy, colonic irrigation, skin penetration or tattooing or be providing accommodation to more than four (4) persons then the applicant must contact the Environmental Health Department for further advice concerning legislative requirements.
- iii. Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Public Health & Wellbeing, Food or Tobacco Acts.



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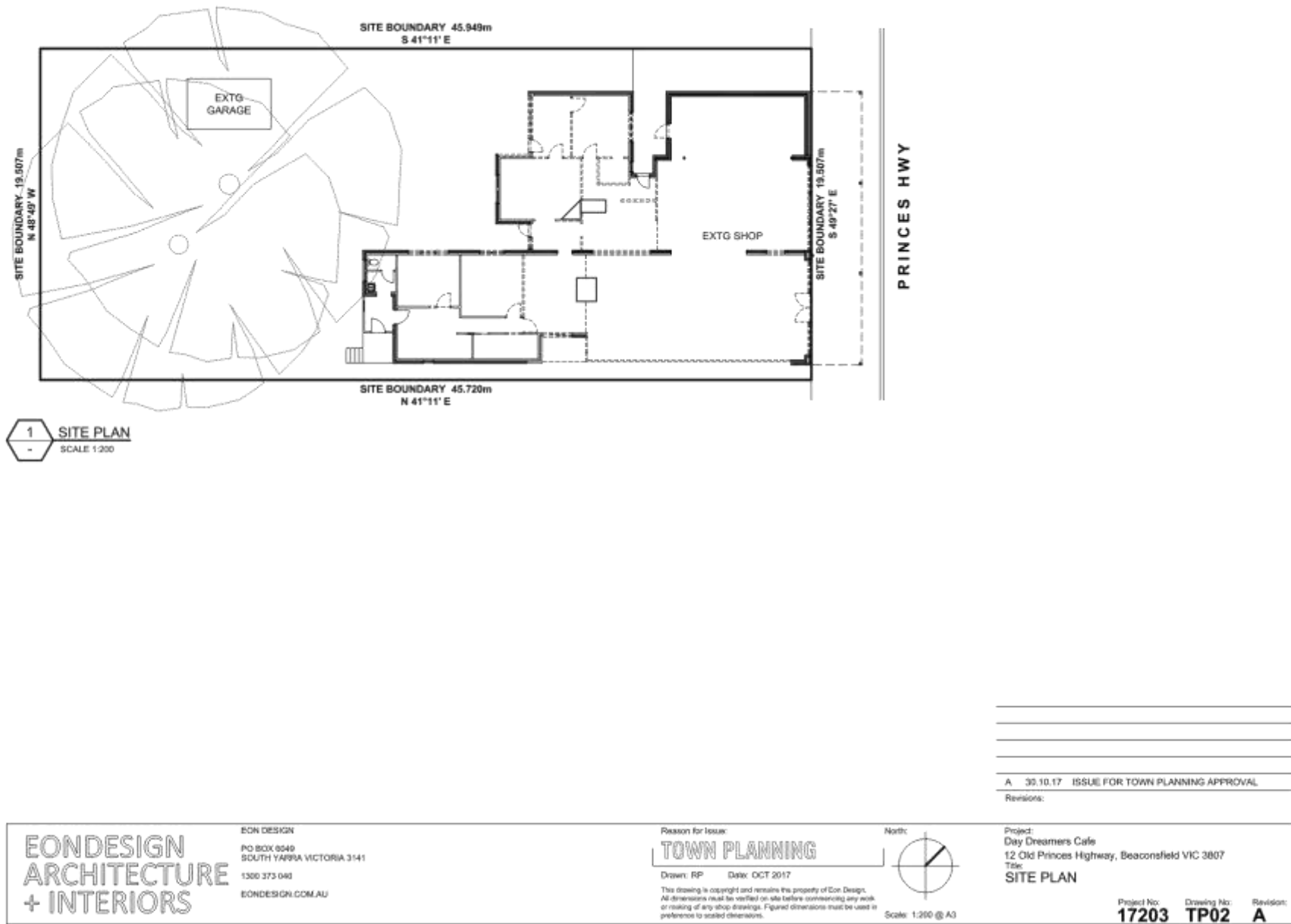
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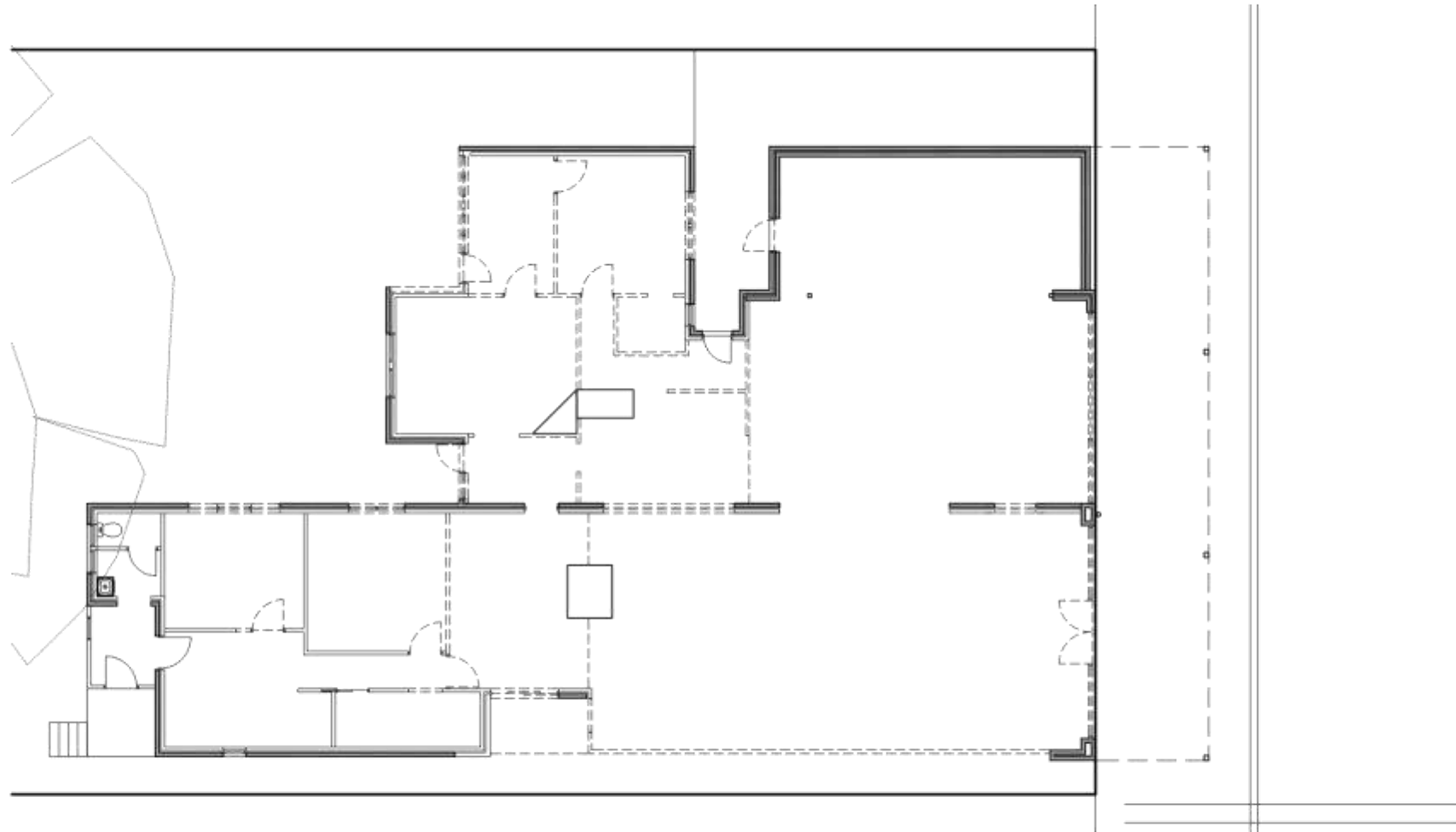
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A 30.10.17 ISSUE FOR TOWN PLANNING APPROVAL

Revisions:

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**1** EXTG CONDITIONS PLAN  
SCALE 1:100

A 30.10.17 ISSUE FOR TOWN PLANNING APPROVAL

Revisions:

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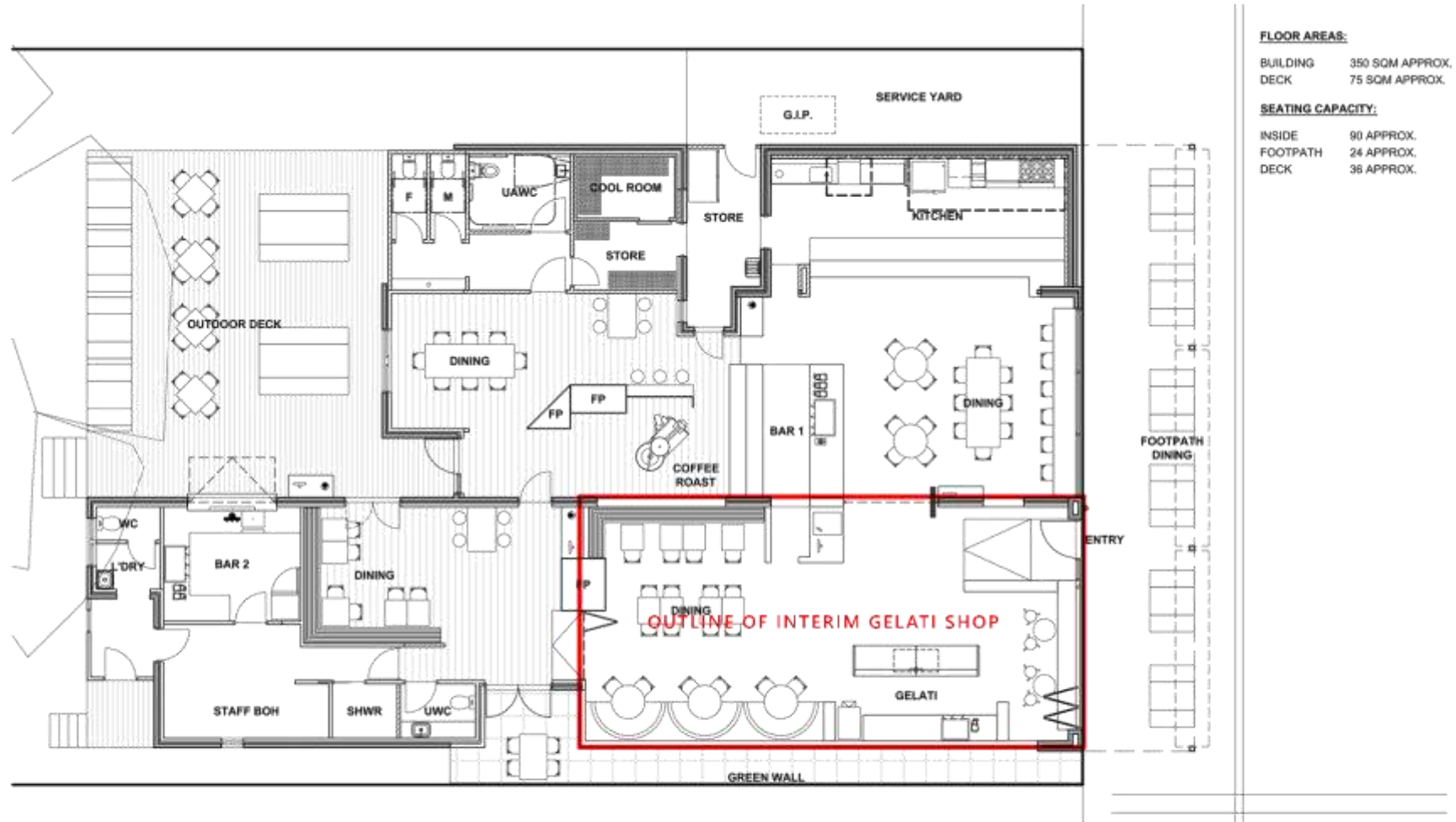
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Scale: 1:100 @ A3

Project:  
Day Dreamers Cafe  
12 Old Princes Highway, Beaconsfield VIC 3807  
Title:  
**EXTG CONDITIONS PLAN**

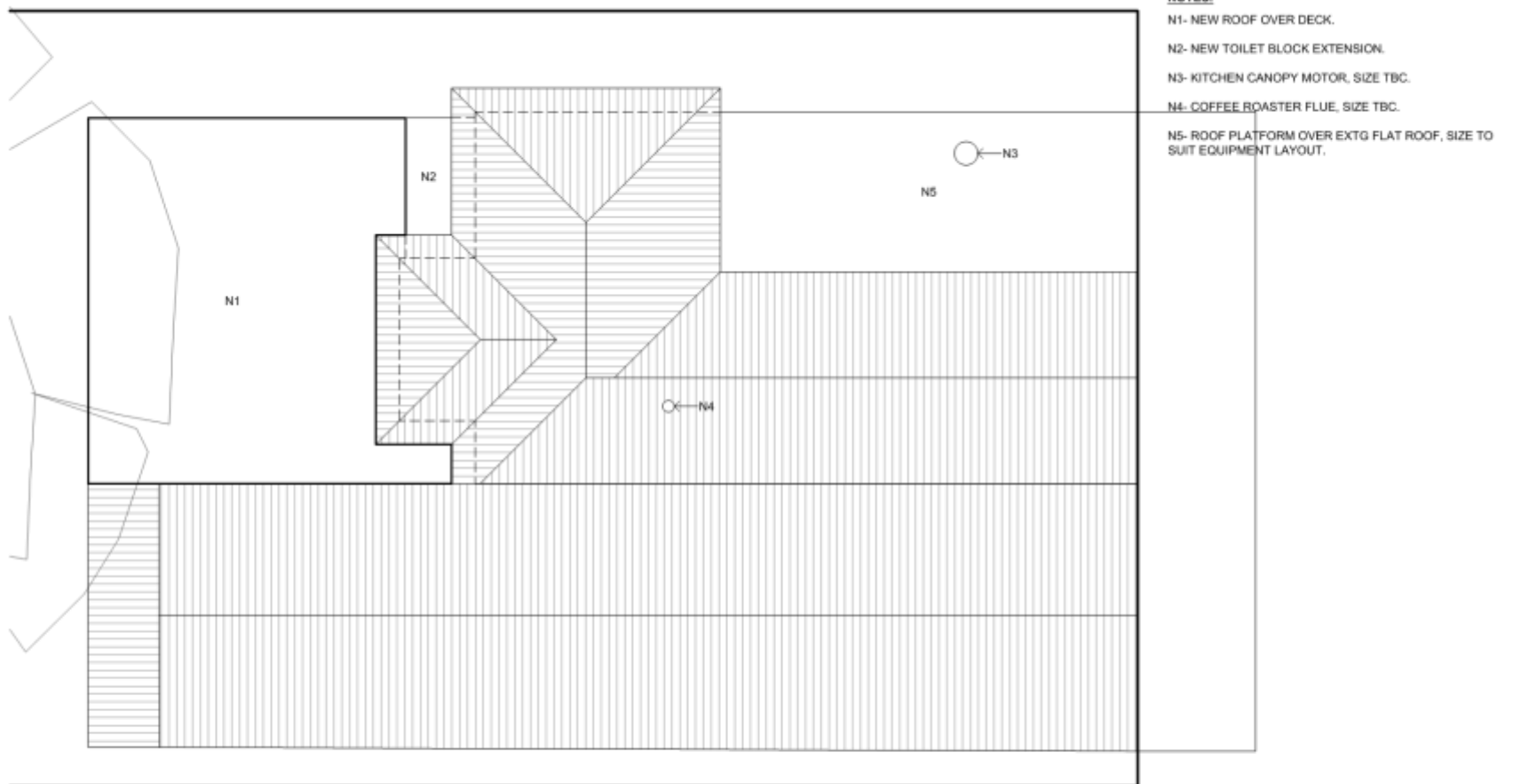
Project No: **17203** Drawing No: **TP03** Revision: **A**



**1** PROPOSED FLOOR PLAN  
 SCALE 1:100

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- NOTES:**
- N1- NEW ROOF OVER DECK.
  - N2- NEW TOILET BLOCK EXTENSION.
  - N3- KITCHEN CANOPY MOTOR, SIZE TBC.
  - N4- COFFEE ROASTER FLUE, SIZE TBC.
  - N5- ROOF PLATFORM OVER EXTG FLAT ROOF, SIZE TO SUIT EQUIPMENT LAYOUT.

**1** ROOF PLAN  
SCALE 1:100


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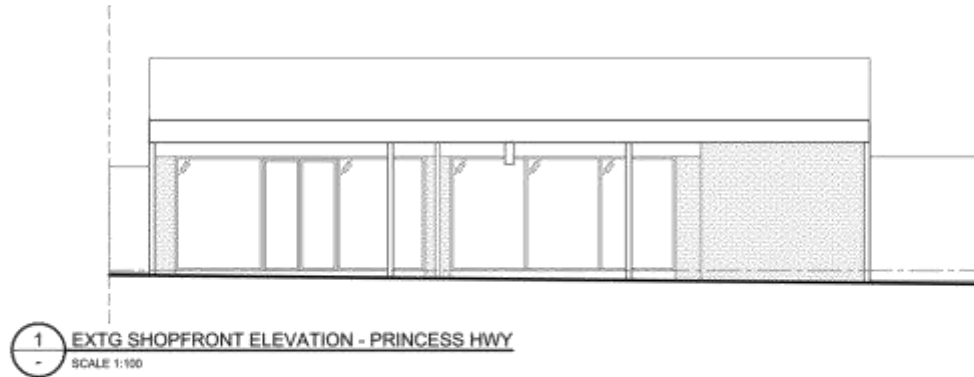
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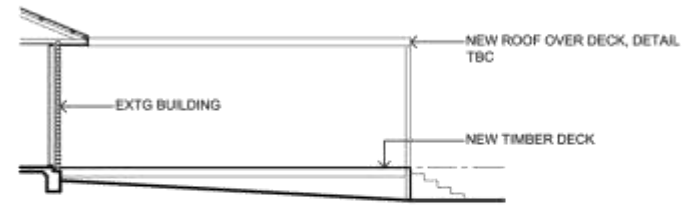


Project:  
Day Dreamers Cafe  
12 Old Princes Highway, Beaconsfield VIC 3807  
Title:  
**ROOF PLAN**

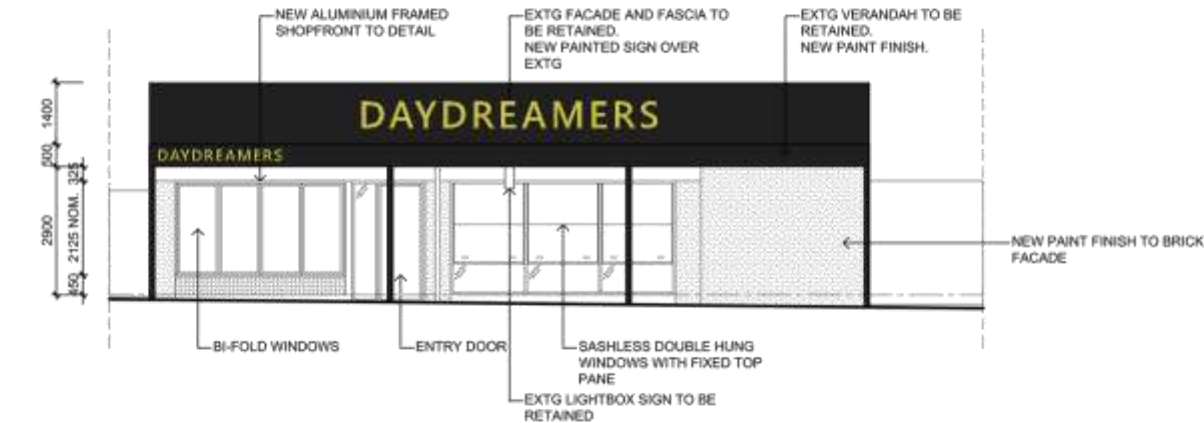
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1 EXTG SHOPFRONT ELEVATION - PRINCESS HWY  
SCALE 1:100



1 SECTION - TIMBER DECK  
SCALE 1:100

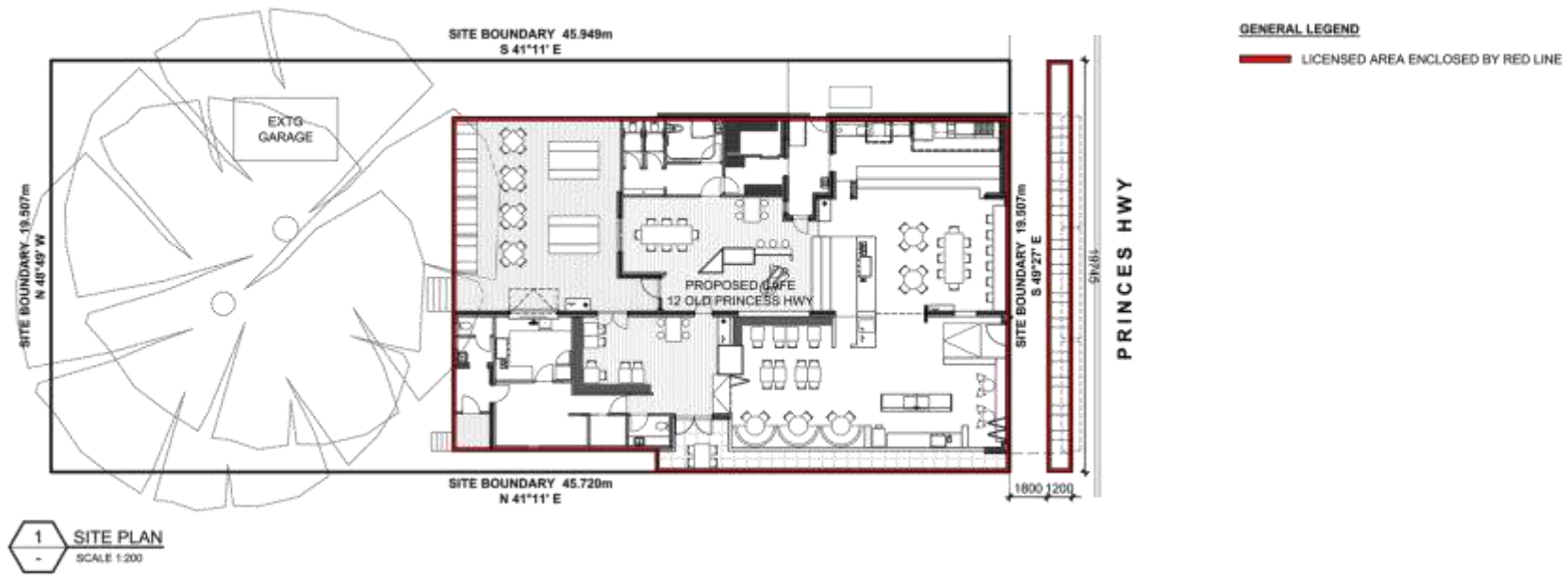


2 PROPOSED SHOPFRONT ELEVATION - PRINCESS HWY  
SCALE 1:100



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	Project No: <b>17203</b>	Drawing No: <b>TP06</b>	Revision: <b>A</b>	



**GENERAL LEGEND**

LICENSED AREA ENCLOSED BY RED LINE

**1 SITE PLAN**  
SCALE 1:200

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	<p>Project: Day Dreamers Cafe 12 Old Princes Highway, Beaconsfield VIC 3807</p> <p>Title: <b>SITE PLAN LICENSED AREA</b></p> <p>Project No: <b>17203</b> Drawing No: <b>TP07</b> Revision: <b>A</b></p>			