

## 5.01. REQUEST FOR COMMENT FOR VARIATION OF LIQUOR LICENCE AT CHILLIS PIZZA AND TRATTORIA PORT DOUGLAS

**REPORT AUTHOR(S):** Daniel Lamond, Planning Officer  
**GENERAL MANAGER:** Paul Hoyer, General Manager Operations  
**DEPARTMENT:** Sustainable Communities

**PROPOSAL** Variation to Commercial Other Subsidiary on Premises Licence to allow for amplified entertainment

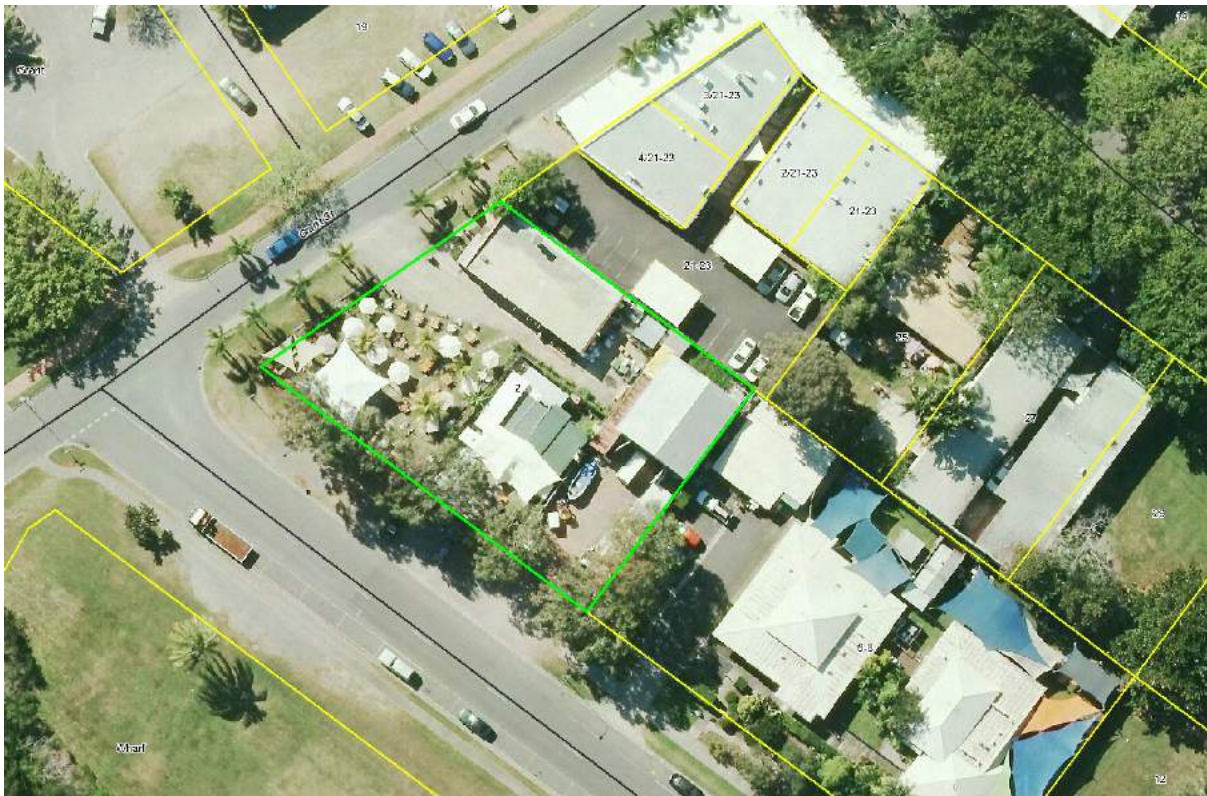
**APPLICANT** Michaela Bruening

**NAME OF PREMISES** Chilly's Pizza and Trattoria

**LOCATION OF SITE** 2 Mowbray Street,  
Port Douglas

**PROPERTY** Lot 1 on RP734519

### LOCALITY PLAN



**LOCALITY** Port Douglas

**PLANNING AREA** Commercial

**PLANNING SCHEME** Douglas Shire Planning Scheme 2006

## REFERRAL AGENCY

Office of Liquor & Gaming Regulation  
Department of Justice & Attorney-General  
Locked Bag 180  
CITY EAST QLD 4002

## REQUEST RECEIVED

28 April 2016

## RECOMMENDATION

**That the applicant and the Office of Liquor and Gaming Regulation, Department of Justice and Attorney-General, be advised that Council objects to the Application for Variation to Commercial Other Subsidiary on Premises Licence to allow for amplified entertainment for Chilly's Pizza and Trattoria, 2 Mowbray street, Port Douglas, also described as Lot 1 on RP734519 on the basis that:-**

- 1. The quiet, good order and amenity of the residential properties in Warner Street will be compromised; and**
- 2. Outstanding Planning and Building Act requirements need to be complied with.**

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## INTRODUCTION

### Chilly's Pizza and Trattoria

A request for Council's comment has been submitted by the Department of Justice and Attorney-General, Office of Liquor and Gaming Regulation (OLGR), for Chilly's Pizza and Trattoria, located at 2 Mowbray Street, Port Douglas and described as Lot 1 on RP734519. A copy of the request is attached as *Attachment 1*. The OLGR has allowed an extension of time to provide comment to them up to 30 June 2016.

### Type of Licence – Commercial Other Subsidiary on Premises Licence

If the proposed variation of licence is granted it would enable the holder to allow for amplified entertainment at the site while adhering to the principal activity of the provision of meals prepared and served to be eaten on the premises.

### Planning Scheme Requirements

The land is included within the Commercial Planning Area. The applicant was advised on 3 June 2014 that two on-site car spaces are required at the site, under the 2006 Douglas Shire Planning Scheme. Currently no spaces are provided on the site. Council Officers have engaged with the applicant in regard to this and the applicant has advised that they intend to develop car parking spaces on the neighbouring property. This is not a satisfactory outcome. Council officers will further engage with the applicant and work towards an acceptable outcome. Until this is achieved, the request cannot be supported based on the Planning Scheme requirements.

The site is within close proximity to sensitive land uses with a house 20 metres away and numerous residential housing/units within a 150 metre radius. The closest residential planning area is approximately 250 metres away from the site.

## Discussion/Comments

Council Officers have met with the applicant and discussed a number of non-compliance issues at the site under the *2006 Douglas Shire Planning Scheme* and the *Building Act 1975*. These include on-site car parking and outstanding building approvals for structures on the site respectively.

The applicant has advised that they endeavor to rectify all outstanding compliance issues, however at this point the proposal cannot be supported until the outstanding issues are resolved.

Comments in relation to the proposed Liquor Licence were received from Council's Community and Economic Development Officer and Council's Environmental Health Officer.

### Council's Community & Economic Development Officer

The request for comment was forwarded to the Community and Economic Development Officer to provide comments on behalf of the CEO Unit.

The Community and Economic Development Officer supports the application provided that Responsible Service of Alcohol and Responsible Promotion of Alcohol standards are met.

### Environmental Health Officer

Environmental Health and Regulatory Services advise that the premises currently hold a food license. There are concerns about the ratio of toilet facilities to customer numbers and license holder has been advised. Environmental Health Officers also believe that amplified music will impact on residential properties located in Warner Street.

## COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

**Regulator:** Meeting the responsibilities associated with regulating activities through legislation or local law.

Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

## ATTACHMENTS

Attachment 1 – Request

|                       |                  |
|-----------------------|------------------|
| DOUGLAS SHIRE COUNCIL |                  |
| Received              |                  |
| File Name.....        | Liquor Licensing |
| Document No.....      |                  |
| 28 APR 2016           |                  |
| Attention             | DL               |
| Information           |                  |



Queensland  
Government

Office of Liquor and Gaming Regulation

Department of  
Justice and Attorney-General

Please quote: 930738 / LAB05  
Contact officer: Customer Support Team  
Contact telephone: 07 3224 7131

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873

Dear Sir/Madam

**CHILLY'S PIZZA AND TRATTORIA - PORT DOUGLAS**

**Real Property Description: Lot 1 on RP 734519**

**Applicant's Contact Details: Ms Michaela Bruening, Phone: 4099 4444,**

**Email: [chillyspizza@gmail.com](mailto:chillyspizza@gmail.com)**

Enclosed for your information is a copy of the advertising notice relating to an application lodged for the above named premises.

Please find attached a copy of the Liquor Licence Premises Details report which outlines the current details of the liquor licence.

Note that the licensed area for this premises includes an outdoor area as part of their licensed area.

You are now afforded the opportunity to comment or object to the grant of the application on the grounds that the amenity, quiet or good order of the locality would be lessened.

Please advise whether you have any comments on, or objections to, the grant of the application. In accordance with section 117 of the *Liquor Act 1992* your comments or objection must be given to this office on or before the last day for filing objections. To comply with section 117 of the Act, your comments or objection should be received by 3 June 2016.

If you do not support the application, your comments or objection should include full particulars of:

- The grounds upon which the objection is made.
- The facts, evidence or reasons upon which it is based.

Office of Liquor and Gaming Regulation  
33 Charlotte Street  
BRISBANE QLD 4000  
Locked Bag 180  
CITY EAST QLD 4002

Telephone +61 7 3224 7131  
Facsimile +61 7 3227 7047  
Email [liquorandgaminglicensing@justice.qld.gov.au](mailto:liquorandgaminglicensing@justice.qld.gov.au)  
Website [www.business.qld.gov.au/liquor-gaming](http://www.business.qld.gov.au/liquor-gaming)

ABN 13 846 673 994

It is important to note that less weight will be given to statements that merely indicate that the Chief Executive Officer does not support, or objects to the application. Accordingly, any objection to this application should be supported by documentary evidence on the specific trading history of this venue and include incidents directly linked to the operation of the premises and the conduct of the licensee and their management.

If this application relates to a new licensed premises and there is no trading history to rely on, your objection may be based on anecdotal evidence, particularly in relation to the reasonable requirements of the public.

In the interests of natural justice, any comment or objection you provide may be referred to the applicant.

The Commissioner's decision may be subject to review by the independent Queensland Civil and Administrative Tribunal. Substantiating any comments or objections as requested will ensure the Commissioner's decision is appropriately evidence-based and more capable of withstanding scrutiny in any subsequent review.

**Compliance with local town planning requirements is requested to be confirmed in your reply to this letter.**

If you require clarification on any of these matters, please do not hesitate to contact the Customer Support Team on telephone 3224 7131.

Yours sincerely



**CRAIG TURNER**  
**A/Executive Director**  
 21 / 04 / 2016

Encl.

# **LIQUOR ACT 1992**

## **NOTICE OF APPLICATION FOR VARIATION OF CONDITIONS**

**Applicant's Name:** Michaela Bruening

**Premises:** Chilly's Pizza And Trattoria, 2 Mowbray Street, Port Douglas

**Principal Activity:** On-Premises (Meals) Licence – Provision of meals prepared and served to be eaten on the premises

**Trading Hours:** 10:00am to 12:00am – Monday to Sunday

**Proposed Variation of Licence:** To allow for amplified entertainment

**OBJECTIONS TO THIS APPLICATION MAY BE FILED BY A MEMBER OF THE PUBLIC OVER THE AGE OF 18 WHO HAS A PROPER INTEREST IN THE LOCALITY CONCERNED AND IS LIKELY TO BE AFFECTED BY THE GRANT OF THE APPLICATION.**

**COPIES OF ANY OBJECTIONS OR SUBMISSIONS (INCLUDING OBJECTOR'S DETAILS) WILL BE FORWARDED TO THE APPLICANT AND A CONFERENCE MAY BE HELD.**

### **Grounds for Objection**

- (a) undue offence, annoyance, disturbance or inconvenience to persons who reside, work or do business in the locality concerned, or to persons in, or travelling to or from, an existing or proposed place of public worship, hospital or school;
- (b) harm from alcohol abuse and misuse and associated violence;
- (c) an adverse effect on the health or safety of members of the public;
- (d) an adverse effect on the amenity of the community.

### **Format of Objections**

Objections must be lodged in writing individually or in petition form and must state the grounds for objection. **An objection in the form of a petition must be in a format stipulated in the Act and the principal contact person should discuss the proposed petition with the Licensing Officer listed below. A petition template is able to be downloaded from the Office of Liquor and Gaming Regulation website at [www.business.qld.gov.au/industry/liquor-gaming](http://www.business.qld.gov.au/industry/liquor-gaming)**

**A MEMBER OF THE PUBLIC MAY MAKE A WRITTEN SUBMISSION TO THE COMMISSIONER REGARDING** whether the granting of this application will impact on the community, particularly relating to matters which the Commissioner must have regard under Section 116(8) of the *Liquor Act 1992*.

For further information on what is being proposed by the applicant, please contact **Michaela Bruening** on **4099 4444** or email **chillyspizza@gmail.com**

**Closing Date for Objections or Submissions:** 3 June 2016

### **Lodging Objections or Submissions:**

Objections and/or Submissions should be lodged with:

Licensing Officer  
Office of Liquor and Gaming Regulation  
PO Box 3005  
CAIRNS QLD 4870  
Phone: (07) 4048 1172

All objectors will be notified in writing when a decision has been made on the application.

**Executive Director**  
**Office of Liquor and Gaming Regulation**

## Liquor licence premises details

### Premise details:

**Licence number:** 170995  
**Licence type:** Commercial Other - Subsidiary On Premises  
**Status:** Issued

### Premises description:

#### MAIN PREMISES:

2 MOWBRAY STREET  
 PORT DOUGLAS QLD 4877

**CHILLY'S PIZZA AND TRATTORIA**

Phone:

### Real property description:

LAND DESCRIBED AS PART OF LOT 1 ON RP 734519, COUNTY OF SOLANDER, PARISH OF SALISBURY

### Licensed area description:

Restaurant including kitchen situated at 2 Mowbray Street (cnr Grant Street), Port Douglas, including an outdoor dining area measuring 20 metres x 20 metres delineated by timber railings and fencing.

### Trading hours description:

10:00 AM to 12:00 AM Monday - Sunday

(excluding Christmas Day, New Year's Eve, Good Friday and Anzac Day, the trading hours of which are prescribed in the Liquor Act 1992)

### ID Scanner Status:

**SNP Region:** Rest of State

### Licensee(s):

| Name              | Interim authority? | Start date  | To date |
|-------------------|--------------------|-------------|---------|
| MICHAELA BRUENING | No                 | 23-DEC-2014 |         |

### Condition(s):

#### Standard Condition(s)

- LL276 Liquor may be sold or supplied only whilst the premises adheres to its principal activity of provision of meals prepared, and served to be eaten, on the licensed premises.
- LL179 The majority of the premises (excluding the kitchen, toilets and any non-public areas) must be set up for dining at all times the premises is open for the sale and/or supply of liquor except when the premises is being used for a bona fide function.
- LL181 The kitchen must be operational and meals available for patrons up to one hour before the approved closing time for the sale and/or supply of liquor. This condition does not apply during the conduct of a bona fide function.
- LL250 Noise emanating from the premises including amplified or non-amplified noise and patron noise must not exceed 75dB(C), fast response, when measured approximately 3 metres from the primary source of the noise.
- LL253 Non-amplified entertainers or speakers used to amplify noise must not be located in any outdoor, verandah, patio or footpath area of the premises.
- LL140 Under Section 155(4)(e), approval is granted for minors to be on the licensed premises for the purpose of purchasing and consuming food and non-alcoholic beverages.

### Registered interest(s):

| Name              | Type   | Start date  | To date |
|-------------------|--------|-------------|---------|
| MICHAELA BRUENING | LESSEE | 01-DEC-2014 |         |

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