



# **Agenda**

## **Planning Review Meeting**

Wednesday 10<sup>th</sup> August 2016 at 7:00pm

Queenscliff Town Hall  
50 Learmonth Street, Queenscliff

### **Distribution**

#### **Councillors**

Cr. Helene Cameron (Mayor)

Cr. Bob Merriman

Cr. Peter Russell

Cr. Susan Salter

Cr. Sue Wasterval

#### **Officers**

Lenny Jenner, Chief Executive Officer

Phil Josipovic, General Manager Planning & Infrastructure

Leah Protyniak, Senior Planner

In accordance with the Borough of Queenscliffe Local Law No 1, 2010, the information contained within this Agenda is for the confidential and privileged use of Councillors until at least 48 hours prior to this meeting

**THIS MATERIAL DOES NOT NECESSARILY REFLECT THE VIEWS OF COUNCIL**



## Planning Review Meeting

### A guide to understanding meeting protocol

There is a need to cover some simple protocols as each meeting will often involve people attending for the first time.

1. Planning Review meetings are held to provide additional information to Councillors in preparation for the following formal council meeting. The meetings are informal and proponents and submitters to any planning matter are encouraged to address council.
  2. This is not a debating forum – we are trying to obtain the best possible understanding of the matter.
  3. We ask that parties addressing Council speak to the chair and not involve the gallery.
  4. Submitters are asked to elaborate on their written submissions – not just read out their letter/email – all councillors have a copy of written material.
  5. The meeting process will typically adopt the following sequence:
    - Introduction and welcome by the Chairperson.
    - Overview presentation by Council's Planning Officer.
    - The Applicant is given 5-10 minutes to outline their proposal – longer time may be given at the discretion of the chair depending on the complexity of the matter.
    - We ask submitters to limit their comments to 5 minutes bearing in mind we are seeking elaboration on the comments already received in their submission.
    - Following the last submitter the Applicant will be given an opportunity to clarify any matter of fact – but not to comment on matters of opinion.
    - Throughout this process Councillors will be able to ask questions of the Applicant, submitters or a Council Officer.
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**1. OPENING OF MEETING**

**2. APOLOGIES**

**3. PECUNIARY INTEREST & CONFLICT OF INTEREST DISCLOSURES**

**Councillors:**

**Officers:**

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#### 4. PLANNING & DEVELOPMENT

##### 4.1 2 Gellibrand Street, Queenscliff

Planning Permit number: 2015/107

#### SUMMARY

<b>Proposal</b>	Increase in licensed area of existing licenced premises  Application and current plans: Refer <i>Appendix 1</i>
<b>Zone/Overlays</b>	Mixed Use Zone (MUZ) Design and Development Overlay - Schedule 1 (DDO1) Heritage Overlay – Schedule 18 (HO18)
<b>Permit Triggers</b>	Clause 52.27 - Use and sell liquor where the area that liquor is allowed to be consumed or supplied under a license is to be increased
<b>Public Notification</b>	Advertised by registered post to adjoining property owners and occupiers, a notice in the Echo newspaper, two (2) signs on site and notice in municipal offices for 14 days.
<b>Submissions</b>	Five (5) submissions received (NOTE: one objection subsequently withdrawn)  Copy of submissions (4) provided to Councillors: Refer <i>Confidential Appendix 2</i>
<b>Key issues raised by submitters</b>	Extent of redline area Use of public footpath Adequate on site space Noise levels, patron behaviour & security Rubbish Patron capacity Pedestrian access and traffic Amenity impacts



**4.1.1. Applicant to present to Council**

**4.1.2. Submitters to present to Council**

**4.1.3. Applicant to readdress Council**

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5. APPENDIX 1- APPLICATION DOCUMENTS 2 Gellibrand Street, Queenscliff



Planning Enquiries  
Phone:  
Web: <http://www.queenscliffe.vic.gov.au>

Office Use Only

Application No.: 2015/107

Date Lodged:

## Application for Planning Permit

If you need help to complete this form, read [How to complete the Application for Planning Permit form](#).

Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any concerns, please contact Council's planning department.

Questions marked with an asterisk (\*) are mandatory and must be completed.

If the space provided on the form is insufficient, attach a separate sheet.

Clear Form

### The Land

1 Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address \*

Unit No.:	St. No.: 2	St. Name: GELLIBRAND
Suburb/Locality: QUEENSCLIFF		Postcode: 3225

Formal Land Description \*  
Complete either A or B.

This information can be found on the certificate of title.

A	Lot No.: 1	<input type="radio"/> Lodged Plan	<input checked="" type="radio"/> Title Plan	<input type="radio"/> Plan of Subdivision	No.: 683372K
OR					
B	Crown Allotment No.:		Section No.:		
Parish/Township Name:					

### The Proposal

You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

2 For what use, development or other matter do you require a permit? \*

If you need help about the proposal, read:  
[How to Complete the Application for Planning Permit Form](#)

INCREASE LICENSED AREA TO INCLUDE FOOTPATH AREAS
<input checked="" type="checkbox"/> Provide additional information on the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

3 Estimated cost of development for which the permit is required \*

Cost \$ 0-	<input type="checkbox"/> You may be required to verify this estimate.
Insert '0' if no development is proposed (eg. change of use, subdivision, removal of covenant, liquor licence)	

### Existing Conditions

4 Describe how the land is used and developed now \*  
eg. vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

HOTEL
<input checked="" type="checkbox"/> Provide a plan of the existing conditions. Photos are also helpful.





## Title Information


### 5 Encumbrances on title \*

If you need help about the title, read:

[How to complete the Application for Planning Permit form](#)

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes. (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☐ No
- ☒ Not applicable (no such encumbrance applies).

 Provide a full, current copy of the title for each individual parcel of land forming the subject site. (The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', eg. restrictive covenants.)

## Applicant and Owner Details

### 6 Provide details of the applicant and the owner of the land.

#### Applicant \*

The person who wants the permit.

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

Please provide at least one contact phone number \*

#### Owner \*


The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.


Name:		
Title:	First Name:	Surname:
Organisation (if applicable): <b>MONARK PTY LTD</b>		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name: <b>PO BOX 225</b>
Suburb/Locality: <b>SOUTH MELBOURNE</b>		State: <b>VIC</b> Postcode: <b>3205</b>
Contact person's details *		
Same as applicant (if so, go to 'contact information') <input checked="" type="checkbox"/>		
Name:		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name:
Suburb/Locality:		State: Postcode:
Contact information		
Business Phone: <b>0419 278 217</b>		Email: <b>gmichaels84@hotmail.com</b>
Mobile Phone:		Fax:
Name:		
Title:	First Name:	Surname:
Organisation (if applicable): <b>HOLLINGTON PTY LTD</b>		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.: <b>110</b>	St. Name: <b>HEDDERWICK</b>
Suburb/Locality: <b>ESSENDON</b>		State: <b>VIC</b> Postcode: <b>3040</b>
Owner's Signature (Optional):		Date: <b>23/11/15</b>
		day / month / year

## Declaration

### 7 This form must be signed by the applicant \*

 Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Signature: 

Date: **23/11/15**  
day / month / year





MONARK PTY LTD  
PO BOX 225  
SOUTH MELBOURNE VIC 3205

22 November 2015

Town Planning Department  
Borough of Queenscliffe  
PO Box 93  
Queenscliff VIC 3225



Dear Sir/Madam,

**RE APPLICATION FOR PLANNING PERMIT  
THE ESPY HOTEL QUEENSCLIFF  
2 GELLIBRAND STREET, QUEENSCLIFF**

Monark Pty Ltd is the occupier of the abovementioned property and hereby seeks to lodge an application for planning permit to increase the licensed area to include the footpath areas. Specifically, the proposal seeks to vary the red line area of the premises to include the front footpath areas to both Symonds Street and Gellibrand Street.

**Background**

The subject site is described on Certificate of Title Vol.05994 Fol. 766 as Lot 1 on Title Plan 683372K (Attachment 2).

There can be no dispute that the land enjoys existing use rights to operate as a *Hotel* as defined at Clause 74 of the Queenscliffe Planning Scheme:

*Land used to sell liquor for consumption on and off the premises. It may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines, and gambling.*

There is no planning permit that either authorises the hotel use or governs its operation. This means there are no planning restrictions on the number of patrons or the hours of operation.

There is however a Liquor Licence pursuant to which the hotel is authorised to supply liquor. That is a General Licence (Attachment 4).

The licence authorises the supply and consumption of liquor on or off the premises during the following hours:

- FOR CONSUMPTION OFF THE LICENSED PREMISES -  
Sunday Between 10 a.m. and 11 p.m.  
Good Friday & Anzac Day Between 12 noon and 11 p.m.  
On any other day Between 7 a.m. and 11 p.m.
- FOR CONSUMPTION ON THE LICENSED PREMISES -  
Sunday Between 10 a.m. and 11 p.m.  
Good Friday & Anzac Day Between 12 noon and 11 p.m.



On any other day Between 7 a.m. and 1 a.m. the day following.

Furthermore, the Licence nominates the following patron numbers:

- Ground Floor (430 patrons) First Floor (200 patrons) Overall Maximum (630 patrons).

**Proposal**

Planning permission is sought to extend the red line area of the existing liquor licence to include the footpath areas as per the attached proposed plan (Attachment 5). The proposal seeks to vary the red line area of the premises to include the front footpath areas to both Symonds Street and Gellibrand Street.

The trading hours for consumption are sought to be identical to the current hours of operation.

Moreover, the maximum patron capacities are sought to be identical to the current endorsed capacities.

**Permit Triggers**

Clause 52. 27 Licensed Premises

It is noted that Clause 62.01 of the Queenscliffe Planning Scheme provides that a planning permit is not required for the use of land in a road if that use is associated with the use of adjoining land and is authorised by the Council under a local law. However, it is also noted that the case of *Tan v Kingston City Council* [2011] VCAT 470, in which it was determined that such a clause did not operate to exempt the requirements of clause 52.27.

Therefore, a planning permit is required to use land to sell or consume liquor if the area that liquor is allowed to be consumed or supplied under a licence is to be increased pursuant to Clause 52.27 of the Queenscliffe Planning Scheme.

This clause is the only permit trigger.

Clause 52.06 Car parking

Clause 52.06-2 provides that:

*Before the floor area or site area of an existing use is increased, the number of car parking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the responsible authority.*

Column C nominates a car parking rate of 0.4 to each patron permitted. Pursuant to this Clause, where the measure in Column C is increased, the car parking requirement only applies to the increase of use provided the existing number of car parking spaces is not reduced.

In this instance, no increase in patron numbers is proposed. Indeed, as there is no planning restriction on patron numbers, there is no base to increase from.

Therefore, there is no permit requirement pursuant to the provisions of Clause 52.06 of the Queenscliffe Planning Scheme.



#### **Assessment**

In consideration of the Decision Guidelines at Clause 52.27 of the Queenscliffe Planning Scheme, the following is submitted:

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies

- There are no relevant provisions.

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

- Although there are residential uses proximate to the premises, there are a number of nearby premises that already have footpath trading including the adjoining property to the west at 1 Symonds Street which is a cafe licensed to serve liquor on the footpath area.

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

- There will be no change to the current hours of operation of the premises, therefore there is unlikely to be any detrimental amenity impacts.

The impact of the number of patrons on the amenity of the surrounding area.

- There will be no change to the currently endorsed maximum patron numbers, therefore there is unlikely to be any detrimental amenity impacts.
- Council records would indicate that there have been no planning related complaints received in relation to the use.

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

- The Espy Hotel Queenscliff already operates pursuant to a liquor licence, therefore there will be no change to the cumulative impact to the amenity of the surrounding area.
- The adjoining property to the west, Cliffe's Café and Pizza (1 Symonds Street), is a licensed premise which presently serves alcohol to the footpath/external areas within the following hours of operation:
  - Sunday Between 10 a.m. and 10 p.m.
  - Good Friday & Anzac Day Between 12 noon and 10 p.m.
  - On any other day Between 7 a.m. and 10 p.m.

#### **Conclusion**

The proposed serving and consumption of liquor, by extending the 'red line' to include the footpath areas to both Symonds and Gellibrand Streets is considered acceptable on the basis that it is in association with a hotel with the serving of meals and would be appropriate for this commercial part of the Mixed Use Zone.

The proposal would not have any unreasonable detrimental impacts on the amenity of any surrounding properties or sensitive uses.



Accordingly, I enclose the following:

1. Application for Planning Permit form;
2. Certificate of Title;
3. Planning Property Report, *DTPLI*;
4. Existing Liquor Licence (General Licence) & approved red line plan;
5. Proposed plan; and
6. Payment of \$502.00 being the requisite application fee.

I trust that the above is sufficient for your purposes however, should you have any queries or require further information, please do not hesitate to contact Sophia Michailides on 0419 278 217 or [smichaels84@hotmail.com](mailto:smichaels84@hotmail.com)

Yours faithfully,

**Bill Michailides**  
**Director**  
**Monark Pty Ltd**

**Encl.**

- Attachment 1 – Application for Planning Permit Form
- Attachment 2 - Certificate of Title
- Attachment 3 – Planning Property Report
- Attachment 4 – Existing liquor license and approved red line plan
- Attachment 5 - Proposed plan



**Attachment 4**

Existing Liquor License (General Licence) and approved red line plan



General Licence

Licence No. 31905180

Subject to the provisions of the Liquor Control Reform Act 1998 and any conditions specified in the licence, the licensee is authorised to supply liquor up to and including 31 December 2015

Licensee	MONARK PTY LTD		
Address for service of notices	PO BOX 225 SOUTH MELBOURNE 3205	Licensed premises address	2 GELLIBRAND STREET QUEENSCLIFF 3225
Trading as	THE ESPY HOTEL QUEENSCLIFF		

TYPE OF LICENCE

This licence is a general licence and authorises the licensee to supply liquor on the licensed premises for consumption on and off the licensed premises during the trading hours specified below.

AMENITY

The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorised under this licence. The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No.N-2.

MAXIMUM CAPACITIES

Ground Floor (430 patrons) First Floor (200 patrons) Overall Maximum (630 patrons).

TRADING HOURS

FOR CONSUMPTION OFF THE LICENSED PREMISES -

Sunday	Between 10 a.m. and 11 p.m.
Good Friday & Anzac Day	Between 12 noon and 11 p.m.
On any other day	Between 7 a.m. and 11 p.m.

FOR CONSUMPTION ON THE LICENSED PREMISES -

Sunday	Between 10 a.m. and 11 p.m.
Good Friday & Anzac Day	Between 12 noon and 11 p.m.
On any other day	Between 7 a.m. and 1 a.m. the day following.

End of Conditions - Printed on 18/11/2015



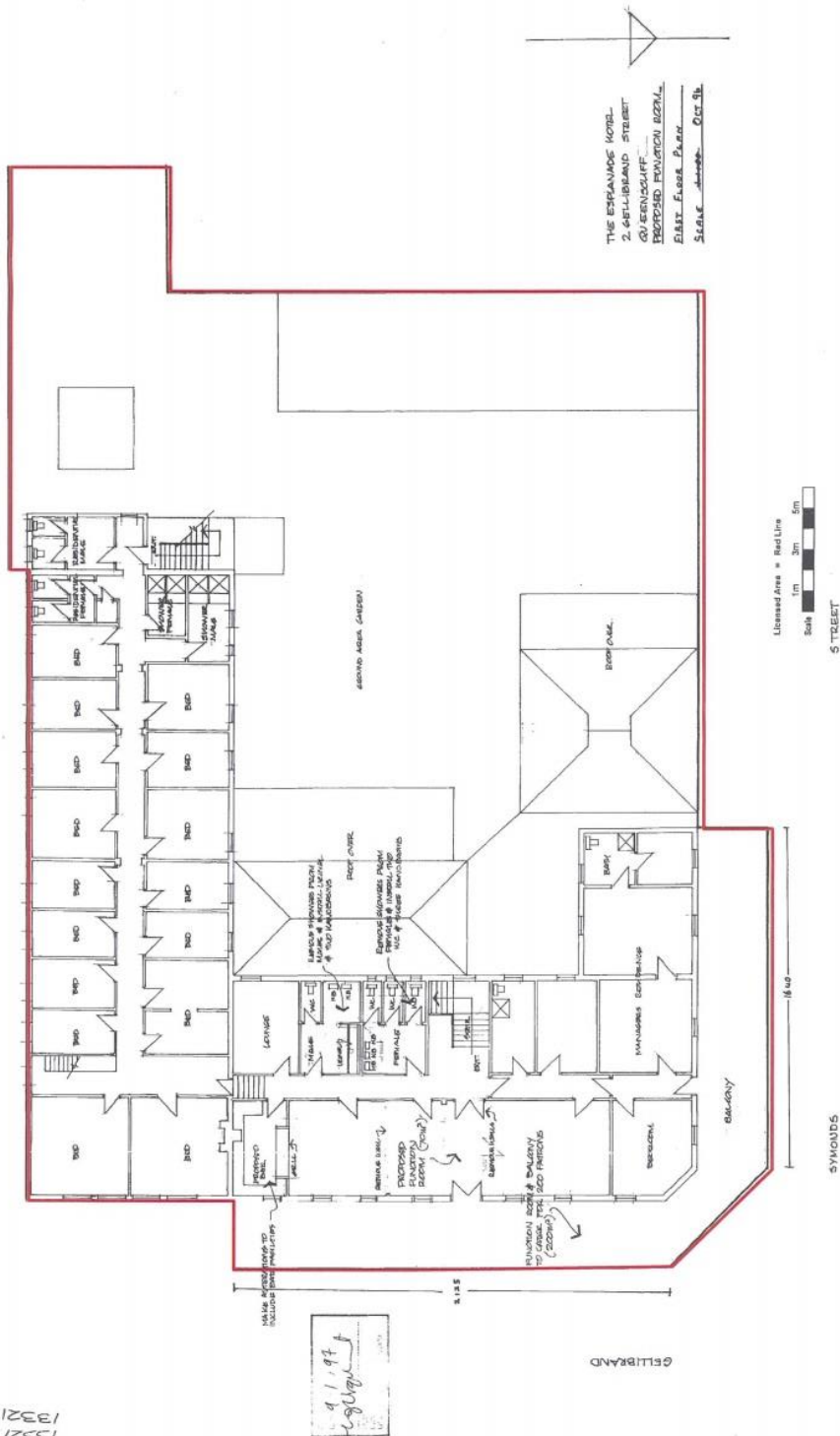
31905180





2 GELLIBRAND STREET, QUEENSLIFF

31905180  
13321/108  
13321/104



Extracted from drawBRIDGE on 9-Oct-2015 11:09

Licence: 31905180 - Premises: 13321 [Plan 4, Sheet 1] (Sheet Size: A1)

Date of Approval 09 Jan 1997



MONARK PTY LTD  
PO BOX 225  
SOUTH MELBOURNE VIC 3205

15 February 2016

Town Planning Department  
Borough of Queenscliffe  
PO Box 93  
QUEENSCLIFF VIC 3225

Attn: Leah Protyniak



Dear Leah,

**RE APPLICATION FOR PLANNING PERMIT NO 2015/107  
THE ESPY HOTEL QUEENSCLIFF  
2 GELLIBRAND STREET, QUEENSCLIFF**

We have reviewed the objections received in respect of the abovementioned planning application and wish to clarify our position.

It is our intention that kerbside trading (tables and chairs extending along both the Gellibrand and Symonds Street footpaths) cease at 10 pm every day.

The above suggestion to have kerbside trading cease at 10 pm would limit noise emissions and manage patron behaviour.

Our objective is to provide kerbside trading along both footpaths as an alternate al-fresco dining area to our patrons.

Importantly, there will be no change to the currently endorsed maximum patron numbers.

The extension to the red line plan is appropriate given the mixed use zoning and locality which seeks *'To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.'*

There is sufficient space along both street frontages to adequately accommodate the number of chairs and tables proposed.

We trust that the above is sufficient for your purposes however, should you have any queries or require further information, please do not hesitate to contact Sophia Michailides on 0419 278 217 or [smichaels84@hotmail.com](mailto:smichaels84@hotmail.com) or the undersigned on 0412 519 300.

Yours faithfully,

**Bill Michailides  
Director  
Monark Pty Ltd**



MONARK PTY LTD  
PO BOX 225  
SOUTH MELBOURNE VIC 3205

RECEIVED  
QP 070 200  
11 APR 2016

BOROUGH OF  
QUEENSCLIFFE

7 April 2016

Leah Protyniak  
Town Planning Department  
Borough of Queenscliffe  
PO Box 93  
Queenscliff VIC 3225

Dear Leah,

RE AMENDMENT TO PLANNING APPLICATION NO. 2015/107  
THE ESPY HOTEL QUEENSCLIFF  
2 GELLIBRAND STREET, QUEENSCLIFF

We seek to amend the planning application lodged in respect of the abovementioned address by way of the following:

- Provide a total of **twelve (12)** sets of tables and chairs; and
- Undertake footpath trading during the following hours:
  - Sunday between 10am and **10pm**
  - Good Friday & Anzac Day between 12noon and **10pm**
  - On any other day between 7am and **10pm**

#### **Assessment**

The proposal is sought to provide patrons with an alternate al-fresco area along the street frontages as is the case with a number of nearby premises that already have footpath trading including the immediately abutting property to the west at 1 Symonds Street (a café licensed to serve liquor on the footpath area).

We believe the proposal is acceptable on the basis that it is in association with a hotel with the serving of meals, and that it is appropriate for this commercial part of the Mixed Use Zone.

A total of 12 sets of tables and chairs will be placed along the Symonds Street and Gellibrand Street footpaths given there is adequate space to accommodate the tables and chairs in a safe and stable manner whilst also providing a minimum 2 metres clearance on the footpath for the passage of pedestrians.

Importantly, there will be no change to the currently endorsed maximum patron numbers.



Thus there is no permit requirement pursuant to the provisions of Clause 52.06 Car Parking of the Queenscliffe Planning Scheme.

Footpath trading would cease at 10pm every day.

Accordingly, we enclose an amended red line plan.

We trust that the above is sufficient for your purposes and for the purposes of addressing the concerns raised by the Objectors.

Should you have any queries or require further information, please do not hesitate to contact Sophia Michailides on 0419 278 217 or [smichaels84@hotmail.com](mailto:smichaels84@hotmail.com) or the undersigned on 0412 519 300.

Yours faithfully,

A handwritten signature in dark ink, appearing to read "Bill Michailides".

**Bill Michailides**  
**Director**  
**Monark Pty Ltd**



QV 070-200  
RECEIVED

22 JUN 2016

BOROUGH OF  
QUEENSLIFFE

**Info**

**From:** Sophia Michaels <smichaels84@hotmail.com>  
**Sent:** Tuesday, 21 June 2016 5:57 PM  
**To:** Info; Leah Protyniak  
**Cc:** Fiona Hunter-Evans; Bill Michaelides  
**Subject:** Planning Application No.2015/107 - 2 Gellibrand Street, Queenscliff  
**Attachments:** Amended\_RedLinePlan\_2GellibrandStreetQueenscliff\_21June2016.pdf

Dear Leah,

We refer to your letter dated 7 June 2016 in respect of the abovementioned application for planning permit.

We have discussed the application with Council's Local Laws Officer and determined that the Symonds Street frontage will be licensed.

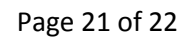
Accordingly, we attach a revised red line plan which shows the red line area to only one street frontage, and a break between the building and licensed footpath area for the required pedestrian clearance.

We trust the attached is sufficient for your purposes, however should you have any further queries please do not hesitate to contact me.

Kind regards,

Sophia Michailides  
(on behalf of Bill Michailides - Director, Monark Pty Ltd).

0419 278 217  
[smichaels84@hotmail.com](mailto:smichaels84@hotmail.com)





**6. APPENDIX 2-(CONFIDENTIAL)-SUBMISSION, 2 Gellibrand Street, Queenscliff**

Provided to Councillors under separate cover

**7. CLOSE OF MEETING**