

## 5.2. REQUEST FOR COMMENT ON PROPOSED LIQUOR LICENSE FOR CHOO CHOOS AT ST CRISPINS STATION

REPORT AUTHOR(S)	Daniel Lamond, Planning Officer
GENERAL MANAGER	Nicholas Wellwood, General Manager Operations
DEPARTMENT	Sustainable Communities
PROPOSAL	Commercial Other Subsidiary on Premises Licence
APPLICANT	Port Douglas Steam Train Company Pty Ltd
NAME OF PREMISES	Choo Choo's @ St Crispins
LOCATION OF SITE	9 St Crispins Avenue Port Douglas
PROPERTY	Lot 49 on SP161464

## LOCALITY PLAN



### Figure 1 - Locality Plan

<b>LOCALITY</b>	Port Douglas and Environs
<b>PLANNING AREA</b>	Community and Recreational Facilities
<b>PLANNING SCHEME</b>	Douglas Shire Planning Scheme 2006
<b>REFERRAL AGENCY</b>	Office of Liquor & Gaming Regulation Department of Justice & Attorney-General Locked Bag 180 CITY EAST QLD 4002
<b>REQUEST RECEIVED</b>	13 March 2017

## **RECOMMENDATION**

**That the applicant and the Office of Liquor and Gaming Regulation, Department of Justice and Attorney-General, be advised that Council does not object to the Application for Commercial Other Subsidiary on Premises Licence for Choo Chooos @ St Crispins, 9 St Crispins Avenue, Port Douglas, also described as Lot 49 on SP161464, subject to the following conditions;**

- a. The licensed area is only inclusive of the area specified by Council in Attachment 3.**
- b. The applicant must construct an acoustic noise barrier to prevent the noise from the operation of the premises impacting on the residential use of the adjoining property Lot 1 on SP154572. The acoustic noise barrier must be designed in accordance with specifications given by a certified acoustic engineer and ensure that noise produced as a result of activities undertaken on the premises do not exceed 5 dB(A) above the determined background noise level when measured at the adjoining property boundary at any time.**
- c. The location of the sound barrier is to be agreed upon with Council if it is not sited on the common boundary of Lot 1 on SP154572. Agreement is to be reached with the relevant property owner if sited on the common property boundary of Lot 1 on SP154572.**
- d. Plans of the acoustic noise barrier are to be endorsed by the Chief Executive Officer prior to the issue of a development permit for building works or commencement of construction.**
- e. The hours of service of alcohol of the Commercial Other Subsidiary on Premises Licence are limited to between 10am and 10pm.**
- f. Sunday and public holiday hours (10.00am to 10pm) will only be supported following the provision of acoustic certification of the acoustic noise barrier being provided to Council.**

## INTRODUCTION

### Choo Choos @ St Crispins

A request for Council's comment has been submitted by the Department of Justice and Attorney-General, Office of Liquor and Gaming Regulation, for Choo Choos @ St Crispins, located at 9 St Crispins Avenue and described as Lot 49 on SP161464. A copy of the request is attached as *Attachment 1*.

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

If the licence is granted it would enable the holder to sell liquor for consumption on the premises while adhering to its principal activity being the provision of meals prepared and served to be eaten on premises. Liquor may also be sold to patrons who are non diners.

The applicant has also indicated their intention to include an outdoor dining area as part of their proposed licensed area.

### Planning Scheme Requirements

The land is included within the Community and Recreational Facilities Planning Area. There are planning concerns with regard to the approved use on the site. Particular concerns for a proposed liquor license include the proximity to residences. One residential boundary is located approximately ten (10) metres from the station.

### Discussion/Comments

Council has received a number of enquiries relating to the use of Choo Choos in the past few months. The premises has not been used for the past 12 years and re-opened in 2016.

The kiosk was originally established via a re-zoning under the 1981 Planning Scheme which was referred to in the Order in Council, approved by the Governor in Council on 3 July 1986. The establishment was for a kiosk along with medium density housing, tram station, boat ramp, park, carpark and golf course. No hours of operation were ever conditioned to the use of the site. The commencement of use for the site as a kiosk did not require any further Planning Approvals from Council.

The 1996 Planning Scheme identified the site with a zoning for 'Special Facilities', which was for the purpose of "medium density housing, tram station, kiosk, boat ramp, carpark and golf course."

Operation of the kiosk was shut down approximately 12 years ago by the proprietor. However, the tenure never changed and the intent was for the use to re-commence. The proprietor advised that difficult market conditions influenced the operation to cease at the time. That being said, the use is considered to have not been abandoned, as the intent was for the premises to re-open. This satisfies the requirements under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, where Council has determined no abandonment of the use at the site.

The site is situated approximately ten (10) metres from a residential property boundary, which is considered to be a sensitive land use. If a liquor license is granted, the resident/s is likely to be adversely affected. If Council wishes to support the proposed liquor licence, then a number of conditions designed to mitigate impacts of the neighbouring residence should be imposed.

The recommendation above includes conditions regulating the licensed area of the site, in particular, the licensed area supported by Council should not include the area of the station facing the residence and adjoining the existing railway (see Attachment 3 for area supported by Council as a licensed area).

The recommendation above also includes proposed operation time limits for the liquor licence, as it is considered that allowing the premises to operate while selling liquor until 12:00am is not appropriate for its location and proximity to the adjoining residence. Hence, 10:00pm is proposed as the latest hour of operation of the liquor license. As an incentive to complete the acoustic noise barrier in a timely manner, the sale of liquor on Sundays and Public Holidays are not supported as days where liquor can be sold from the premises until acoustic certification is supplied to Council in relation to the acoustic noise barrier. The condition has been worded accordingly.

Further, conditions have been imposed requiring implementation of an acoustic noise barrier at the property boundary to the closest residence.

Council has not received any other complaints relating to nuisance from the existing operations of Choo Choos.

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 has assessed this application and offers no objection or concerns with the proposal, on the condition that the operators have obtained a licence to sell food associated with the liquor licensing conditions. The premises currently have a food business licence.

## **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**

1. Choo Choos License Proposal **[5.2.1]**
2. Notice of Application for Choo Choos @ St Crispins **[5.2.2]**
3. Attachment 3- Licensed Area Supported by Council **[5.2.3]**



Our File Ref 947011/LAB05  
 Contact: Customer Support Team  
 Contact Number: (07) 3224 7131

Office of Liquor and Gaming Regulation

Department of  
 Justice and Attorney-General

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

Email: [enquiries@douglas.qld.gov.au](mailto:enquiries@douglas.qld.gov.au)

Dear Sir/Madam

**CHOO CHOOS @ ST CRISPINS - PORT DOUGLAS**  
**Real Property Description: Lot 49 on SP 161464**  
**Application for Commercial Other – Subsidiary on Premises Licence (Meals)**  
**Applicant's Contact Details: Applicant's Contact Details: Mr John Morris,**  
**Phone: 0438 988 023, Email: [john@portbajool.com.au](mailto:john@portbajool.com.au)**

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

Should this licence be granted it would enable the holder thereof to sell liquor for consumption on the premises where the principal activity is the provision of meals prepared and served to be eaten on the premises. (However, liquor may be sold to patrons who are non-diners i.e. only there to have a drink.)

Please note that the applicant has also indicated their intention to include an outdoor dining area as part of their proposed licensed area.

This letter is to inform you of the application and give you the opportunity to:-

1. Comment on the reasonable requirements of the public in the locality.
2. Object to the grant of the application on the grounds that 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 28 April 2017.

Office of Liquor and Gaming Regulation  
 63 George 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)  
 Mailing 846 876 9917

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

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

The Commissioner cannot rely on statements that merely indicate that council does not support, or objects to the application.

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.

In considering your comments, including the likelihood of adverse health, public safety and amenity issues, the Commissioner for Liquor and Gaming may also impose licence conditions to mitigate any risk posed by the application.

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 also requested to be confirmed in your reply to this letter.**

If you require clarification on any of these matters, please contact the Customer Support Team on telephone (07) 3224 7131.

Yours sincerely



MICHAEL SARQUIS  
Executive Director  
15/03/2017  
Encl

**LIQUOR ACT 1992**  
**NOTICE OF APPLICATION FOR COMMERCIAL OTHER –**  
**SUBSIDIARY ON PREMISES LICENCE**

**Applicant's Name:** Port Douglas Steam Train Company Pty Ltd

**Premises:** Choo Choos @ St Crispins, 9 St Crispins Avenue, Port Douglas

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

**Trading Hours:** 10:00 AM to 12:00 AM - Monday to Sunday

**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 **John Morris** on **4099 4443** or email **[john@portbajool.com.au](mailto:john@portbajool.com.au)**

**Closing Date for Objections or Submissions:** 28 April 2017

**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

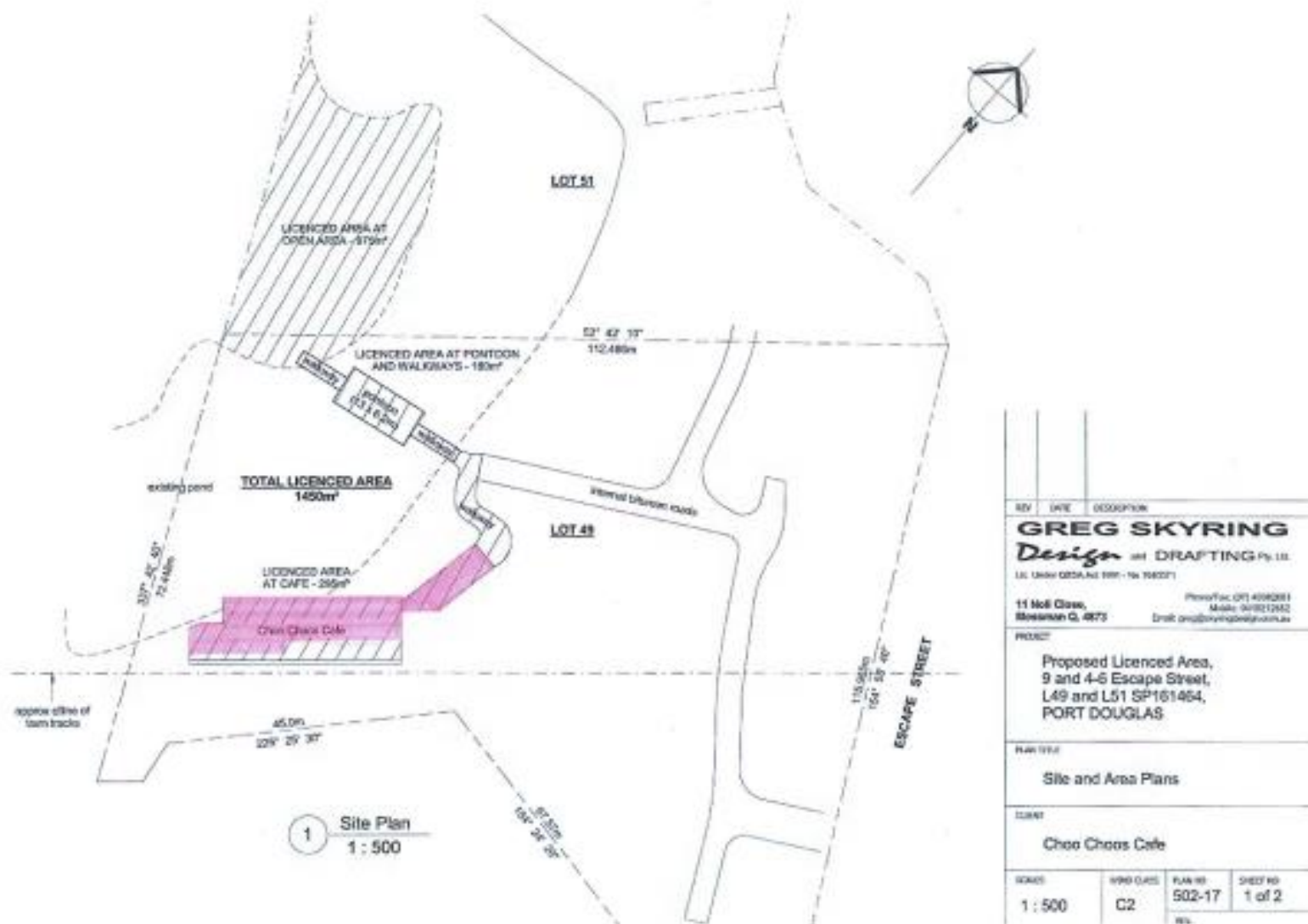
Phone: (07) 4048 1172

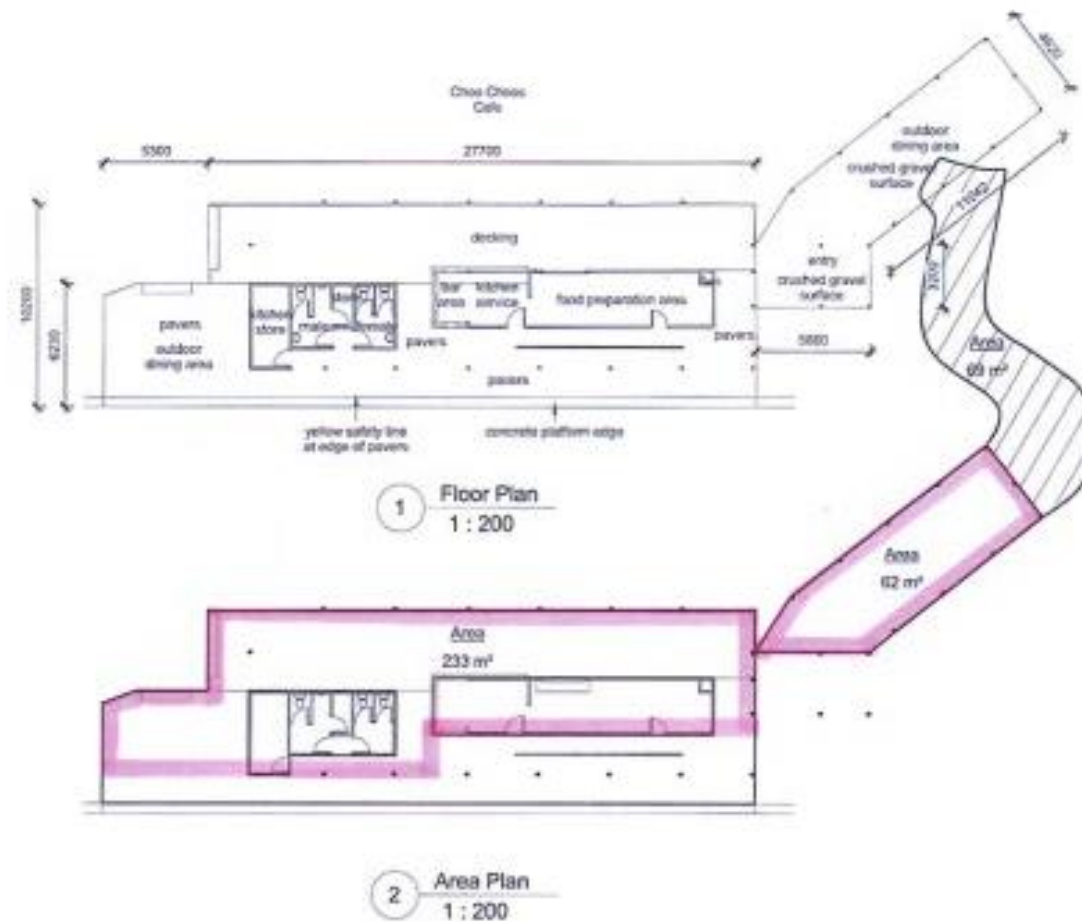
All objectors will be notified in writing when a decision has been made on the application.

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



## Attachment 3: Licensed Area supported by Council (pink only)





<b>GREG SKYRING</b> <i>Design and DRAFTING Pty Ltd</i> <small>Lic Under QBCC Act 1997 - No 1582071</small> 11 Neil Close, Bussellton Q. 4872 Phone/Fax (07) 49682851 Mobile 0479212302 Email: greg@gregskykingdesign.com.au	<b>PROJECT</b> Proposed Licenced Area, 9 and 4-6 Escape Street, L49 and L51 SP161484, PORT DOUGLAS		<b>CLIENT</b> Choo Choo's Cafe	<b>WIND CLASS</b> C2	<b>PLAN NUMBER</b> 502-17	<b>SHEET</b> 2 of 2
	<b>SCALE</b> 1 : 200	<b>PLAN TITLE</b> Floor and Area Plans - Cafe	<b>DATE OF ISSUE</b> 02.03.17	<b>REV</b> A		