

5.1. MATERIAL CHANGE OF USE- FUNCTION FACILITY ESCAPE STREET PORT DOUGLAS

REPORT AUTHOR(S)	Daniel Lamond, Planning Officer
GENERAL MANAGER	Michael Kriedemann, Acting General Manager Operations
DEPARTMENT	Development Assessment and Coordination
PROPOSAL	Material Change of Use (Function Facility)
APPLICANT	Port Douglas Steam Train Company Pty Ltd c/- RPS Australia East Pty Ltd PO Box 1949 Cairns QLD 4870
LOCATION OF SITE	9 St Crispins Avenue PORT DOUGLAS and 4-6 Escape Street PORT DOUGLAS
PROPERTY	Lot 49 and 51 on SP161464

LOCALITY PLAN



Figure 1 - Locality Plan

ZONE	Tourist Accommodation Zone
PLANNING SCHEME	2018 Douglas Shire Planning Scheme version 1.0
REFERRAL AGENCIES	None Applicable
NUMBER OF SUBMITTERS	The application is code assessable and no submissions were received
STATUTORY ASSESSMENT DEADLINE	24 September 2018
APPLICATION DATE	20 June 2018

RECOMMENDATION

That Council approves the development application for material change of use for a function facility over land described as Lot 49 and 51 on RP161464, located at 9 St Crispins Avenue and 4-6 Escape Street, Port Douglas, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Function Facility Site Plan	Drawing Number PR133458-5, prepared by RPS Australia East Pty Ltd	14 June 2018

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Limitation of Patrons

3. The overall capacity of the use is limited to a maximum of 110 patrons at any one time. The Applicant shall limit the number of guests to 60 patrons for evening functions and limit the use of the lawn area to the west during evening functions to informal use.

Hours of Operation

4. The hours of operation are limited to between 10:00am and 10:00pm daily at which all patrons must vacate the site, excluding public holidays.

Lighting

5. Light emanating from the site must not cause a light nuisance to surrounding properties in accordance with the Environmental Protection Act 1994.

Crocodile Risk Management

6. Develop a crocodile risk management plan for the function facility land use. The plan should consider warning signage, provision of additional staff to observe and direct patrons away from the waters edge, fencing, landscaping barriers, limitations of night time use of areas and any other means relevant. The risk management plan must be submitted and endorsed by the Chief Executive Officer prior to commencement of use.

Damage to Council Infrastructure

7. In the event that any part of Council's existing sewer, water or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

Vehicle Parking and Servicing

8. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of 19 spaces. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular maneuvering areas must be constructed of a compacted granitic surface and drained. Car parking spaces must be appropriately delineated. Surface treatment must not create any dust emissions to the satisfaction of the Chief Executive Officer.

Provision must be made for loading/ unloading of service vehicles.

Provide plans, including swept path diagrams for all parking spaces and the set down area for a medium rigid service vehicle of the vehicle parking area for endorsement by the Chief Executive Officer prior to construction.

The car parking area shall be constructed prior to commencement of use.

Landscaping Plan

9. The site must be landscaped in accordance with details included on a Landscaping Plan. The Landscaping Plan must show:
 - a. Deep planting of the perimeter of the parking area;

b. Species to have regard to Council's Planning Scheme Policy SC6.7

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer. The approval and completion of all landscaping works must be undertaken in accordance with the endorsed plan prior to the Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Noise Management Plan

10. Prepare a Noise Management Plan (NMP) to be endorsed by the Chief Executive Officer prior to commencement of use. The NMP must include procedures for informing prospective clients of the type of venue and the type of sound appropriate for the area and the limited number of guests permitted for evening functions, as well as inductions for waiting staff and instructions for supervising staff. The NMP must state that the venue is not suitable for noisy or rowdy functions, that no amplified music/sound equipment is to be used and include methods for management of rowdy individuals and crowd control measures (including the limited informal use of the lawn area to the west). The NMP must include all measures considered appropriate to ensure that noise nuisance is not caused to the occupiers or users of surrounding properties. The NMP must be updated if the noise levels from the site exceed an average maximum noise level of 10db(A) above the background level at the adjoining boundary of lot 1 on SP154572. In the event that this noise level is exceeded and cannot be complied with, an acceptable solution must be made as an amendment to the NMP to the satisfaction of the Chief Executive Officer prior to any further use of the site as a function facility. The acceptable solution must achieve an average maximum noise level of no more than 5db(A) at the affected building (dwelling) at lot 1 on SP154572.

Noise Emissions

11. The average maximum noise level of the use must not exceed 10db(A) above the background level at the adjoining boundary of lot 1 on SP154572. Alternatively, the average maximum noise level must not exceed 5db(A) at the affected building (dwelling) at lot 1 on SP154572.

Acoustic Compliance Monitoring

11. The applicant must undertake acoustic compliance monitoring to demonstrate that the use does not exceed an average maximum noise level of 10db(A) above the background level when measured at the adjoining boundary of lot 1 on SP154572.

The acoustic compliance monitoring must take place at one (1) function per month for a period of 12 months from commencement of use. The monitoring must be undertaken by a qualified acoustic engineer. The results must be submitted to Council every month.

Noise Impacts on Surrounding Lots

12. The approved use of Proposed Lots 9, 8, 7, 26, 25, 24 and 23 must be changed to Short Term Accommodation, in place of the existing approved use of Dwelling House as per Development Approval CA2639/2008, prior to the occupation of the premises established on Proposed Lots 9, 8, 7, 26, 25, 24 and 23, otherwise the approved Function Facility use shall cease or be changed to adequately manage potential adverse noise impacts to the satisfaction of the Chief Executive Officer.

Limitation of Use

13. Where applicable, the change of use of proposed lots 9, 8, 7, 26, 25, 24 and 23 to Short Term Accommodation be noted on Council's rate file for each Proposed Lot, once the change of use is in effect, advising that the approved use of each lot is for Short Term Accommodation only.

ADVICE

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
3. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au.

LAND USE DEFINITIONS*

In accordance with the 2018 *Douglas Shire Planning Scheme version 1.0*, the approved land use of development assessment application MCUC2719/2018 is defined as:

Function Facility

Premises used for conducting receptions or functions that may include the preparation and provision of food and liquor for consumption on site.

*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

EXECUTIVE SUMMARY

Council is in receipt of a material change of use development application for a function facility at 4-10 Escape Street and 9 St Crispins Avenue, Port Douglas.

The land is within the Tourist accommodation zone of the 2018 Douglas Shire Planning Scheme version 1.0. The area proposed to accommodate the use is 5187 square metres and includes the access, parking area, Choo Choos restaurant and outdoor areas including a floating pontoon and turfed open air area. The land immediately north of the subject land is vacant and is subject of another development approval. The land to the west comprises part of the Mirage Resort golf course, to the south (opposite the St Crispins Station) are residential dwelling units. On the opposite side of Escape Street is a combination of residential and tourist unit accommodation.

The two allotments are part of a subdivision approval (CA2639/2008) for 29 house lots with a house developed on each, a display home and common property. The subdivision approval accommodates the Choo Choos restaurant and the area proposed for the function facility land use.

The proposal is identified as code assessable under the current planning scheme and does not require public notification.

The assessment of the application has identified a number of issues that are to be addressed in order to legitimise the use of the premises as proposed. Such matters include the noise nuisance to residences within the vicinity and risk to people by crocodiles in the canal.

A condition has been imposed on the function facility development approval that requires the approved use of Proposed Lots 9, 8, 7, 26, 25, 24 and 23 be changed to Short Term Accommodation, in place of the existing approved use of Dwelling House, prior to the occupation of the accommodation premises to be established on each proposed lot, unless the function facility use ceases or is changed to adequately manage potential adverse noise impacts. This is because the noise impacts on the new residences adjoining the canal have the potential to be significant. Patrons of short term accommodation are considered to be entitled to a level of amenity below that of the amenity a permanent resident of a house would expect to be entitled to.

A crocodile risk management plan has been required to support the land use as the canal the function facility use it sited on is known crocodile habitat.

The proposal is recommended for approval subject to conditions.

TOWN PLANNING CONSIDERATIONS

Proposal

The development application is seeking a development permit for a function facility. The proposal is to use the existing Choo Choos restaurant facilities and pontoon deck located at Escape Street, Port Douglas as a function facility for wedding functions and similar group functions in addition to the existing Choo Choos restaurant. Except for the need to provide car parking and access on-site, the proposed function facility will utilise existing buildings, pontoon deck and outdoor dining areas and therefore, will not involve additional building/construction works.

The existing facilities to be used by the function facility use are generally indicated in the site plan attached. This includes:

- The dining area located on the northern side of the St Crispins Station platform, an area of 110.8m² (27.7m x 4m), the kitchen area and amenities;
- A paved outdoor dining area to the west of the Platform, an area of 30m² (4m x 7.5m);
- A covered dining area to the northeast of the Platform, an area of 62m²;
- The pontoon deck dining area, an area of 88m² and the lawn area located adjacent to the golf course;
- The proposed car parking area and access to Escape Street.

A maximum patronage of 110 persons is proposed which is consistent with the current maximum capacity of Choo Choos. The Choo Choos premises currently has a Commercial Other- Subsidiary On Premises License (Liquor License No. 189207) which regulates trading hours and noise control limits.

State Planning Requirements

Regional Plan

Section 2.2 of the Planning Scheme indicates that the Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the Planning Scheme area. Therefore, an assessment of the relevant applicable Planning Scheme Code provisions will adequately address any considerations related to the Regional Plan.

State Planning Policy

Section 2.1 of the Planning Scheme indicates that relevant State Interests have been integrated into the Planning Scheme. Therefore, an assessment of the relevant applicable Planning Scheme Code provisions will address the SPP provisions.

State Development Assessment Provisions

The development application does not trigger any referrals, therefore there are no State Development Assessment Provisions applicable to the proposed development.

Douglas Shire Planning Scheme Assessment

Table 1: Code Assessment

2018 Douglas Shire Planning Scheme version 1.0		Code Applicability	Compliance
Zone	Tourist Accommodation Zone	<input type="checkbox"/>	See comment below
Overlay Codes	Acid Sulfate Soils Overlay Code	<input type="checkbox"/>	See comment below
	Coastal Environment Overlay Code	<input type="checkbox"/>	See comment below
	Transport Network Overlay Code	<input type="checkbox"/>	See comment below
General Codes	Access Parking and Servicing Code	<input type="checkbox"/>	See Comment Below
	Landscaping Code	<input type="checkbox"/>	See Comment Below

Compliance Issues and Discussion

Tourist Accommodation Zone Code

PO7 of the code requires that development does not adversely affect the tropical, tourist and residential character and amenity of the area in terms of traffic, noise, dust, odour, lighting or other physical or environmental impacts.

An information request item was included on the information request issued as part of the assessment of the application to provide an acoustic engineering assessment with respect to noise levels from the St Crispin's Station (Choo Choo's) to adjoining lot 1 on SP154572, as this is the closest residence. Essentially the intent of the information request item was to qualify and quantify noise impacts from the day to day operation of Choo Choo's on the adjoining residence at lot 1 on SP154572 as the function facility proposes to utilise the existing Choo Choos building.

The information request response included a noise report which made assessment of the potential noise impact that the new land use is likely to cause on the surrounding existing residences and particularly lot 1 on SP154572. The noise report did not qualify and quantify the noise impact the operation of Choo Choos has on the neighbouring residence as the applicant intended to only assess the new function facility land use proposed and make noise assessment from the outdoor area near the pontoon to the surrounding residences. The applicant advises that this was because the Choo Choos operation currently holds a liquor License which regulates noise from the premises. The liquor license includes condition LL250 which reads "Noise emanating from the premises including amplified and/ or non amplified noise and/ or patron noise must not exceed 75dB(C), fast response, when measured approximately 3 metres from the primary source of the noise."

Generally, noise from licensed venues is regulated under the Liquor Act 1992 by the Office and Liquor and Gaming Regulation. Council is the devolved regulatory authority for noise nuisance under the *Environmental Protection Act 1994*.

The noise condition on the liquor license does not regulate the decibel levels received at the closest sensitive receptor being the dwelling at lot 1 on SP154572. To quantify noise impacts on the adjoining residence officers have considered the guideline for achieving the environmental value of health and wellbeing from the Environmental Protection (Noise) Policy 2008. The average acoustic quality objective measured at the sensitive receptor indoors is 35db(A) and 50db(A) at the outdoor area of the dwelling. These levels are given as a guideline as world best practice to achieving the environmental value for a residence. However, these decibel levels are an unrealistic expectation as they do not consider background levels. The default noise standards under the *Environmental Protection Act 1994* give acceptable noise levels for different sources (building work, regulated devices, indoor venues, open-air events etc.) which are all decibel levels above the background level of the subject area.

Council staff have taken the average acceptable decibel level of 10db(A) above the background level from the Environmental Protection Act to be an acceptable level of noise above the background level at the adjoining boundary fence. A condition has been imposed to require that the use does not create an average noise of 10db(A) or more above the background level at the adjoining boundary to lot 1 on SP154572. Further, based on the best

practice assumptions that noise drops by 6db per each doubling of distance from the source and that the three metre high fence constructed on the adjoining boundary at lot 1 on SP154572 which is expected to attenuate noise by a conservative 5db, officers are confident that the environmental value of health and wellbeing can be achieved inside the dwelling.

A condition has been imposed to prepare a noise management plan for the use to Council's satisfaction and a requirement for acoustic compliance monitoring for one function per month for a 12 month period with results submitted to Council. Overarching this is the condition which limits noise at the adjoining boundary to no more than 10db(A) above the background noise levels. The condition allows an alternative solution if this level cannot be complied with to allow measures to be taken (potentially a sound abatement wall) for the use to achieve no more than 5db(A) above the background level at the affected building (dwelling) at the adjoining premises. This alternative component of the condition achieves the acoustic quality objectives for an indoor venue under the *Environmental Protection Act 1994*.

The intent of the noise management plan and monitoring condition is to qualify and quantify noise impacts on the adjoining residence. The noise compliance monitoring conditioned as part of the approval is required to determine if there is a noise nuisance consistent with that of an environmental nuisance generated from the site. The noise management plan may include strategies such as an acoustic abatement wall at the boundary of the site if no more than 10db(A) above the background noise levels cannot be achieved at the common boundary.

In terms of noise impacts from the other areas of the function facility, including the pontoon and turfed area on the northern side of the canal, the noise assessment provided as part of the information request response has determined that no existing residences are expected to be detrimentally impacted from sources at these locations. The assessment considers residences at Escape Street and surrounds. The assessment does not consider the future houses to be developed as part of the combined approval CA2639/2008 over the balance of the land.

The proximity of the pontoon and turfed area at the canal to the approved residential land under CA2639/2008 is considered to potentially impact the new residences. The site plan demonstrates that a number of the new residential lots will be 20-30 metres from the outdoor turfed function area adjoining the golf course and pontoon function area. Section 66 (2) of the Planning Act 2016 permits development conditions to be inconsistent with and replace conditions of an earlier approval provided the applicant agrees in writing and the same person imposes the conditions. Council has received further correspondence from the applicant agreeing to Council imposing a condition which limits the use of the new residences approved under CA2639/2018 which adjoin the canal to be only used for Short Term Accommodation and not for permanent residential use otherwise the approved Function Facility use shall cease or be changed to adequately manage potential adverse noise impacts to the satisfaction of the Chief Executive Officer. The condition imposed has been formulated to give the applicant the opportunity to trial the function facility land use and propose further noise mitigation measures where appropriate. This condition is considered necessary for the proposal to achieve compliance with P07 of the Tourist Accommodation Zone Code.

It is important to note that any premises lawfully established as a restaurant/ food and drink outlet (land use definition depends on planning scheme at time of approval) can hold functions within the area approved for use as it is considered ancillary to the use of the site. For example, any restaurant on Macrossan Street may hold functions such as wedding receptions. This also applies to the approved scale of Choo Choo's at the St Crispins Station. If functions were to be limited to the building and immediate area always utilised as part of its day to day operations, then this would be considered lawful. The material change of use development application is triggered because the function facility proposes to utilise new areas not part of the existing scale of development. Further, the expansion of the use over the site (pontoon and turfed area adjoining golf course, and associated paths) is considered to constitute a new land use under the material change of use definition of the *Planning Act 2016*.

A condition has been imposed to regulate light emitting from the site. A condition has been imposed to require that the parking area is finished with a granitic treatment that does not cause a dust nuisance and the parking area has been proposed to be sited further into the lot than where it is currently sited, to mitigate traffic noise and associated impacts to adjoining residences.

Acid Sulphate Soils Overlay Code

The earthworks involved to develop the parking area will not require the excavation of more than 100 cubic metres of earth at the site below 5 metres Australian Height Datum (AHD). No acid sulphate soils investigation is triggered.

Coastal Environment Overlay Code

Given that the proposed development relates to the use of existing buildings/facilities that have been established in a manner that adequately addresses these potential impacts and that the existing buildings/facilities would be evacuated well before any flood or storm tide event, the code provisions have limited relevance to the proposed development.

Transport Network Overlay Code

The function facility use will also provide the impetus to formally establish a car parking area on-site in place of informal on-site parking or relying on on-street parking. No further provision of infrastructure is reasonably necessary.

Access, Parking and Servicing Code

The function facility use would require the provision of 19 car parking spaces, on the basis of 1 car parking space per 15m² of gross floor area, which is able to be accommodated on-site in association with the parking area available in the adjacent access. This can be seen on the indicative car park layout shown on the Site Plan. A condition has been imposed to demonstrate practical access to each space and to demonstrate the location of the servicing set down area, along with treatment, line marking and drainage.

Landscaping Code

No landscaping plan has been submitted as part of the application. It is common practice to condition the requirement for a landscaping plan as part of a development approval. A landscaping plan has been conditioned as part of the approval with a particular requirement for the parking area to be appropriately screened at its perimeter, in accordance with AO8 of the Tourist Accommodation Zone code, which calls up the specific landscaping requirement for screening of parking areas.

Crocodile Risk Management

The canal is known crocodile habitat. The proposed function facility utilises areas such as the grassed outdoor area on the northern side of the canal as function space. Through the development assessment process Council officers have determined that the use of the grassed area gives rise to the risk of a crocodile attack in some parts where the slopes down to the waters edge allowing for easy access by patrons, particularly children.

The applicant has recently constructed a significant earth bund with plantings across it to inhibit canal access by the function facility patrons. Officers consider this to be a reasonable step to take to mitigate the risk of crocodile attack however, officers consider that there is more that needs to be done to ensure the safety of patrons of the function facility. For example, patrons need to be made aware of the risks associated with the site. A condition has been imposed to require a crocodile risk management plan to be submitted for Council to endorsement. Any consideration of this will be in conjunction with the Department of Environment and Science.

Referral Agency Requirements

There were no referral agencies triggered for this application.

Public Notification / Submissions

The application is code assessable but no submissions were received.

ADOPTED INFRASTRUCTURE CHARGES

The proposed development does not trigger Adopted Infrastructure Charges.

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 *Planning Act 2016* and the *Planning Regulation 2017*, Council is the assessment manager for the application.

ATTACHMENTS

1. Attachment 2- Supporting Information to Planning Report (Acoustic Assessment) **[5.1.1]**
2. Attachment 1- Approved Plan **[5.1.2]**
3. Attachment 3- Statement of Reasons **[5.1.3]**

Acoustic Assessment

St Cripsin's Station building

Anne Pals Bleeksma

Acoustic consultant

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consultant@cairnsacoustics.com.au

Date: Thursday, 26 July 2018

Summary

Cairns Acoustics has been engaged by Post Douglas Steam Train Co Pty Ltd to establish noise levels experienced at neighbouring properties, especially Lot 1 on SP154572, with regards to the added functionality of Wedding Venue near the existing restaurant.

It has been found that noise levels experienced at afore mentioned lot as a result of activities at Choo Choo's restaurant and adjoining wedding facility can be constrained to be within regulations, and to prevent them to become a nuisance otherwise through the application of an easily implementable noise management plan.

Further away from the venue are residences at Unit 6/1-7 St Crispin's Avenue and units 7 till 12 on 5-9 Escape Street.

Applicable noise regulations

The Office of Liquor and Gaming Regulation

This venue has a Liquor Licence, hence the noise regulations from the OLGR apply. They are

Time of day	Maximum allowable level
6am - 10pm	L(A)10, adj must not exceed the background level L(A)90 by more than 10dB(A)
10pm - 6am	Loct10 must not exceed the background level Loct90 in any of the frequency bands from 63Hz till 2000HZ by more than 8dB

Shire

Port Douglas Shire Council has regulations in place that state maximum intrusive noise levels for a number of sources (<https://douglas.qld.gov.au/business/environmental-protection/noise/>). Relevant to this venue are sources and maximum allowable noise levels

Source	Time of day	Maximum Allowable Level
Regulated devices	Mon - Sat 7am - 7pm Mon - Sat 7pm - 7am Sundays & public holidays: 8am - 7pm 7pm - 8am	Regulated devices may be used No audible noise allowed Regulated devices may be used No audible noise allowed
Refrigeration Equipment	7am - 10pm 10pm - 7am	Not more than 5dB(A) above background level Not more than 3dB(A) above background level
Open-air events	7am - 7pm 7pm - midnight	Not more than 70dB(A) Not more than the lesser of 50dB(A) and 10db(A) above background level
	Midnight - 7am	No audible noise permitted

Explanation

Explanation. First an explanation of the terms: *L(A)* stands for A-weighted sound level. Sound levels are a measurement of the pressure of air that carries the sound. 'A' stands for a way of weighting sound of different frequencies, which puts less weight on low and very high frequencies and more weight on frequencies of the middle and upper-middle range where the human ear is more sensitive. As an example: the trombone produces a higher sound pressure than the trumpet, but as the range of the trombone is much lower a trumpet sounds louder and accordingly it's A-weighted levels are higher.

L(A)10 stands for the A level that is exceeded 10 percent of the time and is a good measure of the loudest parts of the sound. *L(A)90* is the sound level that is exceeded 90 percent of the time and is a measure of the quietest parts of the sound.

'adj' stand for adjusted for tonality. When a single note is produced it penetrates the human mind better than when a more general noise is produced with the same sound pressure. For tonal sound the A levels are adjusted up in order to reflect this. The 'Noise Measurement Manual' from the Department of Environment and Heritage Protection prescribes an adjustment of 5dB.

('Loct' stands for levels in a limited range of frequencies and is effective in ensuring bass levels are not creating a clearly audible intrusion in the sound at an affected location. This is especially important when the background levels are lower, hence this measurement applies after 10pm. However operating hours of Choo Choo's are 6am - 10pm hence this is of no importance in this report.)

Discussion

Although the venue is regulated by the The Office of Liquor and Gaming Regulation, this report is made in order to establish a situation in which the venue does not create a nuisance. It is therefore prudent to compare expected sound levels with council regulations.

Regulated devices could be used for example if a catering service uses a refrigerated van with its own generator. Even though council regulations allow for this, one only needs to compare to the levels of refrigeration equipment to understand the use of a generator for several hours would thoroughly spoil a quiet afternoon.

Refrigeration equipment's maximum allowable noise levels have no specification of whether they are L(A)10, L(A)max, maximum instantaneous sound levels, or L(A)eq, equivalent ('average') sound levels, is not of great importance as refrigeration equipment's noise is relatively constant in level, which results in very similar numbers for L(A)10, L(A)max and L(A)eq.

Open-air events have the specific character of groups of people creating the bulk of the noise. General murmur is very unobtrusive background noise, and is often experienced as motivational as long as it is not too loud. Group laughter and an occasional cheer are also types of sound that humans can hear without getting disturbed from it. Of course when this gets too loud, or when there is a negative component - e.g. the laughter stems from clearly intoxicated people - this noise will become a nuisance. With the background noise lower than 40dB(A) the shire regulated levels are however higher (less strict) than the levels of the OLGR, hence when the venue complies with the latter, the regulations of the former are satisfied.

Sources of noise

The following is an extensive table with possible sources of noise that can be at play at the venue.

Source	L(A)	L(A),adj
Violin, Viola @3m	80-90dB	85-95dB
Cello @3m	80—104dB	85-109dB
Acoustic Bass @3m	74-90dB	79-90dB
Clarinet @3m	68-82dB	73-87dB
Flute @3m	92-105dB	97-112dB
Concerto Harp @3m	90dB	95dB
Singer @3m	70-85dB	75-90dB
String quartet @3m	70-92dB	75-97dB
Choir @3m	86dB	91dB
Acoustic guitar @3m	70dB	75dB
Passenger car engine idling @3m (90dB @525mm)	75dB	75dB
Spoken voice @3m, The Engineering Toolbox	50-68dB	50-68dB
50 voices at relaxed level at hypothetical 3m (hypothetical because an even sound from is achieved at 30m)	66dB	66dB

Source	L(A)	L(A),adj
100 voices at excited level at hypothetical 3m (hypothetical because an even sound from is achieved at 30m)	75dB	75dB
Generator @3m (e.g. for cooling van)	73-90dB	73-90dB

Estimation of noise levels at nearest affected location

The nearest distance between the proposed wedding facilities pontoon and Lot 1 on SP154572 is 53m. The distance from the reception area to Lot 1 on SP154572 is 38m.

Compared to the measured distance of 3m this means an attenuation of respectively 25dB and 22dB. Distance attenuation follows the rule of 6dB attenuation for each doubling of distance, $20\log(D1/D2)$.

A 6m high steel fence was recently placed in front of Lot 1. According to Vicroads publication 'A guide to reducing traffic noise' fences can reduce the noise by 5 - 10dB. For this case a prudent 5dB has been chosen.

Background levels have been taken on Tuesday 10 July at 4pm were found to be 41dB(A). Calibration test showed prior and post measurement levels of 94.0 dB, temperature was 22C, windspeed virtually 0 m/s and humidity appr. 55%.

Working back from the nearest affected location Lot 1 on SP154572 noise levels at the source, not allowed to create 10dB above the background level, would be 41 (background) + 25 (distance attenuation) + 10 (maximum allowable over) + 5 = 81dB(A) at the pontoon and 41 + 22 + 10 + 5 = 77dB(A) at reception area 2. It would allow for $77+* = 85\text{dB(A)}$ at reception area 1.

For the Unit 6/1-7 St Crispin's Avenue the next nearest distance from possible source of noise to affected location, this would become $41 + 28 + 10 = 79\text{ dB(A)}$. The third affected location would come to similar result (a roughly 10 increase in distance makes no audible difference in sound.)

Compared to Table 1 this leaves the possibility for spoken voice (the loudest level listed is for shouting), a singer with acoustic guitar or string quartet. Should reception area 1 be used, the maximum allowable noise level would be 79dB(A) - the second nearest location would be the most affected. One could argue that a clarinet could be used in reception area 1, however it is recommended to keep to the limited set of musical instruments of a string quartet, a harp, voice and acoustic guitar.

As for crowds, a crowd of 100 people at reasonably excited level all talking at the same time would yield 55dB (1 voice) + 20dB (100 times) = 75dB(A) . A crowd of 110 people - again all talking at the same time at reasonably excited level would yield the same result (75.4dB(A)). This sound level would not naturally occur unless all 100 people cheer at the same time. (Crowds at sports event however produce up to 10dB higher levels.)

Many catering companies hire out cooled vans which use a generator - this produce not only high noise levels, due to the fact they are a constant noise which continues at the same level for the entire event these can be annoying. Generators must therefore be avoided. A safe power point can be provided at the location of the reception, with or without a fair sized refrigerator which produces noise levels of less than 70dB measured at 3m from the source. It is to be placed at the side of the reception area furthest from Lot 1 on SP154572 .

It should be noted that the parking facility in the proposal is moved further away from the nearest affected premises, together with the changed direction allowing for shielding by the erected 6m fence this is expected to make a discernible reduction in noise.

It should further be noted that the above application of rules from the Office of Liquor and Gaming regulation constitutes the most strict application of sound regulation in this case. In other words, Council regulations would allow for higher noise levels.

Mitigation of noise

The calculations above come with a certain amount of uncertainty. Wind can increase background noise by up to 10dB for normal windspeed, and this would yield a genuine reduction of the annoyance of the intrusive noise. For the sound sources listed it is expected that the above calculation is a worst case result, which reaches circumstances in which the venue can operate safely.

Provided crowds act in an orderly manner, a cheerful experience can be had without disturbing the neighbours.

The behaviour of the crowd is a key factor in the production of noise, and a noise management plan is highly recommended to manage this. A noise management plan would consist of procedures of informing prospecting clients of the type of venue and the type of sound (and the avoidance of generator operated catering vans) which is allowed, as well as an induction for waiting staff, and instructions for supervising staff.

Waiting staff would be told how to spot potentially rowdy persons and how to address them, supervising staff would receive instructions on monitoring noise at events as well as dealing with unwanted situations.

It is advised to monitor sound levels, once during the ceremony (if there is a wedding) and once every hour for any other event. The location of the noise measurement should be 3.5m from the 6m wall as indicated on the map. (This noise measured at this location must be less than 15dB above background levels, or less than 66dB(A). For each event the choice of musical instruments must be noted, as well as the location of musical instruments (included voice), if any. This monitoring as well as council feedback is to be used to review the use and can provide information as to possible strengthening or loosening of sounds at the venue. The review should consider monitored sound levels, complaints or the absence thereof, and the frequency of events.

Should there be complaints, it is the applicants' utmost intention to investigate complaints and assess noise levels at the exact location of the complaint, during an event and preferably in presence of a council officer, in order to deal with noise issues swiftly and thoroughly.

Conclusion

Provided noise mitigation by means of a noise management plan is in place, and provided no amplifying devices are used, the proposed events facility can be run without causing a nuisance to neighbours.

It is recommended to do a review with the council officer in charge once every 6 months in the first two years in order to change procedures and noise management plan as necessary for either smooth operation of the business or further mitigation of possible noise issues.

A COPY OF THE CALIBRATION CERTIFICATE OF THE EQUIPMENT USED CAN BE OBTAINED BY E-MAIL TO: CONSULTANT@CAIRNSACOUSTICS.COM.AU

THURSDAY, 26 JULY 2018



DNRM DCDB, DNRM AERIAL PHOTOGRAPHY.
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The aerial photography used in this plan has not been rectified. The image has been overlaid as a best fit on the boundaries shown and position is approximate only.
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IMPORTANT NOTE
This plan was prepared as a concept plan only and accuracy of all aspects of the plan have not been verified.
All lots, areas and dimensions are approximate only. Subject to relevant studies, Survey, Engineering and Government approvals.
No reliance should be placed on the plan and RPS Australia East Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person who may use or rely on this plan.



Function Facility Site Plan
Part of Lots 49 & 51 on SP161464
Escape Street, Port Douglas



Legend
Function Facility Site



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ATTACHMENT 3 - NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

ASSESSMENT BENCHMARKS

Assessment Benchmark	Reasons for approval despite non-compliance with benchmark
Tourist Accommodation Zone Code PO7 of the code requires that development does not adversely affect the tropical, tourist and residential character and amenity of the area in terms of traffic, noise, dust, odour, lighting or other physical or environmental impacts.	<ul style="list-style-type: none"> • The development has been conditioned to require a noise management plan and an acoustic assessment. • The hours of operation have been limited by way of a condition. • The parking area has been condition to be imperviously sealed mitigating dust impacts. • The number of patrons has been limited by way of a condition. • A landscaping plan has been required by a condition. • Residential lots immediately adjoining the canal area proposed as function facility area have been conditioned to only be used as short term accommodation in place of the existing approved use of 'Dwelling House' as per Development Approval CA2639/2008, prior to the occupation of the premises established on Proposed Lots 9, 8, 7, 26, 25, 24 and 23, otherwise the approved Function Facility use shall cease or be changed to adequately manage potential adverse noise impacts. This gives the applicant the opportunity to change the function facility approval to satisfy Council or to change the approved use of the adjoining land to short term accommodation only, which is expected to mitigate the amenity expectation of surrounding land uses.
Acid Sulfate Soils Overlay Code A1.1 No excavation or filling occurs on the site. Or AO1.2 An acid sulfate soils investigation is undertaken.	<ul style="list-style-type: none"> • The construction of the car park will require minor topdressing and minor excavation on the existing house pads on site. The overarching development approval CA2639/2008 already addressed the acid sulfate soils disturbance at the site. These two points considered, no further investigation to complete the works is required. Further, the threshold of works would not trigger acid sulfate soil investigation under the State Planning Policy as it is not anticipated that greater than 100 cubic metres of excavation is required under the 5 metre AHD mark.
Landscaping Code	<ul style="list-style-type: none"> • No landscaping plan has been submitted as part of the application. It is common practice to condition the requirement for a landscaping plan as part of a development approval. A

<p>AO1</p> <p>Development provides landscaping:</p> <p>(a) in accordance with the minimum area, dimensions and other requirements of applicable development codes;</p> <p>(b) that is designed and planned in a way that meets the guidelines for landscaping outlined in Planning Scheme Policy SC6.7 – Landscaping;</p> <p>(c) that is carried out and maintained in accordance with a landscaping plan that meets the guidelines for landscaping outlined in Planning Scheme Policy SC6.7 - Landscaping.</p>	<p>landscaping plan has been conditioned as part of the approval with a particular requirement for the parking area to be appropriately screened at its perimeter, in accordance with AO8 of the Tourist Accommodation Zone code, which calls up the specific landscaping requirement for screening of parking areas.</p>
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