


SHIRE OF CUBALLING



*A progressive, diverse and caring community,
with access to modern services and infrastructure,
in a unique part of the world*

MINUTES

for the

Ordinary Meeting of Council

held

3PM, THURSDAY 20th OCTOBER 2016

These minutes were confirmed at the Ordinary Meeting held on Thursday 17th November 2016.

Signed.....

Cr Mark Conley, Shire President

Thursday 17th November 2016

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1. DECLARATION OF OPENING:

The Shire President, Cr Conley, declared the meeting open at 3.00pm.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

2.1.1 Attendance

Cr Mark Conley	President
Cr Eliza Dowling	Deputy President
Cr Dawson Bradford	
Cr Tim Haslam	
Cr Roger Newman	
Ms Tonya Williams	Deputy Chief Executive Officer
Mr Bruce Brennan	Works Manager
Mr Steve Thompson	Town Planner
Ms Nichole Gould	Administration Officer
Mr Ries Chattillon	
Mr Barry Wood	
Ms Deborah Hopper-Wood	
Mr Ryan Hall	
Mr Neil Francis	
Mr John Street	
Mrs Raewyn Street	
Mr Anthony Hendriques	

2.1.2 Apologies

Cr Scott Ballantyne	
Mr Gary Sherry	Chief Executive Officer

2.1.3 Leave of Absence

Nil

3. STANDING ORDERS:

OFFICER'S RECOMMENDATION:

That Standing Orders be suspended for the duration of the meeting to allow for greater debate on items.

Moved: Cr Dowling

Seconded: Cr Newman

Carried 5/0

4. PUBLIC QUESTION TIME:

4.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:

Nil

4.2 WRITTEN QUESTIONS PROVIDED IN ADVANCE:

Nil

4.3 PUBLIC QUESTIONS FROM THE GALLERY:

4.3.1 Road Signage Great Southern Highway & Popanyinning East Road

Mr Reis Chattillon advised that he had seen vehicles go through the give way sign at the intersection of Great Southern Highway and Popanyinning East Road and nearly cause an accident. Mr Chattillon believed that this unsafe behaviour maybe because drivers focus on the stop sign at the Railway crossing on Bunmulling Road. Mr Chattillon asked, if Council had plans to change the give way sign to a stop sign at this intersection?

Council's Manager of Works and Services, Mr Bruce Brennan, advised that he and other staff had not been informed of this driver behaviour and advised that that a request would need to be put to Main Roads WA as they are responsible for the location of all road enforcement signage.

4.3.2 Motorcycle Park

Mr Ryan Hall stated that Motorcycle Park noise is still an issue, and asked if Council is aware of current noise levels and the impact on neighbours? Mr Hall also asked if Council was aware of the current non-compliance of the current approval?

The Shire President, Cr Conley, advised that Council is aware that nearby residents consider the noise of the Motorcycle Park to be an issue and Council is actively working with the owners of the Motorcycle Park to implement a solution.

4.3.3 Motorcycle Park

Mr Ryan Hall asked what Council will do if approval is granted and the noise is non-compliant?

The Shire President, Cr Conley, advised that as Council had not granted an approval at this time, he could not answer a hypothetical question.

4.3.4 Motorcycle Park

Ms Deborah Hopper-Wood asked if the owners of the Motorcycle Park will be required to comply with the original conditions of approval while the current application is being decided?

The Shire President, Cr Conley, advised that Council will continue to work with the owners of the Motorcycle Park and that Council will require the Motorcycle Park to comply with their existing approval.

4.3.5 Motorcycle Park

Ms Raewyn Street advised that the Motorcycle Park was currently being blamed for noise after hours and that the Motorcycle Park would consider purchasing a Noise Monitoring Device. If a Noise Monitoring Device was purchased, Ms Street asked if or how Council would use the information collected.

The Shire President, Cr Conley, advised that he could not answer the question at this time as the item had not been considered yet.

4.3.6 Motorcycle Park

Mr Reis Chattillon asked why the previous administration had not consulted with nearby ratepayers/landowners when the current approval for the Motorcycle Park was decided?

The Shire President, Cr Conley, responded that from his memory, there may have been a general publication in the form of the newsletter or flyers but it was possible that no official letters were sent.

4.3.7 Motorcycle Park

Mr Reis Chattillon stated that if an extension to the motorcycle park was granted, the existing toilet facilities would be insufficient. Are the owners going to install a better facility if extension is granted?

The Shire President, Cr Conley, advised that a new application for an upgrade ablution block had been submitted by the owners of the motorcycle park that is currently under consideration.

4.3.8 Popanyinning East Road - Speed Signs

Mr Reis Chattillon asked if the Shire will put speed signs on Popanyinning East Road as people currently hoon and speed past?

Council's Manager of Works and Services, Mr Bruce Brennan, replied that road speed limits are assessed and set by Main Roads WA. Mr Brennan advised that Main Roads WA had been requested to assess the Popanyinning East Road but Council had not been advised if that assessment had been completed.

The Shire President, Cr Conley, advised that driver behaviour is a police matter and Council would assist the local police in enforcing speed limits in the Shire of Cuballing.

4.3.9 Motorcycle Park

Mr Barry Wood stated that fire is a big risk particularly if there is a big wind. What resources are currently available at the Motorcycle Park to put a fire out?

The Shire President, Cr Conley, advised that Council's Chief Bush Fire Control Officer has reviewed the Motorcycle Park's current Fire Management Plan and is satisfied that the plan meets requirements.

4.3.10 Motorcycle Park

Ms Deborah Hopper-Wood advised that she does not object to the Motorcycle Park but that one problem is the degree of inconvenience to neighbours. Ms Hopper-Wood believes that the owners have overstepped the mark from their original approval. Ms Hopper-Wood asked how Council would enforce any conditions on an approval to this application?

The Shire President, Cr Conley, advised that as this is a hypothetical question at present he could not answer at this time.

4.3.11 Motorcycle Park

Mr Ryan Hall asked that, given that the Shire of Cuballing is a smaller Shire with limited resources compared to a large metropolitan Council, what is a realistic level of Council monitoring if approval is granted?

The Shire President, Cr Conley, advised that Council can utilise noise monitoring equipment from the Department of Environment Regulation. The results of such monitoring may assist in determining if Council took action or not.

4.3.12 Firebreak Requirements

Mr Neil Francis asked what the firebreak regulations for a privately owned bush block were?

The Shire President, Cr Conley, took the question on Notice.

4.3.13 Motorcycle Park

Mr Ryan Hall asked that should Council not approve the decision, would Council be prepared to negotiate with the owners to find an alternative option to suit the adjoining landowners?

The Shire President, Cr Conley, advised that Council would continue to work the owners of the Motorcycle Park and neighbours to implement a solution.

4.3.14 Motorcycle Park

Mr Barry Wood stated that most industries have standards imposed by others that they must comply with. Mr Wood asked if Council would look at these types of standards when making their decision?

The Shire President, Cr Conley, advised that Council would need to be careful not to step outside of their legal jurisdiction when considering industry standards or guidelines.

4.3.15 Victoria Road

Mr Anthony Henriques queried the condition of Victoria Street and Alexandria Street and whether works will be carried out on this road and when?

Council's Manager of Works and Services, Mr Bruce Brennan, advised that a 500 metre section of Victoria Street will be constructed and sealed early next year.

4.3.16 Rubbish Collection Services Contract

Mr Henriques advised that Council's new Kerbside Waste Collection Rubbish collection service was like a noose around his neck financially. Mr Henriques does not believe there is sufficient rubbish bins, particularly in his street, to warrant this service. Mr Henriques asked if it was possible to view Council's contract with Great Southern Waste Disposal and if there was an option to extend this contract?

The Shire President, Cr Conley, took the question on notice.

Mr Francis left meeting at 3.30pm

Mr Henriques left the meeting at 3.31pm

Cr Conley advised of a change in the order of proceedings and requested that Council consider Agenda Item 9.2.2 at this time.

9.2.2 Development Application for an expanded Motorcycle Park - Lot 101 Reeds Road, East Popanyinning - Interim Report Following Public Submission Period

Location:	Lot 101 (Plan No. 60143) Reeds Road, East Popanyinning
Applicant:	John & Raewyn Street
Owner:	John & Raewyn Street
File Ref. No:	A990
Date:	13 th October 2016
Author:	Gary Sherry
Attachments:	9.2.2A Council resolution on 20 February 2014 9.2.2B Information submitted by the applicant 9.2.2C Location plan 9.2.2D Summary of submissions 9.2.2E Submissions 9.2.2F Location of nearby landowners/residents who made a submission 9.2.2G Location of nearby dwellings 9.2.2H Recent information from the applicant

Summary

This report outlines the outcomes of the consultation period, broadly considers the submissions and sets out the suggested next steps regarding the Development Application. Following the applicant providing required information, the Development Application will again be reported to Council.

Background

1. *Purpose of report*

The purpose of this report is to:

- inform Council of the outcomes and issues arising from the public consultation period;
- seek Council direction for required additional technical investigations and supporting information; and
- outline the next steps relating to the Development Application.

2. *Previous Council resolutions*

The Council has considered the Motorcycle Park on a number of previous occasions. This includes:

- 18th April 2013 – considered the initial Development Application and in part resolved that ‘Council write a letter to the applicant stating that they require a report from a Town planning consultant with regards to the Motorcycle Park’;
- 18th July 2013 – related to the easement, which provides vehicular access between Reeds Road and the Motorcycle Park, including its standard of construction;
- 15th August 2013 – granted conditional development approval; and
- 20th February 2014 – revoked previous decisions and granted conditional development approval. The Council resolution is provided in Attachment 9.2.2A and includes conditions relating to matters including hours of operation, Fire and Emergency Management Plan, provision of emergency access to Calcoran Road, and no more than 10 patrons on the property.

In April 2016 the Shire became aware that the operators were operating in a manner that was inconsistent with the development approval dated 20th February 2014.

The Shire met with the operator, advised of the requirement to comply with the conditions of the 20th February 2014 approval and that they have a right to submit a new Development Application. The Shire advised that any new Development Application should contain clearer plans, clarify uses, update the Fire and Emergency Management Plan and address effective management including being a 'good neighbour'.

3. *The proposal*

The applicant has submitted a Development Application to modify the previous development approval for a Motorcycle Park on Lot 101 Reeds Road, East Popanyinning through proposing to expand the operation through additional days, additional operating hours and additional riders. In particular, in addition to what the applicant currently has conditional approval for, the applicant now seeks to:

- operate on Wednesdays and Thursdays;
- operate an hour earlier from 8.00am on Sundays;
- extend the number of patrons from 10 to 60; and
- enable camping (although limited information was provided by the applicant).

Details originally submitted by the applicant with this Development Application are set out in Attachment 9.2.2B. The facility operates under the name of Ducks Nuts Motorcycle Park.

4. *The site*

The site:

- is situated approximately 4 kilometres north-east of Popanyinning. The site's location is shown in Attachment 9.2.2C;
- has an area of 133.66 hectares, is largely cleared and is predominantly used for cropping and livestock;
- contains four existing motorcycle tracks along with a shed, sea containers and ablutions;
- is flat to gently sloping;
- contains a creek in the northern section; and
- adjoins the unconstructed Calcoran Road and has legal and practical vehicular access to Reeds Road via an easement.

5. *Public consultation*

The Shire administration invited comment on the Development Application through writing to 63 adjoining and nearby landowners, placing details on the Shire website, placing a notice in the Narrogin Observer, placing a public notice on the Shire and other private notice boards, and having details available at the Shire office.

6. *Submissions*

The Shire received 16 submissions on the Development Application which are set out in Attachments 9.2.2D and Attachment 9.2.2E, noting that Karen Forth provided two letters. In summary, the submissions can be divided as follows:

- 10 submissions raising objections with the Development Application;
- 2 submissions raising issues with the Development Application;
- 1 submission raising no objections with the Development Application; and
- 3 submissions supporting the Development Application.

The reasons for opposing the Development Application, along with key issues raised, are summarised below:

- noise and dust impacts extend into adjoining properties;
- it negatively impacts the rural character and amenity of the area along with the quiet enjoyment of adjoining and nearby properties;
- various tracks are located on the property boundaries, there are insufficient buffers and physical barriers to other properties and some tracks should be relocated to increase buffers;
- insufficient information and technical investigations have been undertaken to make an informed assessment including relating to noise impacts,
- question the economic and social benefits to Popanyinning and the district;
- increased fire risks on surrounding areas and there is a need to prepare an appropriate Fire and Emergency Management Plan;
- the proposal is inconsistent with the *Shire of Cuballing Town Planning Scheme No. 2* including the aims of the Scheme and objectives for the General Agriculture Zone;
- safety and other associated risks, including that approval could result in the Shire and the operator being exposed to liability risks if necessary risk management, insurances, accreditation and track design are not appropriate;
- increased traffic, safety and maintenance impacts on Reeds Road and East Popanyinning Road and concerns that Shire of Cuballing ratepayers will meet the costs;
- it will promote anti-social behaviour including 'hoon behaviour' on local roads;
- environmental impacts including risk of fuel and oil spills;
- incompatibility of the proposed facility with the character of the surrounding area;
- detrimental impact on property values; and
- visual impacts.

Attachment 9.2.2F shows the location of nearby landowners/residents who made a submission.

In accordance with standard practice, the Shire administration provided the applicant with copies of the submissions/summary of submissions in order to address concerns and issues where possible. The Shire administration sought the applicant's advice on a range of matters including:

- opportunities to reduce noise impacts and whether the applicant would commission an independent noise assessment to determine noise levels from the Motorcycle Park;
- clarifying whether camping is proposed, associated numbers and proposed facilities;
- oversight of the Motorcycle Park operation including ensuring that operating hours are met by clients, ensuring that the number of users is within any approval level, particularly loud or unsafe bikes are not used and patrons comply with park rules relating to fires;
- how the increase in activity/users will be addressed in the Fire and Emergency Management Plan; and
- opportunities to assist in reducing the impact of the operation on neighbours including traffic conflicting with agricultural uses such as moving stock or machinery.

The applicant's response is provided in Attachment 9.2.2H.

7. *Planning framework*

There are various planning and associated documents relevant to the application including:

- *Shire of Cuballing Town Planning Scheme No. 2 (TPS2);*
- *Shire of Cuballing Local Planning Strategy;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Environmental Protection Noise Regulations 1997;*
- various State Planning Policies (SPP) including *SPP 2 Environment and Natural Resources, SPP 2.5 Land Use Planning in Rural Areas, SPP 2.9 Water Resources, and SPP 4.1 State Industrial Buffer Policy;*
- Environmental Protection Authority (EPA) *Guidance Statement No. 3 Separation Distances between Industrial and Sensitive Land Uses, EPA Guidance Statement No. 33 - Environmental Guidance for Planning and Development, and EPA Environmental Assessment Guideline for Consideration of environmental impacts from noise;*
- *Guide to management of noise from motor sport venues;* and
- a portion of the site is classified as a bushfire prone area as set out at <https://maps.slip.wa.gov.au/landgate/bushfireprone/>.

In summary, the documents require addressing relevant planning, environmental, amenity, risk, safety, servicing and landscape considerations and seeking to diversify the local economy. Some of the key documents are further outlined below.

Shire of Cuballing Town Planning Scheme No. 2

The site is zoned 'General Agriculture' in TPS2. The Motorcycle Park fits into the definition of 'recreation-private' which is defined as:

“recreation – private” – means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;’.

'Recreation – private' is a 'D' use in the General Agriculture Zone as set out in the Zoning Table. Clause 4.3 of TPS2 states a 'D' use 'means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.'

Camping is not a listed use in the Zoning Table. Sub-clause 4.4.2 of TPS2 sets out the options for the local government to determine the non-listed uses. By way of comparison, a 'caravan park' is an 'A' use in the General Agricultural Zone (the Development Application needs to be advertised for comment prior to determination by the local government).

Clause 1.6 titled 'Aims of the Scheme' includes the following aims:

'To protect good quality agricultural soils suitable for sustainable production from inappropriate subdivision and development for non-agricultural purposes'; and

'To encourage economic growth in rural areas by facilitating the more intensive and diversified use of rural land in appropriate areas for high value products which are compatible with surrounding farm practices and encouraging processing and value adding industries to be located within the Shire'.

Objectives for the General Agriculture Zone in clause 4.2(b) include:

'To preserve productive land suitable for grazing, cropping and other compatible productive rural uses in a sustainable manner'; and

'To ensure the preservation of the rural character and rural appearance of land within the zone'.

Shire of Cuballing Local Planning Strategy

The Local Planning Strategy provides no direct guidance relating to Motorcycle Parks. The strategy does, amongst matters, seek to protect prime agricultural land, to promote the provision of additional businesses in the district, to prevent the intrusion of land uses not compatible with primary agricultural activities, and to promote best practice land management.

SPP 4.1 State Industrial Buffer Policy

SPP 4.1 applies to industrial development, transport and infrastructure proposals and special uses including recreational facilities such as speedways. In summary, development is required to be appropriately sited, designed and managed 'to ensure that amenity (environmental quality, health and safety standards) is maintained at acceptable levels to surrounding areas and to 'sensitive uses'.

The policy in part states:

'While buffer areas are an effective tool for dealing with residual emissions and risk, they often affect land not owned by the proponent (which is often held in private ownership) and can result in limitations being imposed on the use and development of this land. This raises issues of equity and possible compensation, in particular, who should "pay" for off-site buffer areas around proposed or established industry and infrastructure.'

'Proposals for new development and expansion/upgrading of existing facilities ...should have regard to the interests of affected landowners in surrounding areas, where unacceptable impacts extend beyond any existing buffer areas...In recognition of these interests, the developer may need to upgrade processing systems to mitigate impacts and negotiate with affected landowners'.

'Off-site buffer areas should be defined and secured as early as possible in the planning stages for new facilities and the expansion/upgrading of existing facilities'.

SPP 4.1 sets out that developers/proponents have various economic mechanisms to secure a buffer area. These measures include outright purchase, land swaps and acquiring interests or rights to restrict the development or use of land. This last mechanism involves entering into agreements with the owners of vacant land to acquire the rights or interests in land to restrict its development or use. The mechanism in such agreements can be registered as a restrictive covenant on the title. Under this option the owner could continue to own and use the land in a way that is compatible with the adjoining use.

Environmental Assessment Guideline: Consideration of environmental impacts from noise

The EPA guideline in part states:

- the EPA's objective, in the first instance, is that proposals will demonstrate compliance with the noise regulations;
- the EPA expects proponents to use best practice design and noise management and to demonstrate how the proposal will be implemented to achieve compliance with these statutory and policy instruments;

- land use planning, through the designation of land use zones and the approval of planning applications, is integral to preventing land use conflicts and protecting the amenity of the community from noise; and
- the EPA expects that appropriate distances are established for separating the source of noise emissions from impacting on the health and amenity of nearby sensitive receivers – known as ‘separation distances’. Noise attenuating design, construction and installations should be incorporated into the developments, so as to avoid land use conflicts arising.

Other policies and guidelines

There is no standard separate distance (buffer) for Motorcycle Parks in Western Australia. Various publications mention related uses such as raceways for motor vehicles (speedways and drag strips) and outline the key emission impacts are noise and dust. The recommended separate distance is to be determined on a ‘case by case’ basis.

Comment

1. *Overview*

At this stage, it is recommended that the Council defer making a decision on the proposed expansion of Motorcycle Park operations. The proposal represents a significant ‘ramping up’ of operations compared to previous Council approvals which is expected to create off-site impacts. At this stage, the applicant has not provided sufficient information to enable the Shire and others to make an informed assessment. It is suggested, as a minimum, that the applicant provide the following information:

- a) clear site plan/s which is/are to scale, based on aerial photography, which show the four tracks, existing facilities and proposed Motorcycle Park facilities including the camping area;
- b) provision of certificates of insurance including public liability and personal accident insurance relating to Motorcycle Park activities;
- c) a noise assessment, by a suitably qualified acoustic consultant, that outlines existing noise levels from existing operations, predicted noise levels from proposed operations, mitigation measures and recommendations;
- d) a dust suppression plan; and
- e) a management plan which addresses matters such as managing clients, minimising risks, promoting safety and being a good neighbour.

Following the receipt of requested information from the applicant, the Shire administration will report back to Council, with the Council to consider whether or not it will grant conditional development approval to expand the Motorcycle Park operations.

2. *Environmental and social impacts*

A range of environmental and social impacts have been raised by objectors which are summarised in the background section and set out in the attachments. The objections and issues raised must be carefully taken into account as required by the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Subject to the applicant appropriately addressing requested information, it is suggested that various objections and issues can be addressed through development conditions or other legislation.

Some matters raised by objectors are beyond the powers of the Shire such as 'hoon' behaviour on local roads given it is a police matter. Council may be able to separately address this matter through liaison and information provision to local police.

3. *Noise impacts*

It is suggested that noise impacts are the key issue with this Development Application. In summary, given the location of the tracks adjacent to property boundaries, the number of proposed riders and the topography, it is expected that noise impacts extend into properties not owned by Mr and Mrs Street. No noise assessment has been prepared for the Motorcycle Park and the existing operation may or may not comply with the *Environmental Protection Noise Regulations 1997*.

Prior to considering a Development Application to significantly expand the operations, it is suggested there is a need for a noise assessment to be prepared by a qualified practitioner to provide critically required technical evidence. It is suggested that the noise assessment should outline noise levels from existing operations, predict noise levels from proposed operations, take account of the statutory right for at least one dwelling on each adjoining and nearby lot, outline mitigation measures and recommendations. The noise assessment should be to the satisfaction of the local government and the Department of Environment Regulation. The noise assessment will assist to provide certainty for the operators, neighbours, the Shire and other stakeholders as to the current situation and the expected noise impact of the proposed expanded operations.

Previous reports to Council have also recommended that a noise management plan be prepared. Good land use planning should seek to avoid noise problems in the first place.

By way of background, the applicant in their letter dated 3rd July 2012 in part stated 'We have contacted Motorcycling WA...and they will also be providing us with equipment to ensure the noise levels are within regulation.' It is understood the operators do not have noise measuring equipment.

While there are limited nearby dwellings, owners of adjoining and nearby titles have a statutory right to gain approval for a single house on each title providing there is appropriate legal and practical vehicular access. Sub-clause 5.11.1 of TPS2 also enables the local government to approve up to 2 dwellings on any lot in the General Agriculture Zone under certain circumstances.

In addition to the *Environmental Protection Act 1986* and the associated *Environmental Protection (Noise) Regulations 1997*, there could be scope for neighbouring landowners to bring a common law action against the Motorcycle Park operator to prevent noise pollution for nuisance or seek compensation.

4. *On-going management*

There is a need for effective on-going management which appropriately addresses the safety, security and management of riders and visitors. The operator has the primary duty of care for the Motorcycle Park to ensure that riders and visitors are responsible and do not create inappropriate impacts, including noise, dust, fire, litter etc. to adjoining/nearby properties.

To minimise land use impacts and encourage appropriate neighbourly relations, it is recommended the operator/applicant submit an appropriate Management Plan. It is expected the Management Plan would:

- address the responsibility for rider/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
- outline the approach to maximise the safety and security of riders/visitors; and
- seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks.

Strategic Implications

It is understood that Motorcycle Park clients live in the district, Wheatbelt, Perth and in other parts of Western Australia. The Motorcycle Park provides an important regional recreational facility in a controlled environment.

Statutory Environment

Planning and Development Act 2005, Planning and Development (Local Planning Schemes) Regulations 2015, Environmental Protection Act 1986, Environmental Protection Noise Regulations 1997, and TPS2.

Policy Implications - Nil

Financial Implications

All costs associated with the development will be borne by the applicant. Should the applicant be aggrieved by Council's decision, the applicant may seek a review of that decision to the State Administrative Tribunal (SAT). The Shire could be liable for costs associated with defending the decision at a SAT hearing. SAT would then have the final decision on the Development Application.

Economic Implications

The applicant advises its operation and its clients support local businesses.

Social Implications

Various residents have concerns or oppose the application due to impacts on amenity, quality and life and implications on human health.

Environmental Considerations

Given the Motorcycle Park is located on cleared land, it is expected that the impacts could be environmentally acceptable if the operator appropriately manages risks and operations.

Consultation

Consultation was recently undertaken by the Shire administration.

Options

The Council can:

1. approve the Development Application with no conditions (giving reasons);
2. approve the Development Application with conditions (giving reasons);
3. refuse the Development Application (giving reasons); or
4. defer and request additional information.

Voting Requirements

Simple Majority

COUNCIL DECISION:

That Council in relation to the Development Application for the proposed expansion of the Motorcycle Park operations on Lot 101 (Plan 60143), Reeds Road, East Popanyinning:

- 1. defer making a decision on the Development Application and request the applicant provide the following information:**
 - a. a clear site plan/s which is to scale, based on aerial photography, which shows the four tracks, existing facilities and the proposed Motorcycle Park facilities including the camping area;**
 - b. provision of certificates of insurance including public liability and personal accident insurance relating to Motorcycle Park activities;**
 - c. a noise assessment, by a suitably qualified acoustic consultant, that outlines noise levels from existing operations, predicted noise levels from proposed operations, mitigation measures and recommendations;**
 - d. a dust suppression plan; and**
 - e. a management plan which addresses matters including managing clients, minimising risks, promoting safety and being a good neighbour;**
- 2. note the Shire administration will separately report back to the Council, following matters set out in point 1 being suitably addressed, with the Council to determine whether or not it will approve the Development Application for the expanded Motorcycle Park operations;**
- 3. if the applicant is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.**

Moved: Cr Haslam

Seconded: Cr Bradford

Carried 5/0

Ms Hopper-Wood, Mr Wood, Mr Street, Ms Street, Mr Chattillon, Mr Hall and Mr Thompson left the meeting at 4.00pm.

9.4.27 MOTORCYCLE PARK – LOT 101 REEDS ROAD, POPANYINNING

Submission to:	Ordinary Meeting of Council
Date:	3 February 2014
Location/Address:	Lot 101 Reeds Road, Popanyinning
Reporting Officer:	Allan Ramsay, EHO/BS & Eva Haydon, CEO
Enabling Legislation:	Health Act 2011 Building Regulations Environmental Protection (Noise) Regulations 1997
Council Policy:	Town Planning Scheme No 2
Budget Implications:	Nil
File Reference:	Town Planning 3
Voting Requirements:	Simple majority
Attachments:	Nil

Background

Three reports have been presented to Council over the 12 months in relation to the proposed Motorcycle Park with various resolutions, including two mediation meetings with the State Administration Tribunal. The matter has so far resulted in Council resolving the following:

July 2013 9.4.23**COUNCIL DECISION:**

That Council resolves to approve option A for Mr. & Mrs Street to enable them to prepare for the State Administration Tribunal mediation meeting to be held on the 7 August 2013 between the Shire of Cuballing and Mr. & Mrs. Street

Option A - That the easement be developed to the following minimum standard:

1. Pavement formation(running surface) of seven(7) metres in width;
2. Runoff batters for emergency purposes;
3. The proposed work be carried out by the Shire of Cuballing Works Department at a maximum cost of \$5,000.00;
4. Mr. Street to eradicate grass/weeds prior to any works on the easement;
5. The Shire of Cuballing Local Government Authority not to be held responsible for the location of the road works to the easement unless the easement is surveyed by a licensed surveyor;
6. This approval does not mean that the application for the motorcycle Park is approved as it only refers to the easement for the SAT mediation meeting to be held on the 7th August 2013 as the first step of the approval process; and
7. The upgrade of the easement and its use by the public needs to be understood clearly by each landowner having rights of the easement and in particular their obligations in the event of ongoing maintenance and liability in the event of accidents

Moved: Cr Haslam**Seconded: Cr Conley****Carried 5/0**

August 2013

Council Decision 9.4.25**That:**

- 1 1 The Environment Health Officer/Building Surveyor's report on the Motorcycle Park is received and information noted;
- 2 The Motorcycle Park at Lot 101 Reeds Road Popanyinning be approved subject to the following conditions
 - a) The Registered Easement to the property be developed to the following minimum standard with the works to be carried out by the Shire of Cuballing or an alternative competent person, with said development to be inspected and approved by the Shire of Cuballing Works Manager;
 - *Pavement formation (running surface) of seven (7) metres in width;*
 - *Runoff batters for emergency purposes;*
 - *The proposed work be carried out by the Shire of Cuballing Works Department at a maximum cost of \$5,000.00 or alternatively by a private contractor, with finished pavement formation to be approved by the Shire of Cuballing Works Manager.*
 - *Mr Street to eradicate grass/weeds prior to any works on the easement;*
 - *The Shire of Cuballing Local Government Authority not to be held responsible for the location of the road works to the easement unless the easement is surveyed by a licensed surveyor;*
 - *This approval does not mean that the application for the motorcycle Park is approved as it only refers to the easement for the SAT mediation meeting to be held on the 7th August 2013 as the first step of the approval process; and*
 - *The upgrade of the easement and its use by the public needs to be understood clearly by each landowner having rights of the easement and in particular their obligations in the event of ongoing maintenance and liability in the event of accidents*
 - b) A toilet, approved by the Health Department, be provided at a location as close as practicable to the motorcycle tracks on the property and the appropriate health approvals be obtained from the Shire of Cuballing.
 - c) A Fire Management Plan be prepared and approved by the Popanyinning, Bushfire Control Officer and provided to Council's Emergency Services Officer and an Emergency Management Plan
 - d) Other property owners along the registered easement being advised that the Motorcycle Park users will be accessing the property by way of the registered easement and written acknowledgement from the abovementioned property owners be provided to Council;
 - e) Hours of operation to be as follows, excepting days when a movement of machinery in paddocks ban is in force, or days when a total fire ban has been declared:

Friday	8am to 5pm
Saturday	8am to 5pm
Sunday	9am to 5pm
Monday	8am to 5pm
 - f) There is to be no preparation of food for sale on the property.
 - g) Noise levels to be monitored and recorded quarterly and provided to the Shire of Cuballing. Mr & Mrs Street to be advised that should residences be built on adjoining

properties within close proximity of the motorcycle tracks, all requirements of the Environmental Protection Act with respect to noise levels will apply.

- h) The Motorcycle Park to comply with the provisions of the Health Act 1911 (as amended)
- i) The current outbuildings on the property should not be used for accommodation for either owners or users of the Motorcycle Park
- j) Dust suppression measures to be implemented and be documented in a dust management plan and approved by the Environmental Health Officer at the Shire of Cuballing.

Moved Cr McDougall

Seconded Cr Haslam

Carried 5/0

OFFICER COMMENT

In response to the Council's resolution August 2013 the following is noted:

- 2 (a) the easement to the property has not been graded however is able to be travelled upon by a 2wd vehicle.

In relation to the SAT mediation meeting Mr. Street decided not to pursue a hearing through SAT following a meeting he had with the CEO and the ex Shire President. This means that the initial resolution by Council at its April 2013 meeting which relates to Mr. Street providing a report by a Town Planning Consultant did not eventuate;

- (b) The requirement for toilet facilities has been reduced as it has been verbally indicated that only up to 10 patrons will be using the park at any one time. Therefore, approval has been issued for the toilet facilities on the condition that the numbers using the park at any one time do not exceed 10 persons. Should the park have any more than this number then the toilet facilities will need to be re-assessed.
- (c) The fire Management Plan has not been received from the Popanyinning Bush Control Officer. An inspection of the proposed Motorcycle Park by the author of this report on the 30 January 2014 in company with Chief Bushfire Control Officer Mr. Anthony Mort revealed deficiencies in egress from the park in case of an emergency such as a bush fire. The property is completely landlocked apart from the way in via an easement. Calcoran Road will be made accessible for two wheeled vehicles to the east of the property when Council has completed the Reeds Road construction project. The Chief Bushfire Control Officer (CBFCO) is satisfied that a two wheel drive vehicle is able to traverse the terrain to the South. Calcoran Road is an unmade road owned by the Shire of Cuballing and in the opinion of the CBFCO will be suitable for exit purposes once graded.

All patrons to be briefed on the location of fire extinguishers muster point and exits prior to using the facility. All emergency exits should be signed posted.

Mr. Street has done a very good job of maintaining his property as well as plenty of firebreaks. The CBFCO and CEO have advised Mr Street to hand out emergency management information to all patrons entering the facility and to have a strong set of wire cutters at the siren location should fences need to be cut in the event of an approaching fire.

- (h) In relation to compliance with the Health Act the Motorcycle Park falls within the definition of a Public Building irrespective of whether there is a building or not. Consequently prior to it operating, it will need to be approved as such. The main concern as a public building is egress and until such time as this is resolved as well as all the other outstanding items from Council Resolution its meeting in August 2013 it should not be used.

The Motorcycle tracks have been built in a professional manner which may indicate that if the Motorcycle Park becomes popular the number of 10 people currently indicated may increase. Mr. Street will invite participant through bookings only so the numbers can be controlled in this manner.

The use of the Motorcycle Park was advertised in the 'Cuby News' and no conclusive objections were received. However, there were two items of correspondence received citing noise and increase traffic as a possible issue. All adjoining landowners using the easement have been notified in writing and have given their permission to use the easement in writing. Furthermore, the owner of the land to the south of the facility has given his permission to use his property in the event of an emergency.

As there has been so much discussion on this matter it may be prudent to revoke previous decisions and list requirements for approval of the motorcycle park in a single decision.

OFFICER RECOMMENDATION

That Council consider revoking the following decisions

Moved: Cr Newman

Seconded: Cr Haslam

Carried 6/0

COUNCIL DECISION 9.4.23:

That Council resolves to approve option A for Mr. & Mrs Street to enable them to prepare for the State Administration Tribunal mediation meeting to be held on the 7 August 2013 between the Shire of Cuballing and Mr. & Mrs. Street

Option A - That the easement be developed to the following minimum standard:

- a. Pavement formation(running surface) of seven(7) metres in width;
8. Runoff batters for emergency purposes;
9. The proposed work be carried out by the Shire of Cuballing Works Department at a maximum cost of \$5,000.00;
10. Mr. Street to eradicate grass/weeds prior to any works on the easement;
11. The Shire of Cuballing Local Government Authority not to be held responsible for the location of the road works to the easement unless the easement is surveyed by a licensed surveyor;
12. This approval does not mean that the application for the motorcycle Park is approved as it only refers to the easement for the SAT mediation meeting to be held on the 7th August 2013 as the first step of the approval process; and
13. The upgrade of the easement and its use by the public needs to be understood clearly by each landowner having rights of the easement and in particular their obligations in the event of ongoing maintenance and liability in the event of accidents

Moved: Cr Haslam

Seconded: Cr Conley

Carried 5/0

Council Decision 9.4.25

That:

- 3 1 The Environment Health Officer/Building Surveyor's report on the Motorcycle Park is received and information noted;
- 4 The Motorcycle Park at Lot 101 Reeds Road Popanyinning be approved subject to the following conditions

- k) The Registered Easement to the property be developed to the following minimum standard with the works to be carried out by the Shire of Cuballing or an alternative competent person, with said development to be inspected and approved by the Shire of Cuballing Works Manager;
- *Pavement formation(running surface) of seven(7) metres in width;*
 - *Runoff batters for emergency purposes;*
 - *The proposed work be carried out by the Shire of Cuballing Works Department at a maximum cost of \$5,000.00 or alternatively by a private contractor, with finished pavement formation to be approved by the Shire of Cuballing Works Manager.*
 - *Mr Street to eradicate grass/weeds prior to any works on the easement;*
 - *The Shire of Cuballing Local Government Authority not to be held responsible for the location of the road works to the easement unless the easement is surveyed by a licensed surveyor;*
 - *This approval does not mean that the application for the motorcycle Park is approved as it only refers to the easement for the SAT mediation meeting to be held on the 7th August 2013 as the first step of the approval process; and*
 - *The upgrade of the easement and its use by the public needs to be understood clearly by each landowner having rights of the easement and in particular their obligations in the event of ongoing maintenance and liability in the event of accidents*
- l) A toilet, approved by the Health Department, be provided at a location as close as practicable to the motorcycle tracks on the property and the appropriate health approvals be obtained from the Shire of Cuballing.
- m) A Fire Management Plan be prepared and approved by the Popanyinning, Bushfire Control Officer and provided to Council's Emergency Services Officer and an Emergency Management Plan
- n) Other property owners along the registered easement being advised that the Motorcycle Park users will be accessing the property by way of the registered easement and written acknowledgement from the abovementioned property owners be provided to Council;
- o) Hours of operation to be as follows, excepting days when a movement of machinery in paddocks ban is in force, or days when a total fire ban has been declared:
- | | |
|----------|------------|
| Friday | 8am to 5pm |
| Saturday | 8am to 5pm |
| Sunday | 9am to 5pm |
| Monday | 8am to 5pm |
- p) There is to be no preparation of food for sale on the property.
- q) Noise levels to be monitored and recorded quarterly and provided to the Shire of Cuballing. Mr & Mrs Street to be advised that should residences be built on adjoining properties within close proximity of the motorcycle tracks, all requirement of the Environmental Protection Act with respect to noise levels will apply.
- r) The Motorcycle Park to comply with the provisions of the Health Act 1911 (as amended)
- s) The current outbuildings on the property should not be used for accommodation for either owners or users of the Motorcycle Park
- t) Dust suppression measures to be implemented and be documented in a dust management plan and approved by the Environmental Health Officer at the Shire of Cuballing.

Moved Cr McDougall

Seconded Cr Haslam

Carried 5/0

OFFICER RECOMMENDATION

That Council revoke Decisions 9.4.23 and 9.25 as shown above

Moved: Cr Haslam

Seconded: Cr Newman

Carried 6/0

OFFICER RECOMMENDATION

That approval to operate a motorcycle park at Lot 101 Reeds Road Popanyinning be granted to Mr John & Mrs Raewyn Street subject to compliance with the following conditions:

- 1 The easement entry to the facility be maintained to a satisfactory standard to allow egress in the event of an emergency situation
- 2 A toilet, approved by the Health Department is provided at a location as close as practicable to the motorcycle tracks on the property and the appropriate health approvals are obtained from the Shire of Cuballing Environmental Health Officer
- 3 Hours of operation to be as follows, excepting days when a movement of machinery in paddocks ban is in force or days when a total fire ban has been declared

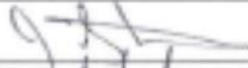
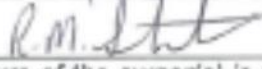
Friday	8am – 5pm
Saturday	8am – 5pm
Sunday	9am – 5pm
Monday	8am – 5pm
4. There is to be no preparation of food for sale on the property
- 5 The Motorcycle park operations to comply with the provisions of the Health Act 1911 (as amended) and the Environmental Protection Act.
- 6 The current outbuildings on the property should not be used for accommodation for either owners or users of the Motorcycle Park
- 7 The Fire and Emergency Management Plan approved by the Shire of Cuballing Emergency Services Officer be summarised distributed to all patrons of the Motorcycle Park to enable speedy evacuation in the event of an emergency
- 8 Permission (to use private land as an emergency exit point to Popanyinning East Rd) from the landowner to the south of the Motorcycle Park to be renewed on an annual basis and the egress track be made suitable for two wheel drive vehicles.
- 9 A third Emergency exit to be onto Calcoran Rd.
- 10 No more than 10 patrons at the Motorcycle Park at any one time. Should this number be exceeded, the Environmental Health Officer shall be advised to enable further assessment and subsequent approval of Council
- 11 The property is not to be sold with this approval in force. New owners must make an application to Council should they wish to operate a Motorcycle Park
- 12 The motorcycle Park not to be used until approval is granted under the provisions of the Health Act 1911 (as amended) in relation to Public Buildings.

Moved: Cr Newman

Seconded: Cr Ballantyne

Carried 6/0

APPLICATION FOR DEVELOPMENT APPROVAL

Owner Details		
Name: John + Rowyn Street TIA The Dunks Nuts Motorbike Park		
ABN (if applicable):		
Address: Lot 101 Reeds Road Peppering WA Postcode: 6309		
Phone:	Fax:	Email:
Work:	rookie_cae@hotmail.com
Home:		
Mobile: 0498 604 722		
Contact person for correspondence: John Street Rowyn Street		
Signature: 	Date: 14/7/16	
Signature: 	Date: 14/7/16	
The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 62(2).		

Applicant Details (if different from owner)		
Name:		
Address:		
Postcode:		
Phone:	Fax:	Email:
Work:
Home:		
Mobile:		
Contact person for correspondence:		
The information and plans provided with this application may be made available by the local government for public viewing in connection with the application. <input type="checkbox"/> Yes <input type="checkbox"/> No		
Signature:	Date:	

Property Details		
Lot No: 101	House/Street No: Reeds Road	Location No: 101
Diagram or Plan No: UP 60143	Certificate of Title Vol. No: 2702	Folio: 108
Title encumbrances (e.g. easements, restrictive covenants): Easement		
Street name: Reeds Road	Suburb: Poponyinning	
Nearest street intersection: Reeds Road + Poponyinning Road East		
Proposed Development		
Nature of development:	<input type="checkbox"/> Works <input checked="" type="checkbox"/> Use <input type="checkbox"/> Works and use	
Is an exemption from development claimed for part of the development? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If yes, is the exemption for: <input type="checkbox"/> Works <input type="checkbox"/> Use		
Description of proposed works and/or land use: Motorbike Park Amendment to previous / accepted application		
Description of exemption claimed (if relevant): N/A		
Nature of any existing buildings and/or land use: Motorbike Park for riders to have a safe area for dirt bike riding		
Approximate cost of proposed development: N/A		
Estimated time of completion: Already completed, this is an extension for numbers		
Acceptance Officer's initials: Local government reference No:	OFFICE USE ONLY Date received:	

20 JUN 2016

62 Seville Drive
SEVILLE GROVE WA 6112

20/06/2016

CEO Shire of Cuballing

Re-Business Proposal Amendment
Lot 101 Reed Road
Popanyinning

Dear Gary

We would like to amend our current business proposal for our Motorcycle Park on our property in Popanyinning.

The track consists of 4 tracks of different riding levels to accommodate each individual's riding experience from juniors to the experienced riders. The Park will not be a Motocross Track it will be designed for all Motorbike riders to enjoy dirt bike riding within a safe controlled area.

We would like it to be open:

Wednesday & Thursday 8am to 5pm

Friday 8am to 5 pm

Saturday 8am to 5pm

Sunday 8am to 5 pm

Monday 8am to 5 pm

Tuesday will be used to maintain the tracks as needed.

Wednesday & Thursday we would like to be open to cater for shift workers & FIFO workers with a maximum of 15 for the day. Please keep in mind that this would not be every week, only as required.

Friday to Monday we would like to extend the numbers to 60, please keep in mind up to a third is likely to be spectators and these numbers wouldn't be every weekend. This would be mainly for long weekends or special events. This business is also fairly seasonal with our busiest times being autumn and winter.

We have purchased an ablution block that is more than adequate to cater to these numbers, which is the original reason as to why we were limited to so few a number with the eco toilet we do have.

No vegetation will be removed apart from the grass where the tracks are formed.

Local surrounding businesses do benefit due to the fact that people require accommodation, food and fuel. We are also hoping that in the future we will be able to hire some local people to help run the Park.

In event of a fire in the region the use of an Air Horn will be used to get everyone back to the muster point and Raewyn is to make sure everyone is accounted for while John rings 000

If the fire is on another property we will find out which is the safest way out or stay put whichever is the safest option. We have registered to be informed of any fires close to us.

If safe we will use fire fighting equipment to contain or extinguish a fire.

No one is to leave until a safe route is established or a decision is made to stay on the property. For prevention all grass around the Proposed Park will be kept down either by stock or mowing. A fire fighting trailer will be kept full of water and fuel on standby at all times. Weather conditions will be taken into account. In summer months we will check with the hotline for a Harvest ban. If one is in place then the Park will be closed down for those days. We are on an automatic call system if any fires are in closed proximity to our property. All fire breaks will be maintained and kept clear of any debris or rubbish on a weekly basis. Smoking is to be done in designated areas only which will have no grass and butt bins will be provided. No fires are to be lit in Fire Season. Site plan of exits, emergency equipment and emergency phone numbers are displayed. A fire trailer is to be kept by the sign in area while riders are on the property.

St Johns Ambulance and the RAC helicopter are aware of where our property is. The staff have first aid training and we have first aid kits on site. A Safety Management Plan is displayed in case there is an accident.

Thank you for considering this proposal, we look forward to hearing from you.

Regards

John & Raewyn Street

John: 0498 604 722

Raewyn: 0400 518 336

Email: roadie_rael@hotmail.com

FIRE MANAGEMENT PLAN

Motorbike Park Contact Numbers

John 0498 604 722

Raewyn 0400 518 336

Email Address theducksnutsmotorbikepark@gmail.com

Bush Fire Control Officers – Cuballing

Bush Fire Control Officers

BRIGADE SECTOR	OFFICER	PHONE NUMBER	POSITION
Chief Bush Fire Control Officer	Antony Mort	9883 6237 0429 898 214	Cuballing Chief
Deputy Chief Bush Fire Control Officer	Rob Harris	9883 6113 0428 528 959	Cuballing East FCO
Fire Weather Officer	Rob Harris	9883 6113 0428 528 959	Cuballing East FCO
Chief Executive Officer	Gary Sherry	9883 6031 wk 0427 836 031	Cuballing Shire Base
Shire Works Supervisor	Bruce Brennan	9883 6405 wk 0427 836 063	Cuballing Works 2
Bush Fire Service, Narrogin	Grant Hansen	9881 3893 wk 0427 012 948	Fire Services Great Southern 8
CALM, Narrogin	Steve Gorton	9881 9204 wk 0427 858 213	Narrogin 2 Channel 13
Popanyinning East Brigade Sector	Graeme Dent	9883 6060 0427 836 061	Popanyinning East FCO
Popanyinning Town	Wayne Dent	9887 5055 wk 0427 622 991	Popanyinning Town FCO
	Darren Heppie	9887 5055 wk 0438 535 991	Popanyinning Town Deputy
Popanyinning West	Craig Cousins	9887 0040 0427 870 040	Popanyinning West FCO
Cuballing East	Rob Harris	9883 6113 0428 528 959	Cuballing East FCO
	Mike Burgess	0427 836 045	Cuballing East Deputy
Cuballing Town	Anthony Mort	9883 6237 0429 898 214	Cuballing Town FCO
Cuballing West	Nelson Young	9884 5252 0427 845 255	Cuballing West FCO

Bush Fire Control Officers – Pingelly

Bush Fire Control Officers

BRIGADE	NAME	PHONE
East Pingelly (formally Milton Tutanning)	Victor Lee	0427 879 023
	Andrew Marshall	0428 879 050
	Jeff Edwards	0429 427 044
Moorumbine Noonebin	Rodney Shaddick	0427 871 328
	Rob Kirk	0428 871 580
	Andrew Pauley	0408 871 476
West Pingelly	Adam Watts	0149 949 223
	Malcolm Cunningham	0448 871 159
	Anthony Turton	0428 876 042
	Alan Parsons	0428 301 741
Pingelly Town Town Brigade/VFR	Damien Spencer	0407 725 834
	Robert Kirk	0428 871 580
	Peter Narducci	0417 953 386
	Sheryl Squiers	(08) 98871066
	Barry Gibbs	0427 852 426

Firefighting Equipment

2 Fire Extinguishers
600 litre firefighting trailer
2000 litres water in tank ready for fast fill

Fire Protection Measures:

While motorbikes are in action an operational independent mobile fire-fighting unit having water capacity of 600 litres is provided in the same paddock. The tank of the unit is kept full of water at all times.

On days of HARVEST BANS there shall be no movement of **any** vehicles within paddocks.

Initial response and attack of fires including resource dispatch and communication with relevant authorities (FESA, LG, local fire brigade)

In the event of a fire, an Air Horn will be used to get everyone back to the muster point safely and everyone accounted for.

If the fire is on another property, everyone will be escorted out the safest way by staff or they will stay at the Park whichever is the safest option.

As a general rule, firebreaks will be prepared in early spring to ensure appropriated width is obtained prior to the commencement of the fire season.

For prevention all grass around the Park will be kept down either by stock or mowing.

Access in and around the property are marked on maps and access roads are clearly signed.

Surrounding local features

The tracks are established on previously cleared land. There are no towns/settlements in the immediate vicinity.

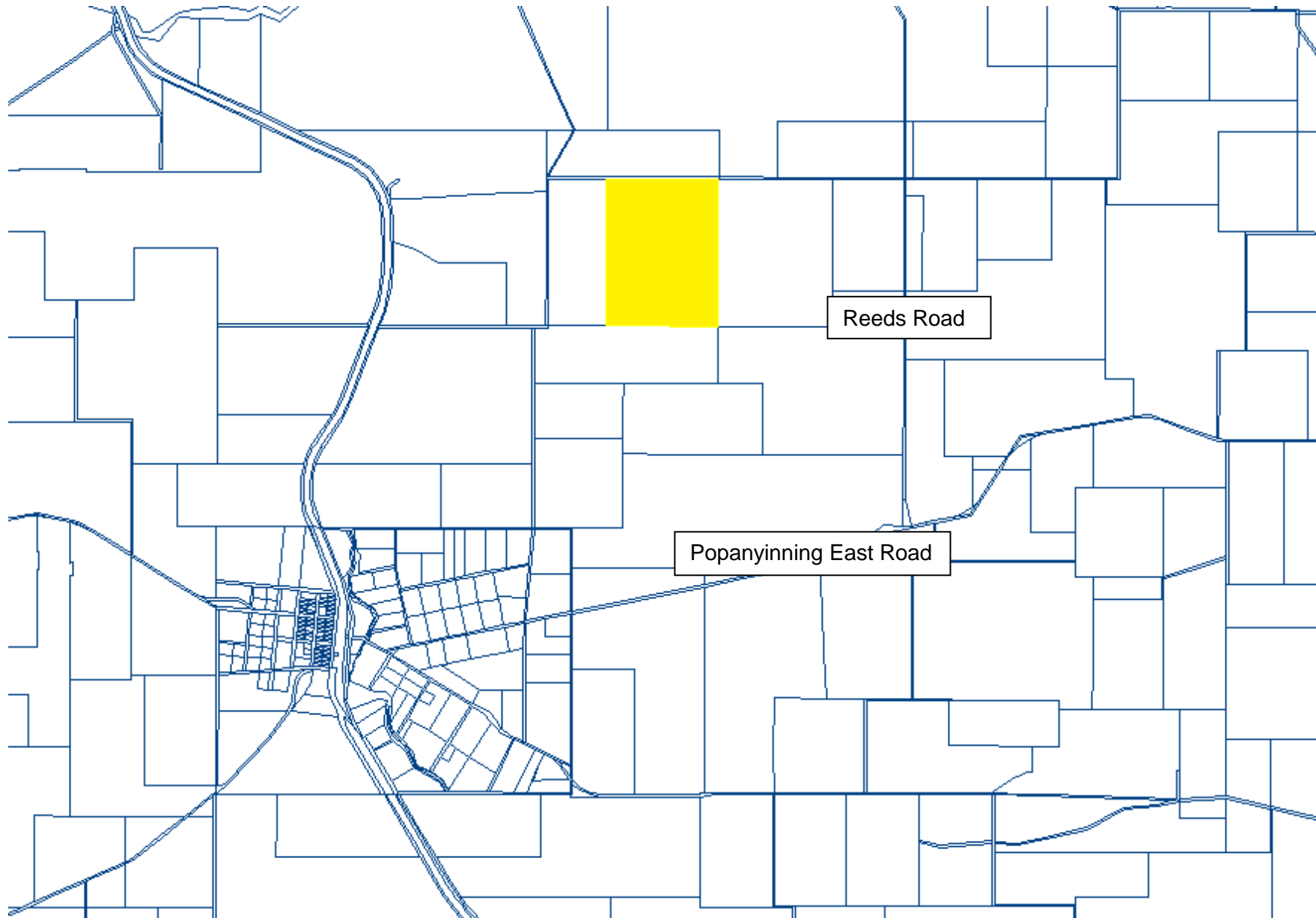
Remnant vegetation protected by firebreaks

Fire Management and Safety Checklist

- No fires permitted without prior approval
- Fire fighting capability on site in fire season
- No vehicle or ATV movement permitted on days of Movement of Vehicle Ban.
- Tractors fitted with fire extinguishers and fire fighting capability on site during fire season
- **Harvest Ban Hotline on 9883 6386**

Fires to be reported to '000' (if emergency)

We are signed up with both the Shire of Cuballing and Shire of Pingelly to be notified of any Harvest and Movement Ban.



**Shire of Cuballing
Planning Application – Motor Cycle Park Expansion - Lot 101 Reeds Road, Popanyinning
Summary of Submissions**

No	Name and Address of Submitter	Summary of Submissions
1	F and T Hendriks, 12 Lilika street, Armadale. WA 6112	<p>Thank you for the opportunity to provide our view on the above proposal, Which until now has created a problem for us, in the fact of noise and dust pollution.</p> <p>Because of this reason we say no to the extension of hours. We say no to public weekends opening. We say no to extend the numbers of attendance.</p> <p>Take note we have purchased our land, as rural zoned, that have a unique pocket of wandoo and salmon trees, whit some unique mammals and birds. We are members of the land for wildlife conservation to preserve and bring it back to its natural state.</p> <p>Please consider also the devaluation for all the blocks of land around reeds road. Nobody likes to stock there horses in a rural area.</p> <p>We the signet both agree that there should be no further expansion Whatsoever, to all the inconveniences we are already experiencing</p>
2	<p>Mr S De Rooy Salmon Downs Reeds Road Popanyinning WA 6309</p> <p>Ms Margaret Elaine de Rooy Reeds Road Popanyinning</p>	<p>Thank you for the opportunity to comment on the above.</p> <p>Up until this time, the above business has created a problem in the fact of noise and negligent use of Reed Road; i.e. wheel spinning and ripping up of the road has been observed.</p> <p>The noise factor at 8 o'clock on a Sunday morning is not what one would expect given that this is zoned rural and labelled as use, General Agriculture, under the Department of Planning Scheme number 2.</p> <p>Further to the above, because the start time of 8 o'clock, would it be possible that people are camping and using the property as a caravan park?</p> <p>The volume of use of the road also affects the condition of the road; as ratepayers, we all contribute to the maintenance of Reed Road. It appears unfair that this access is the abused by other parties.</p>

		<p>As ratepayers, we all contribute to an ESL (Emergency Services Levy), but by way of increased numbers using the motorcycle park, could this possibly contribute to increased risk of fire?</p> <p>Additionally, it is noted that the proposal t of the amendment purports to local business benefitting. May we counter this by saying, the business surrounding the cycle park are farming enterprises and see no benefit at all in a dirt bike riding track.</p> <p>It has been put forward by the proposer to the amendment that the cycle park is seasonal. To my ears, it appears to be exactly the opposite, year around use.</p> <p>The worrying side to an amendment and the change of use in a rural area, is an escalation of other activities such as hot rods, paintballing, parachuting or whatever, thus changing and degrading the use for which the land and zoning was intended.</p> <p>My property was purchased long before the cycle park was opened. We enjoyed peaceful use and serenity up until the opening of the cycle park. As ratepayers, we see that it is in our interest to preserve the values of our property and the continuation of the lifestyles that we chose at the time of purchase of our property.</p> <p>I believe that there should be no further expansion to the inconveniences that we are already experiencing and urge council to consider the issues I have raised.</p>
3	R.W. Dowling Dowlco Nominees Popanyinning	<p>Thank you for your letter of the 19th July requesting comments on the proposed expansion of the motor cycle park.</p> <p>We oppose the expansion of the motorcycle park for the following reasons:</p> <p>There have been numerous cases of antisocial behaviour outside the motorcycle park on Reeds road and surrounds. These include cutting up the roads, hooning and dangerous driving. For those of us using the roads for access to property, including movement of heavy agricultural machinery, and for the Popanyinning residents living near the park, this poses a real risk.</p> <p>So far there have been no social or economic benefits to the Shire of having the motorcycle park. It has not, as far as we can tell, increased employment opportunities or benefited business and, with the cutting up of the roads, is more likely to be costing the Shire in road maintenance. Most of these city based people do not have respect or knowledge of our rural way of life, nor the responsibilities associated with issues such as fire.</p> <p>Living in West Popanyinning, we are not affected by the noise from the park, but we imagine that the existing noise</p>

		would detract enormously from the rural lifestyle that those people who have built there were seeking. To extend the hours of operation would make living out in East Popanyinning unbearable and stop other people from moving into the area.
4	Karen Forth 121-125 Ridley Street Cuballing WA, 6311	<p>I am writing to the Shire of Cuballing, regarding the proposal that has been submitted by John and Raewyn Street, trading as, Ducknuts Motorbike Park, located at Lot 101, Reed Road, Popanyinning.</p> <p>As a parent of young adults, that frequently travel down from Perth to use this facility, I am in full support of the request to increase the number of days that this track is available to the public. I am also in full support to increase the number of patrons that are allowed at the track at any one time.</p> <p>I as a parent, appreciate that my family can go to the Ducknuts Motorbike Track and have a great time without the worry of them being somewhere that is not adequate or safe.</p> <p>Ducknuts have a fire safety and an emergency plan in place.</p> <p>With an area like Ducknuts Motorbike Track, that has someone like John and Raewyn putting in their time to care and prepare the area for motorbike users, spectators and families, I think we should all support them 100%.</p>
5	Karen Forth 121-125 Ridley Street Cuballing WA, 6311	<p>I am writing to the Shire of Cuballing, regarding the proposal that has been submitted by John and Raewyn Street, trading as, Ducknuts Motorbike Park, located at Lot 101, Reed Road, Popanyinning.</p> <p>As a business in this Shire, it is nice to see other businesses starting to grow. I think we need to encourage a business like Ducknuts Motorbike track to expand and grow as needed.</p> <p>With every new business that takes shape within this Shire, it helps to grow and support the businesses that are already here.</p> <p>If John and Roewyn are willing to put in the time and work with having extra days and extra patrons at there place of business, than we should all support them.</p>
6	Kevin & Simone Lansdell PO Box 20 Popanyinning WA 6309	<p>We are writing in response to your letter dated 19th July 2016 in relation to the Planning Application - Motor Cycle Park Expansion - Lot 101 Reeds Road, Popanyinning.</p> <p>We currently lease land on Reed Road, owned by Mr Paul Harken. The way in which we have used this land has changed since the Motor Cycle Park has been in operation. Previously, we would run sheep on this block post-harvest to graze stubble. We now hesitate to run sheep here due to the problems that arise in moving the sheep down Reed's Road with increased traffic travelling on this road. We have taken steps to reduce risks by purchasing</p>

		<p>extra safety signs to indicate livestock movement.</p> <p>Shifting agricultural implements such as large tractors, header and field bins has also resulted in some anxious moments when road users not familiar with sharing the road space with an oversize vehicle attempt to overtake.</p> <p>We have also had concerns about the increased risk of fire when operating motorcycles near grasses. Given the information provided in the planning application, we trust that the business operators are aware of their responsibilities in regards to appropriate fire control measures and the serious consequences suffered by farmers when fire destroys crops, livestock and improvements.</p> <p>Whilst we like to encourage and support new businesses into the Shire of Cuballing, we do not think that the zoned agricultural use of land should be utilised for business ventures other than those of a strictly agricultural purpose.</p> <p>Therefore, we would be against the proposed expansion of the motor cycle park. We are happy for the business to continue operating on weekends, as we currently try to carry out farming activity during week days on this block to avoid potential issues on weekends.</p> <p>We are happy to be contacted for further comment if the need arises. Thank you for giving us the opportunity to comment on this Planning Application.</p>
7	<p>Brad & Naomi Fyre Brookton Newsagency 103 Robinson Road Brookton 6306</p>	<p>I am writing this Letter in support of promoting the Ducks Nuts Motorbike Park in Popanyinning.</p> <p>We have been in business in Brockton since 1989, in the past few years we have noticed a large increase of traffic from Perth and surrounding areas passing through Brockton supporting our Roadhouses, IGA, Newsagency and other local business houses all transporting motorbikes heading to Ducks Nuts Motorbike Park.</p> <p>Many riders returning time and time again raving what a fantastic motorbike park John has created and offers to riders that have a passion to ride and escape from the danger of areas where riding is prohibited through natural bush tracks in Perth's outer suburbs.</p> <p>We visit Duck's Nuts regularly with two teenage sons' who ride and can only congratulate the owners of this park for their facility that is promoting our country towns and providing a safe riding environment for riders of all ages.</p>

8	<p>Ryan Hall, Director - Colour Magic International Pty Ltd Lot 3815 Calcoran Brook Road, Popanyinning</p>	<p>Thank you for providing me with the opportunity to provide written comments on this proposal.</p> <p>I am the Director of Colour Magic International Pty Ltd, the land owner the property immediately adjoining the subject application area for the past 20 years. We have invested in the land by planting significant tree crops of Tasmanian Blue Gum, Pine and using the land for agricultural cropping and livestock grazing. We also have held long-term plans to build Bed & Breakfast accommodation to showcase the local area and local produce to tourists.</p> <p>Regrettably, this is now in jeopardy as our quiet enjoyment of the land has been negatively impacted upon by the activities and operation of the Motorcycle Park over the past few years – mostly from the noise pollution caused by the motorbikes. This activity is destroying our ability to use the land to its full potential, and we are deeply concerned about the intensification and expansion plans, and the further impact this will have on us.</p> <p>I provide this objection in good faith on planning grounds, for which the application can only be considered:</p> <p>The Planning Regulations which the Shire must follow, specify that:</p> <p>67. Matters to be considered by local government</p> <p>In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —</p> <p>(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</p> <p>The Shire of Cuballing’s Town Planning Scheme states its aims as follows:</p> <p>1.6 The Aims of the Scheme The aims of the Scheme are –</p> <ul style="list-style-type: none"> • To protect good quality agricultural soils suitable for sustainable production from inappropriate subdivision and development for non-agricultural purposes <p>The proposed use of the land is specifically proposed for a “Non-agricultural” purpose / land use – which is an inappropriate use as specified by the Shire’s Town Planning Scheme.</p>
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It would be inappropriate to further intensify the use. The current approval is limited to the current owner and is not transferrable to future owners, which means that the use is currently considered temporary, and does not have a permanent approval.

The Shire's Town Planning Scheme zones the land "General Agricultural", and the objectives of the zone are set out as follows:

(b) General Agriculture Zone

- To preserve productive land suitable for grazing, cropping and other compatible productive rural uses in a sustainable manner;
- To allow for the extraction of basic raw materials where it is environmentally and socially acceptable;
- To ensure the preservation of the rural character and rural appearance of land within the zone;
- To encourage intensive agriculture where soil conditions and location are appropriate and it can be demonstrated that off-site impacts (if any) will not adversely affect existing agricultural activities;
- To protect the economic viability of rural zoned land through a presumption against subdivision except where such subdivision will enhance and/or promote the viability and diversity of general farming activity;
- To preserve and protect the natural undeveloped land areas throughout the zone; and
- To ensure that natural drainage patterns/catchments through out the Shire are recognised in land management practices.

The application does not comply with any of the objectives listed above (which are taken directly from the Shire's Planning Scheme) as a Motorcycle Park is not a compatible productive rural use.

The motorbike activity does not preserve the rural character and appearance of land – the noise of motorbikes and track is detrimental to the area's character and visual appearance.

The Town Planning Scheme's provisions clearly outline a number of objectives aimed to protect and conserve the existing agricultural setting. A motorcycle park of such intensity as proposed is clearly contradictory. The proposed number of hours and number of motorbikes means that there will be a near-constant noise pollution problem for us. This is not compatible with the surrounding land, and non-compliant with the Shire's Scheme.

The Shire's Town Planning Scheme states that:

4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and

cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may –

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

As a Motorcycle Park is not specifically set out in the Zoning Table, the Shire must follow Clause 4.4.2 and determine if the use is consistent with the objectives of the General Agriculture zone or not.

The application is starkly inconsistent with the objectives of the General Agriculture zone. The Shire must consider the application according to the Town Planning Scheme requirements. The application should be determined in accordance with Clause 4.4.2 (c) that the use is not consistent with the objectives of the General Agriculture zone and is therefore not permitted.

In addition to the land use problem that this application presents, there are a number of aspects of the proposal that are problematic:

1. Proximity of activities to boundary

Problem	Solution
The major problem is that the track is too close to our boundary and the noise and dust impact and nuisance is clearly evident.	There should be a buffer or separation distance imposed on the existing activity so that the activities do not unfairly impact on the quiet enjoyment of our property. This buffer should be used to install attenuation measures such as planting trees or install a noise mound to reduce the noise pollution impact.
The noise that is emitted from the motorcycle park is not contained on their own property, and regrettably this impacts on our property.	The operations and motorcycle track should be relocated away from the boundary that adjoins Lot 3815.
The track does not appear to be explicitly approved and is too close to the property boundary.	The Shire should impose a setback requirement as there does not appear to be any kind of specific approval given

		to the track itself, and its close proximity to our property is a direct cause of noise and dust nuisance.
2. Extent of Hours of Operation		
	Problem	Solution
	7 day a week operation from 8am – 5pm. This means noise emitted 9 hours a day, every day of the year is too much – 56 hours per week is an unacceptable amount of time to constantly be operating motorcycles causing noise pollution.	There needs to be respite for adjoining landowners who are impacted by the noise of this land use activity. It is against the Environmental (Noise) Regulations to exposure surrounding owners to such noise levels over this timeframe.
	8am start on Sunday – the current proposal specifies a 9am start.	The early morning hours of Sunday are sacred and should be protected and the 9am start time should not be eroded. The same should apply for 'long weekends'. Public Holidays such as Easter are sacrilegious and should be respected with a start time of no earlier than 9am.
3. Number of motor bikes operating		
	Problem	Solution
	The proposal to increase to 60 patrons from Friday to Monday is completely unacceptable as it increases the severity of the noise impact.	Weekends should be limited or prohibited as this is when we are at the property and is the time for recuperation. The weekdays should be the time that accommodates the majority of patrons during 'business hours'.
4. Noise		
	Problem	Solution
	The Shire's Officers and Council would find it difficult to assess this application and its impact on surrounding property owners without any supporting information from noise testing.	Require noise testing equipment to be installed to measure (and monitor) the noise levels against the Environmental Protection (Noise) Regulations 1997. This use is not exempt and must comply with the assigned levels of 60dba.
	The Shire has said that they don't have their own noise measuring equipment.	Equipment is available for hire from the Department of Environment Regulation and no decision should be made until the data and information is collected so that an informed decision can be made.
	There is no enforcement or monitoring of the noise	There should be specific conditions and restrictions on

		<p>emissions.</p>	<p>noise on the existing activity.</p> <p>The Noise regulations identify that noise may only occur for 10% of the day, and this proposal is clearly exceeding that by asking for approval for 9 hours of constant operation, 7 days a week. There is no respite and there should be restrictions in place to protect all surrounding property owners.</p>
		<p>The Shire must consider the Environmental (Noise) Regulations and the specific limits and requirements placed on noise emitting activity. The Motorcycle Park is not exempt is subject to monitoring and compliance. The application to expand the operations will cause further noise pollution impact on our property. I object that the applicant did not submit any noise information or studies, or data to support their application and the Shire should obtain noise testing equipment so that an informed decision can be made before any intensification of the existing activity is considered.</p> <p>Please don't hesitate to contact me for further information. I would also be prepared to work through facilitated mediation to resolve this problem. I believe that if the applicants would amend their activities to reduce their direct impact on our property, that a mutually agreeable outcome could be reached.</p>	
9	<p>RF O'Brien PL O'Brien PO Box 133 PINGELLY</p>	<p>Our main concern is the hoon behaviour of some car drivers on the full length of Reed road. ie fishtailing & circlework from East Popo Road to Yenelling Road. Best after freshly graded!</p> <p>Moving sheep along the road is sometimes a worry – yes we do use signs.</p>	
10	<p>Barry Wood PO Box 57 POPANYINNING 6309</p>	<p>Please find attached my disapproval and reasons for any extension to the operating hours and increase in numbers to the motorcycle park in Popanyinning.</p> <p>Also attached is a copy, for your interest, of the south west interclub regulations.</p> <p>M views have come from many years in safety on construction and mining sites in Western Australia and around Australia.</p> <p>During this time I sought and obtained formal Qualifications in Occupational Health and Safety.</p> <p>Each and every person has a duty of care one to another and it would be wrong of me not to express my point of view. Also entities have a duty of care to all persons within their areas of control.</p> <p>It is my view that the potential for incidents are high both on the road network and at the park itself and this is of great concern to me</p>	

I wish to register my strong objection to the application by John and Maewyn Street for Council to approve and increase the numbers of patrons allowed at the Motorbike Park at Lot 101 Reeds Road from 10 per day to 15 per day on Wednesday and Thursday and to 60 per day on other days and to extend their days and hours of operation.

In approving the original application the Council showed the applicants some goodwill but in my opinion that goodwill has not been returned by the operators of the Motorbike Park. They have shown a disregard for the conditions attached to the development approval. The numbers attending the Park regularly exceed 10 per day by a considerable margin. Currently the operators advertise days and hours of operation outside of those approved by Council and they allow camping on the site. The breach of the conditions has an impact upon other residents that is unacceptable. I don't think that Council should reward the applicants for their disregard of the conditions of approval. If Council does approve the current application what confidence can it have that the applicants will respect the decision and do the right thing?

The Application

The operators of the Park have applied for an 'Extension' to an existing approval. I submit that given the size and scale of the increased activity (over 500% increase) the application should not be considered as an extension. The Council should refuse the extension and recognise that the operator should submit a new Development Application which addresses the issues properly. The Park is no longer a place where a handful of blokes muck about on their bikes over a weekend almost as a hobby. It now operates outside of its conditions as a fully fledged business and residents and users need the benefit and protection of carefully considered conditions

In my opinion the application is poorly documented and doesn't provide the necessary documentation and assurances that will enable Council to make a proper decision. There is no risk assessment for the site or the activity. There are no details of any accreditation that the tracks have received. There are no details of any insurances. There are no details of any safety procedures. There are no details of any noise management procedures. There is no documentation of any first aid training that has been undertaken. The site plan shows no details of parking arrangements and internal vehicle movement systems. There are no details concerning the ablution block or effluent disposal. The fire management plan is sketchy. All in all it's a pretty casual effort that runs the risk of exposing the owners and Council if something goes wrong such as a serious accident on site. To protect itself (and ratepayers) the Council should insist on a proper standard of development application.

To produce a proper application to industry standards will cost the Streets some money and some may argue that poor old John and Raewyn shouldn't have to pay out. But Council should do the sums. At the rates charged, sixty clients a day 6 days a week, the business has the potential to generate a gross income of excess of \$600,000 a year - and that is not counting in any contribution by those commercial operators who are allowed to run training

courses on site. As the Park has been running with increased numbers for some time there should be funds available to prepare a proper application.

Traffic

Popanyinning Road East and Reeds Road are not designed to provide safe vehicle movements for the numbers of vehicles that are currently accessing the Park. If the operators of the park respected the conditions of their approval (10 per day) then it might be O.K but they are not. At the very least the applicants should provide a risk assessment by a traffic engineer so that Council can be confident of the safe movement of traffic. If a traffic engineer recommends that the road system should be upgraded because of the Park, then the cost should be borne by the applicants.

I note that the Council has placed traffic counters on Reeds Road in an attempt to measure the traffic flow to the park. I am confident that the counters will show that the operators of the Park are exceeding the approved numbers but they will not provide an accurate measure of what happens on long weekends and during holiday periods when attendances are much higher. When assessing the traffic counts I would ask that Council remember that the busiest periods for the Park are during spring and autumn and times like the Easter break when we have observed that attendances are much higher. (Our elevated property overlooks Popanyinning Road East and we have a good view of the constant traffic movements.

Popanyinning Road East and Reeds Road.

Popanyinning Road East's traditional use has been for local traffic movements associated with farming activities and local residents accessing the highway. Even though it is bituminised it is very narrow as it leaves the town area and progresses east. It is not designed to cater for large numbers of users currently visiting the park unfamiliar with the road and not used to the need to pull over onto the verges when oncoming traffic approaches. The situation is made worse by the numbers of users accessing the park pulling trailers. My experience is that many with trailers refuse to pull over to one side when approached by oncoming traffic. The conflict is major when farm equipment is being moved.

Reeds Road is gravel and is utilised by some as a skid track with vehicles broad siding from side to side as evidenced on the road surface and especially after the weekends. While the operators of the Park are not directly responsible for what happens after their clients leave, arguably the nature of the activity and the kinds of clients it attracts generates this behaviour which is almost inevitable. The proposed plan has the potential to increase vehicle movements to the bike park by in excess of 450 extra vehicle movements a week. It is an accident waiting to happen. Council must consider how it is to manage this issue if approval is unwisely given. It should recognise that because of the location it is unlikely that traffic police can assist.

Amenity of Our Property

We chose and purchased our property seven years ago and took up residence because we wanted the peaceful enjoyment provided by the General Rural Zone within the Shire of Cuballing. We chose Popanyinning East Rd, not the highway, because it was a local road with local traffic. We expected the usual seasonal noise generated by farming activities (we generate a few of our own). Now we find that our peaceful enjoyment has been disrupted by the operations of the Park caused by the huge increase in traffic and the constant noise produced by the large numbers of high powered motorbikes that use the Park. Notwithstanding the current approval the noise from the bikes frequently starts well before the approved operating hours and occurs on days of the week when the park is not supposed to open. As evidence, the operators currently advertise on their Facebook page that they are open every day except Wednesday, and that their hours are 8am to 5pm.

DUCKS NUTS FACEBOOK PAGE 9/8/16.

PAGE INFO

- Address
Reeds Road, Popanyinning, Western Australia 6309
- Hours
Mon-Tue: 8:00 am - 5:00 pm
Thu-Sun: 8:00 am - 5:00 pm

Discretionary Approval

In exercising its discretionary powers under its Town Planning Scheme for a use like the Park, the Council is expected to be mindful of the objectives for the General Rural Zone and ensure that any approval does not compromise them. I believe that the Park use, especially at the scale at which it is operating is not compatible with the General Rural Zone

Noise Management

In the first approval for the Park the Council asked for noise monitoring to be undertaken but for some reason I find very hard to understand that condition was rescinded. It's obvious that an activity like the Park can generate unacceptable levels of noise that make it hard for neighbouring properties and that is what is happening. The operators of the park do not observe the current conditions and cause noise problems. If the Council can't control the previous conditions how does it expect to control the noise from a huge increase in numbers? What steps are being taken to make sure motorbikes and quads are fitted with standard exhausts and spark arresters? From what we can hear from our place many of them haven't. Has the operator a noise management plan and the will to enforce it? How is Council going to monitor the noise? How is it going to enforce conditions re hours and days of

operation? The operators of the Park have shown they are not prepared to be self-regulating.

Camping

The advertising material for the Park on the internet proves our observation that the operators of the Park allow users to camp on site overnight. We do not think that allowing camping was part of the previous approval or is allowed by the Town Planning Scheme without proper application. I notice that the current application is silent on the matter of camping. Where are the sites located? What health and safety provisions have been made for campers?

Our belief is that allowing unsupervised campers on site overnight is contributing to the breach of the development conditions. The overnight campers are not prepared to wait for the approved starting times contributing to noise nuisance.

A number of those who visit the site and stay have dogs which are not always kept under control. We have anecdotal evidence of an increase in dog packs over the weekends representing a threat to livestock. Council must address the issue of camping on site and ensure that the development application reflects what is happening on site properly.

Fire Management Plan

The Fire Management Plan provided in the application is a step in the right direction but much more work needs to be done. For an operation of this size it should be prepared by a properly qualified consultant who understands risks and how they should be managed.

The fire risks on the site potentially come from,

- Bike motors under extremes of operation emitting sparks,
- The exhausts of overturned bikes or bikes that have run off the track igniting fires,
- Out of control camp fires (overnight winds!),
- Smokers,
- Cross boundary wild fires.
- Smokers

The plan indicates that no fires will be allowed in the fire season. Presumably they mean camp fires. How is this going to be enforced? Is the camping area (which is not included in the application) going to have overnight supervision? A properly planned camping area for a site like this usually has electric barbecues or similar so that campers are not tempted to light up.

The plan says that in the event of a fire an air horn will be sounded to alert users and call them back to the muster point. Sounds a good idea but is the air horn louder than a highly tuned motorbike going full bore around the tracks? Need to rethink this one.

The plan says that 'Raewyn' will make sure that everyone is accounted for. Hope she is not having a day off when there is a fire! How will she know who is accounted for? There is nothing in the Development Application which indicates that an attendance register will be kept.

The site plan attached to the application shows the location of a 'Fire Trailer'. What is going to pull the trailer. A Tractor? A four wheel drive? If so time will be lost accessing the trailer and hitching up - and trailed fire fighting units are less manoeuvrable. In my opinion the fire fighting unit for an operation on this scale needs a unit equivalent to a Fast Attack vehicle, self powered.

The issue of safe and effective evacuation remains, given that the easement runs through wooded country and has several 90 degree bends.

Has anyone associated with the Park, which has a higher than normal fire risk, undertaken fire control training? In an operation like this anyone would expect that the owner or a staff member would have completed some of the readily available fire training modules.

I believe that the Fire Management Plan is too dependent upon the services of volunteers, who are usually willing but may not be able to access the site with the necessary speed. An operation of the scale proposed with its associated risk levels should take more responsibility through its own staff and training, for fire control.

Safety of Users

The activities on site carry a high level of risk of personal injury either to riders or to spectators. A Development Application for this type of activity should include comprehensive details of safety measures that have been or will be undertaken. If Council approves this activity which results in an injury to a person through negligence or poor planning, then it may find itself part of any subsequent legal action. In my opinion Council must address all of the following with the operator. Any response from the operator should be properly documented and signed.

First Aid

- There is some superficial mention of first aid training and first aid kits in the application but no details.
- How many people will be in a supervisory capacity during the operation of the four tracks?
- How many of those people have received first aid training?

- Where is the evidence of the training they have received - documentation from St John's etc?
- What kind of first aid kits have been provided?
- Is there an Oxy Viva kit on site and someone trained in its use?
- Is there at least a stretcher or some other approved means of shifting an injured person?
- Is there a first aid room?
- What records/documentation exists for accidents that have already occurred on site?
- What procedures are in place for incident management and review?

Insurance

The application is silent on the matter of insurance for riders and spectators and any other members of the public. The Council must satisfy itself that proper provision has been made for insurance, especially public liability insurance.

In some of the earlier correspondence reference is made to insurance cover provided by the Motor Cycle organisation but where is the documentation?

Council must satisfy itself that proper insurance cover exists - a letter-certificate from the Motor Bike organisation or its insurer detailing level of cover and who and what is covered by any policy. It must do so to protect itself from any action. The applicant has stated elsewhere that those who ride on the tracks sign a waiver before being allowed to ride. As I understand the law, when you sign a waiver, you do not sign away your common law rights (can't be done). An injured party can still sue (operator or Council) if it can be shown that the operator has been negligent or that the Council has approved an activity that does not meet the necessary standards.

Ablution Block

The applicant says that he has purchased an ablution block and the site plan shows a location next to the creek (not sure that meets the requirements of the Health Act). The application is silent about the size and design of the ablution block. Any application should address the following issues.

Is the ablution block of sufficient size to provide for the numbers of visitors to the site. (There are formulas for this)?

- What kind of effluent disposal system is proposed? (or has it already been installed?)
- Does the ablution block meet the requirements of the Disability Services Act? It's not just wheelchair users who need the services provided by a disabled toilet).
- Is the capacity of the water supply on site sufficient for the toilets and showers provided by the ablution block and the increased numbers of users?
- Is there a sufficient supply of potable water on site?

11	ON & JF Francis T/A C & N Francis PO Box 6 Popanyinning WA 6309	<p>We would like to submit our comments on the expansion of the Ducks Nuts Motor Cycle Park.</p> <p>We have seen how well supported the park is and feel that there must be a need for such a facility for riders to use. It gives people who are interested in motor cycle riding a controlled area to ride.</p> <p>By the amount of people travelling from near and far to ride at this park only goes to show the need for such a facility.</p> <p>We are in complete agreeance for the extension of the park to accommodate more riders and do not know of any reason for the Council not to give their approval.</p>
12	D Hopper & B Wood PO Box 57 Popanyinning WA 6309	<p>We want to emphasise our objection to the application by the operators of the Ducks Nuts Motorcycle Park to amend their existing development approval for the following reasons especially.</p> <ul style="list-style-type: none"> • The levels of noise coming from the site are having an unacceptable impact on our amenity. • The increase in numbers from 10 a day to 60 a day on Friday to Monday and 15 a day on Wednesday and Thursday and the increase in the days and hours of operation are increases of a scale that go far beyond an amendment. • The application does not supply the information that should be expected (neither did the original application) or required by the Planning Scheme. • The application is unclear. By 'numbers' do the operators mean the numbers of riders allowed to use the tracks or do they mean the total number of people allowed on site at any one time? They need to be properly defined. • The apparent breach of the current conditions of approval (including camping) do not give us confidence that the operators of the Motorcycle Park will do the right thing by any approval. • The application does not make any attempt to deal with the issue of the noise that is causing great concern. • There is no management plan which shows how the operators of the Park will manage such a significant increase in numbers or the provisions they have made for safety or insurances. 'She'll be right' assurances are not enough. Details and documents should be produced to protect the Shire and to protect users.

		<ul style="list-style-type: none"> • The Fire Management Plan still needs lots of work. <p>Our request is for the Council refuse the current application and tell the operators of the Park that they must observe the conditions of their current approval.</p> <p>We ask the Council to instruct its Environmental Health Officer to take the steps necessary to reduce the current noise from the Park.</p> <p>If the Council refuses the application, we ask that the operators of the Park be informed that before Council considers any further Development Application, the applicants must prepare an application which provides all of the details required by the Planning Scheme. Preferably the report should be prepared by a proper planning consultant.</p> <p>Should the Council believe that the Development Application can be considered as an amendment to the exiting approval we believe that the Council should withhold any approval until the applicants submit a properly documented application like it originally wanted to do. Council is perfectly entitled under the legislation to request that. It will be a chance to remedy those things that were missed last time.</p> <p>To help us understand the issues better we asked a Town Planner to look at the application/s and the decisions of Council. His report (attached) makes interesting reading. He points to what the Shire of Nannup did when it found itself in a similar situation. We think the Nannup situation and reports show what can be done. We have attached the minutes from Nannup even though they would be available to you on the internet.</p>
13	Kevin O'Brien RMB 357 PINGELLY WA 6308	<p>Thank you for the opportunity to provide comments on the proposed development at Lot 101 Reeds Road Popanyinning as above.</p> <p>I am not in favour of any Motor Cycle Park in the vicinity of the Pingelly/ Popanyinning areas as this is where I run my business. Having a motor cycle park provides little or no benefits to local people, and for much of the time, it is highly inconvenient, particularly for those who conduct productive agricultural activities; usually 7 days per week.</p> <p>Motorcycles create unwanted and unnecessary "noise, disturbing stock, wildlife and the lifestyle enjoyed by those who live here. It interferes with our way of life as the noise made by the motorcycles can be heard, on occasion, from at least 12kms away. Catering for FIFO workers is a poor excuse for longer opening hours as these people have very flexible working conditions.</p> <p>Coincidentally, since its opening, there has been an increase in hooning witnessed close to the Reeds Road entrance of the Motorcycle Park.</p> <p>This Motor cycle business runs on a property that has only one title; deeming the rates to be minimal, and yet demands more essential services, whether they be local or regional, than those who live and work in the area. These</p>

		<p>services include local Shire services such as road maintenance, Police and Royal Flying Doctor, as well as local volunteer services such as St John Ambulance, the SES and Fire Fighting services, all of which are in place to accommodate the people who live and work in the area.</p> <p>May I request that if this business is to continue, that it is closed on at least two weekends each month to allow us to continue to go about our own business, and not open until 10am at the earliest which would allow us to move stock on Reeds Road and/or enjoy the quiet.</p>
14	Anthony N Henriques 103 Victoria Road POPANYINNING WA 6309	As the motor cycle park is an existing business operating at the same location, I have no objection to its expansion.
15	Graeme Downe PO Box 10 Popanyinning WA 6309	<p>Thanks for the opportunity to comment on the proposed changes requested in the Planning Application - Motor Cycle Park Expansion - Lot 101 Reeds Road.</p> <p>I will preface my comments by declaring that developments which bring activity to the Shire and, in particular, to the town of Popanyinning are welcome from the point of view of wider public exposure and increased commercial activity.</p> <p>On that basis, the proponents have not presented any research into the increase in actual or perceived benefits for the Popanyinning community. In fact, there is anecdotal evidence from the proprietor of the local store that motor cycle visitors do not frequent the store for purchase of either food or fuel.</p> <p>I will also declare that I am not aware of any of the conditions placed on the proponents in granting approval for the initial application. However, as this is an application to upgrade, it automatically changes the form and function of the Motor Cycle operation and I would have anticipated a full risk assessment and risk management plan to accompany the application.</p> <p>As a matter of course, the application for this proposal needs to be couched in terms of a risk management assessment. If I ask the question, "Have the proponents identified, assessed and provided mitigation strategies for the actual and perceived risks?" my answer would have to be; "No!" It would be interesting to compare the conditions imposed on the proponents of this application compared with those of the Cuballing Equestrian Centre. And while the park is currently operating under some kind of Shire sanctioned conditions, it is noted that this proposal has the potential to become a very financially viable operation and patrons will expect a very high level of safety and emergency response capability. The Motor Cycle Park (The Duck's Nuts) are already currently advertising the new operating hours as if the proposal have been accepted (http://all-opening-hours.com.au/0724654/The_Ducks_Nuts_Motorbike_Park)</p>

Certainly, the fire risk has been addressed to some degree. However, the publication of a contact list does not meet the requirements of a risk assessment. It merely details some small part of a response strategy. Also, the only fire risk that has been identified is that of bush fire. There seems to be no provision in the fire plan for a fuel fire incident and no fuel handling area has been identified with fire suppression capabilities. This will become increasingly important as the number of riders and crews increase.

There are, also, a number of risks which have not even been identified. With increased participation of both riders and spectators there is a risk of accident and injury. There is no documentation identifying this risk and no stated provision in the proposal for the treatment and management of casualties. The proponents have not identified the availability of first aid or any on-site qualified first aid responders.

The fire risk did have a list of fire relevant contacts but contact details for Police, hospitals and ambulance and any other emergency responders required in an accident emergency are non-existent. An operation of this magnitude needs to have a fully comprehensive plan which is submitted to all identified responding agencies including maps showing ingress and egress to the site and detailing on-site capability.

The other risk is traffic management. East Popanyinning road is a major access route to surrounding farming operations. The road itself is not constructed as a major thoroughfare. Movement of extremely heavy and bulky machinery takes place at various times of the year. Many of the motor bike fraternity are sometimes reluctant to move their vehicles off the roads they may damage the cargo they are carrying. This is likely to increase the risk of motor vehicle accidents involving farm machinery and motor bike carriers. Also, the nature of the main access road into the park is gravel and will require constant maintenance attention by the Shire throughout the year.

The other risks which have not been identified are environmental. Two issues came to mind immediately. The first relates to the increased activity and the possibility of fuel and oil spills resulting from refueling and mechanical problems and the second relates to noise.

The fuel and oil spill risk may be minor but the operator will be irresponsible if these materials are allowed to be wasted in the environment. At present, no mention has been made of any strategy to combat this risk. This has the potential to build up over the length of time the operation is running. There is no clear indication of how this fuel spill risk will be monitored and mitigated.

However, I'm sure noise is quite a major risk considering the increased participation. Noise, along with prevailing winds, can transmit the sound of motor bikes over some considerable distance and disturbing the amenity of the area

		<p>and the attractiveness of living in a rural setting afforded non-participating resident. The noise can also be exacerbated by the operating times. Once again, there seems to be no identification of this aspect of the operation or any proposals to even monitor this aspect of the operation let alone reduce the impact of noise pollution.</p> <p>This leads me to a perceived risk to the LGA. Is the LGA aware of the operator's insurance provisions? If Cuballing Shire is granting permission for the proponent to operate this facility in its proposed format without suitable risk management strategies are the Shire aware of the level of the operator's level of public liability insurance. Furthermore, is the Shire aware if the operator has adequate insurance? If the operator has insufficient public liability insurance any claimant may then transfer the risk to the Shire as the organization which approved the application.</p> <p>Once again, I draw attention to the process for approving the Equestrian Centre and suggest a similar process needs to undertaken here to protect local residents, enthusiasts and the Local Government. It may be an opportune time to suggest the LGA undertake a formal risk management assessment for those proposing new projects in the Shire. It may add more clarity for both the LGA and the proponent to gauge the implications and impacts of the project.</p>
16	<p>Aaron & Cindy Robertson 67 Calcoran Road Popanyinning WA 6309</p>	<p>We are writing in regards to the motorcycle park expansion. Thank you very much for this opportunity and extension given to respond, as this is our first of any correspondence received regarding the park.</p> <p>By way of background we are the closest residents to the park. We own the property at 67 Calcoran Rd. Our boundary is the eastside of the park where the location of the tracks are situated. Heading east in a direct line from tracks location and here is our residence approx 750m. Our workplace ie shearing shed and other sheds, is approx. 700m from the bike tracks location.</p> <p>There is no bush between our residence and the park. Since 2008 we are the landowners of block 103 Reeds Rd which is south side of the park. An easement runs through the middle of our farm that we share with the park and neighbours.</p> <p>We are farmers and at the present are running approx. 800 ewes/lambs and cropping. We aim to increase our number of livestock and plant more crop. We hope to have some cows and horses.</p> <p>We have looked at their proposal and oppose expansion. In the short period of time the park has been operating problematic issues have occurred.</p> <p>Our objections to the bike park application are:</p> <p>Noise and dust pollution..</p>

At present all bikes can be heard from our resident/workplace area, dust and riders are clearly visible

We have on numerous occasions counted more than 10 bikes going at the same time.
 Noise is very loud, annoying and constant even with minimal bike users,
 Every weekend we are woken by annoying bike noise, 6 hours of continuous noise exposure, is particularly taxing and a significant disturbance for the major part of the day
 4 Consecutive days of constant, noise and dust exposure is a public nuisance in a rural zone.
 We cannot enjoy any outdoor activities as noise/dust has impacted on our peace and comfort, privacy, health, our way of life

We fear water contamination from dust pollution as we are on rainwater

Noise/dust pollution also has impacted on our livestock and our freedom to farm.
 We are limited to when and where we can move livestock Noise and movement from the bikes scare our sheep causing stress to pregnant ewes and lambs, which cannot graze in paddocks next to park,
 Noise and movement from the bikes has hindered us from farming other livestock, ie horses/cows

Fire danger concerns:

As our farm is split in half by the way of the shared easement, a major concern is increase of vehicles/bike riders, increases the potential of fire danger.
 Our paddocks bordering the park are pasture, the physical location of the bike tracks are approx 1-2m from our boundary. We believe the tracks are too close to boundary's putting crops in neighbouring paddocks in the high risk category.
 Non grazed bush blocks adjoining the bike park is an extreme fire hazard
 Sparks from high revving motors are a potential fire hazard especially in the summer time when risk is at its highest peak, we feel the park should not be operating during the summer season
 We are very happy with the new mobile tower in pop as the park may now have coverage and able to receive fire ban notifications as this may not have been a reliable option in the past
 Winter time the easement can get very boggy due to rain and traffic

Security issues:

Trespassers/trespassing has impacted greatly on our security

		<p>We have bike users illegally riding around on our property and the public roads in vicinity Calcoran/Reeds Rd, park owner is aware of some instances, Because of the increase of these instances happening we have had to put up security surveillance on our farm, and padlock all farm gates along easement and Calcoran Rd. Reeds road and intersection of reed rd easement is continuously ripped up by reckless drivers. Neighbours as well as our own safety feared, from reckless driving/drivers On occasion usually after long weekends when campers and users of park are at a high attendance, roads/paddocks littered with rubbish beer cans</p> <p>Environmental concerns:</p> <p>Sewage/water</p> <p>Where would the sewage from abolution block go with the creek being very close? Where does water come from for use of abolution block?</p> <p>With part of bike track partially crossing the creek it has restricted flow and has caused salt buildup leading to environmental degradation</p> <p>At this stage we are oppose to the motorcycle parks application to expand</p> <p>We believe the location of actual bike tracks are too close to our residence and neighbours, and too close to a agricultural and farming community.</p> <p>It is a high fire risk to our livelihood residence, our neighbours, our agricultural and farming community, It is a source of noise/dust pollution, destroying the simple pleasures of country living, and freedom of choice. It has the potential to create/ aggravate health/safety issues It attracts all kinds of people to our neighbourhood where personal security measures are enforced for the protection of private property. It detracts from the landscape and the character of its surroundings in a rural zone</p> <p>Expansion to park will enhance these problematic issues greatly, we believe closure of park will give back our freedom and liberty, and is the solution to all our issues present and future.</p>
17	Dianne Ferguson PO Box 470	Thankyou for your correspondence in relation to the above Planning Application of the Motor Cycle Club, "Duck's Nuts", of which I believe would like to extend their property in Popanyinning.

NARROGIN WA 6312

Popanyinning is a small country town, with a small community, made up of retirees and small “hobby farmers”. It is here where these residents enjoy “living the dream” the peace and quiet of country living.

At the moment, most residents, in the vicinity of the Motor Cycle Park are tolerant with what has been occurring with the Motor Cycle Club events, held over most weekends, and with the constant noise and the constant flow of traffic on the town boundary roads, it becomes a hum drum of motor bike noise.

On speaking to a few other residents, of which I do hope they advise the Shire of their opinions, is that the extension is not welcomed and warranted to have in the Popanyinning community. These types of people, the users of the Motor Bike Park, are rather young and carefree who don't really bring their families, which could support our local store, instead they bring the “riff raff” aspect of hooning and no respect to our roads, of which has been occurring.

Then on the other hand, there are many other reasons, to do with this Corporation, if it is one, such a Fire Control, First Aid Post, Amenities, Camping areas, Public Liability – not just to have a Farm Insurance Policy, and I believe the owner has made an income out of this park, and has made and approx \$600,000.00 from the Admissions to use the Motor Bike Park.

So on those few notes, I strongly disagree to having the Motor Cycle Park Expansion approved.

What “Duck’s Nuts” have now, in my opinion, is quite sufficient.

Thanking you for your consideration to my opinion.

A9910

12 AUG 2016

Saturday 30 July 2016-08-09

RE; planning application motor cycle park expansion,
Lot 101, reeds road, Popanyinning.

Dear Gary Sherry,

Thank you for the opportunity to provide our view on the above proposal,
Which until now has created a problem for us, in the fact of noise and
dust pollution.

Because of this reason we say no to the extension of hours.
We say no to public weekends opening.
We say no to extend the numbers of attendance.

Take note we have purchased our land, as rural zoned, that have a unique
pocket of wandoo and salmon trees, whit some unique mammals and
birds. We are members of the land for wildlife conservation to preserve
and bring it back to its natural state.

Please consider also the devaluation for all the blocks of land around
reeds road. Nobody likes to stock there horses in a rural aria.

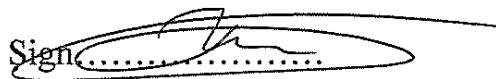
We the signet both agree that there should be no further expansion
Whatsoever, to all the inconveniences we are already experiencing

Regards,

Frank Hendriks,

sign.....


Thea Hendriks.

Sign.....


0417994268

Sender; F and T Hendriks,
12 Lilika street,
Armadale. WA 6112.

Reeds road
Popanyinning

A9910

12 AUG 2016

Salmon Downs

Reed Rd

PO Box 41

POPANYINNING WA 6309

Sunday 31 July 2016

Dear Sir

RE: Motor Cycle Park Expansion – Lot 101 Reeds Road, Popanyinning

Thank you for the opportunity to comment on the above.

Up until this time, the above business has created a problem in the fact of noise and negligent use of Reed Road; i.e. wheel spinning and ripping up of the road has been observed.

The noise factor at 8 o'clock on a Sunday morning is not what one would expect given that this is zoned rural and labelled as use, General Agriculture, under the Department of Planning; Scheme number 2.

Further to the above, because the start time of 8 o'clock, would it be possible that people are camping and using the property as a caravan park?

The volume of use of the road also affects the condition of the road; as ratepayers, we all contribute to the maintenance of Reed Road. It appears unfair that this access is the abused by other parties.

As ratepayers, we all contribute to an ESL (Emergency Services Levy), but by way of increased numbers using the motorcycle park, could this possibly contribute to increased risk of fire?

Additionally, it is noted that the proposal of the amendment purports to local business benefitting. May we counter this by saying, the business surrounding the cycle park are farming enterprises and see no benefit at all in a dirt bike riding track.

It has been put forward by the proposer to the amendment that the cycle park is seasonal. To my ears, it appears to be exactly the opposite, year around use.

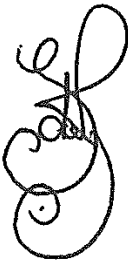
The worrying side to an amendment and the change of use in a rural area, is an escalation of other activities such as hot rods, paintballing, parachuting or whatever, thus changing and degrading the use for which the land and zoning was intended.

My property was purchased long before the cycle park was opened. We enjoyed peaceful use and serenity up until the opening of the cycle park. As ratepayers, we see that it is in our interest to preserve the values of our property and the continuation of the lifestyles that we chose at the time of purchase of our property.

I believe that there should be no further expansion to the inconveniences that we are already experiencing and urge council to consider the issues I have raised.

Yours sincerely

Simon De Rooy

A handwritten signature in black ink, appearing to be 'Simon De Rooy', written in a cursive style.

MARGARET ELAINE DE ROOY
M. E. de Rooy.

ADM990
09 AUG 2016
Dowlco Nominees

PO Box 8

Popanyinning 6309

6th August 2016

Dear Mr Sherry

Ref: Planning Application – Motor cycle park expansion Lot 101 Reeds Road

Thank you for your letter of the 19th July requesting comments on the proposed expansion of the motor cycle park.

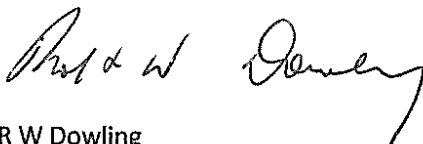
We oppose the expansion of the motorcycle park for the following reasons:

There have been numerous cases of antisocial behaviour outside the motorcycle park on Reeds road and surrounds. These include cutting up the roads, hooning and dangerous driving. For those of us using the roads for access to property, including movement of heavy agricultural machinery, and for the Popanyinning residents living near the park, this poses a real risk.

So far there have been no social or economic benefits to the Shire of having the motorcycle park. It has not, as far as we can tell, increased employment opportunities or benefited business and, with the cutting up of the roads, is more likely to be costing the Shire in road maintenance. Most of these city based people do not have respect or knowledge of our rural way of life, nor the responsibilities associated with issues such as fire.

Living in West Popanyinning, we are not affected by the noise from the park, but we imagine that the existing noise would detract enormously from the rural lifestyle that those people who have built there were seeking. To extend the hours of operation would make living out in East Popanyinning unbearable and stop other people from moving into the area.

Yours sincerely



R W Dowling

for Dowlco Nominees

Karen Forth
121-125 Ridley Street
Cuballing
WA, 6311
2/8/2016

A990
03 AUG 2016

Re:
John and Roewyn Street
T/A Ducknuts Motorbike Park
Business Proposal Amendment
Lot 101 Reed Road
Popanyinning
WA, 6309

Dear Gary,

I am writing to the Shire of Cuballing, regarding the proposal that has been submitted by John and Roewyn Street, trading as, Ducknuts Motorbike Park, located at Lot 101, Reed Road, Popanyinning.

As a parent of young adults, that frequently travel down from Perth to use this facility,

I am in full support of the request to increase the number of days that this track is available to the public.

I am also in full support to increase the number of patrons that are allowed at the track at any one time.

I as a parent , appreciate that my family can go to the Ducknuts Motorbike Track and have a great time without the worry of them being somewhere that is not adequate or safe.

Ducknuts have a fire safety and an emergency plan in place.

With an area like Ducknuts Motorbike Track, that has someone like John and Roewyn putting in their time to care and prepare the area for motorbike users, spectators and families, I think we should all support them 100%.

Regards

K Forth

A990

03 AUG 2016

Karen Forth
121-125 Ridley Street
Cuballing
WA, 6311
2/8/2016

Re:
John and Roewyn Street
T/A Ducknuts Motorbilke Park
Business Proposal Amendment
Lot 101 Reed Road
Popanyinning
WA, 6309

Dear Gary,

I am writing to the Shire of Cuballing, regarding the proposal that has been submitted by John and Roewyn Street, trading as, Ducknuts Motorbike Park, located at Lot 101, Reed Road, Popanyinning.

As a business in this Shire, it is nice to see other businesses starting to grow. I think we need to encourage a business like Ducknuts Motorbike track to expand and grow as needed.

With every new business that takes shape within this Shire, it helps to grow and support the businesses that are already here.

If John and Roewyn are willing to put in the time and work with having extra days and extra patrons at there place of business, than we should all support them.

Regards



02 AUG 2016

KAREEM PTY LTD

ABN: 84 350 504 261

ACN: 009 390 336

"ALLANDALE"

KA & SL Lansdell

PO Box 20

POPANYINNING WA 6309

PH/FAX: (08) 9887 5062

MOBILE: 0429 686 401

EMAIL: lansdell3@bigpond.com

Monday 1 August 2016

Dear Mr Sherry

We are writing in response to your letter dated 19th July 2016 in relation to the Planning Application – Motor Cycle Park Expansion – Lot 101 Reeds Road, Popanyinning.

We currently lease land on Reed Road, owned by Mr Paul Harken. The way in which we have used this land has changed since the Motor Cycle Park has been in operation. Previously, we would run sheep on this block post-harvest to graze stubble. We now hesitate to run sheep here due to the problems that arise in moving the sheep down Reed's Road with increased traffic travelling on this road. We have taken steps to reduce risks by purchasing extra safety signs to indicate livestock movement.

Shifting agricultural implements such as large tractors, header and field bins has also resulted in some anxious moments when road users not familiar with sharing the road space with an oversize vehicle attempt to overtake.

We have also had concerns about the increased risk of fire when operating motorcycles near grasses. Given the information provided in the planning application, we trust that the business operators are aware of their responsibilities in regards to appropriate fire control measures and the serious consequences suffered by farmers when fire destroys crops, livestock and improvements.

Whilst we like to encourage and support new businesses into the Shire of Cuballing, we do not think that the zoned agricultural use of land should be utilised for business ventures other than those of a strictly agricultural purpose.

Therefore, we would be against the proposed expansion of the motor cycle park. We are happy for the business to continue operating on weekends, as we currently try to carry out farming activity during week days on this block to avoid potential issues on weekends.

We are happy to be contacted for further comment if the need arises. Thank you for giving us the opportunity to comment on this Planning Application.

Kind regards



Kevin & Simone Lansdell

A990
15 AUG 2016

Brookton Newsagency
103 Robinson Rd,
Brookton, 6306
15th August 2016

To the Shire of Cuballing,

I am writing this letter in support of promoting the Ducks Nuts Motorbike Park in Popanyinning.

We have been in business in Brookton since 1989, in the past few years we have noticed a large increase of traffic from Perth and surrounding areas passing through Brookton supporting our Roadhouses, IGA, Newsagency and other local business houses all transporting motorbikes heading to Ducks Nuts Motorbike Park.

Many riders returning time and time again raving what a fantastic motorbike park John has created and offers to riders that have a passion to ride and escape from the danger of areas where riding is prohibited through natural bush tracks in Perth's outer suburbs.

We visit Duck's Nuts regularly with two teenage sons' who ride and can only congratulate the owners of this park for their facility that is promoting our country towns and providing a safe riding environment for riders of all ages.

Yours Sincerely,

Brad & Naomi Fyre
Brookton Newsagency
Email: eyre@bigpond.net.au
Phone: 0896421092

15 August 2016

Ryan Hall, Director

Colour Magic International Pty Ltd

Lot 3815 Calcoran Brook Road, Popanyinning

To the Shire of Cuballing,

Attention: Gary Sherry, Chief Executive Officer

Objection to Application for Development Approval – “Motor Cycle Park Expansion” – Lot 101 Reeds Road, Popanyinning

Thank you for providing me with the opportunity to provide written comments on this proposal.

I am the Director of Colour Magic International Pty Ltd, the land owner the property immediately adjoining the subject application area for the past 20 years. We have invested in the land by planting significant tree crops of Tasmanian Blue Gum, Pine and using the land for agricultural cropping and livestock grazing. We also have held long-term plans to build Bed & Breakfast accommodation to showcase the local area and local produce to tourists.

Regrettably, this is now in jeopardy as our quiet enjoyment of the land has been negatively impacted upon by the activities and operation of the Motorcycle Park over the past few years – mostly from the noise pollution caused by the motorbikes. This activity is destroying our ability to use the land to its full potential, and we are deeply concerned about the intensification and expansion plans, and the further impact this will have on us.

I provide this objection in good faith on planning grounds, for which the application can only be considered:

The Planning Regulations which the Shire must follow, specify that:

67. Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

The Shire of Cuballing’s Town Planning Scheme states its aims as follows:

1.6 THE AIMS OF THE SCHEME

The aims of the Scheme are –

- To protect good quality agricultural soils suitable for sustainable production from inappropriate subdivision and development for non-agricultural purposes;

The proposed use of the land is specifically proposed for a **“Non-agricultural”** purpose / land use – which is an inappropriate use as specified by the Shire’s Town Planning Scheme.

It would be inappropriate to further intensify the use. The current approval is limited to the current owner and is not transferrable to future owners, which means that the use is currently considered temporary, and does not have a permanent approval.

The Shire's Town Planning Scheme zones the land "General Agricultural", and the objectives of the zone are set out as follows:

(b) General Agriculture Zone

- To preserve productive land suitable for grazing, cropping and other compatible productive rural uses in a sustainable manner;
- To allow for the extraction of basic raw materials where it is environmentally and socially acceptable;
- To ensure the preservation of the rural character and rural appearance of land within the zone;
- To encourage intensive agriculture where soil conditions and location are appropriate and it can be demonstrated that off-site impacts (if any) will not adversely affect existing agricultural activities;
- To protect the economic viability of rural zoned land through a presumption against subdivision except where such subdivision will enhance and/or promote the viability and diversity of general farming activity;
- To preserve and protect the natural undeveloped land areas throughout the zone; and
- To ensure that natural drainage patterns/catchments through out the Shire are recognised in land management practices.

The application does not comply with any of the objectives listed above (which are taken directly from the Shire's Planning Scheme) as a Motorcycle Park is not a compatible productive rural use.

The motorbike activity does not preserve the rural character and appearance of land – the noise of motorbikes and track is detrimental to the area's character and visual appearance.

The Town Planning Scheme's provisions clearly outline a number of objectives aimed to protect and conserve the existing agricultural setting. A motorcycle park of such intensity as proposed is clearly contradictory. The proposed number of hours and number of motorbikes means that there will be a near-constant noise pollution problem for us. This is not compatible with the surrounding land, and non-compliant with the Shire's Scheme.

The Shire's Town Planning Scheme states that:

- 4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may –
- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
 - (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
 - (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

As a Motorcycle Park is not specifically set out in the Zoning Table, the Shire **must** follow Clause 4.4.2 and determine if the use is consistent with the objectives of the General Agriculture zone or not.

The application is starkly inconsistent with the objectives of the General Agriculture zone. The Shire must consider the application according to the Town Planning Scheme requirements. The application should be determined in accordance with Clause 4.4.2 (c) that the use is not consistent with the objectives of the General Agriculture zone and is therefore not permitted.

In addition to the land use problem that this application presents, there are a number of aspects of the proposal that are problematic:

1. Proximity of activities to boundary

Problem	Solution
The major problem is that the track is too close to our boundary and the noise and dust impact and nuisance is clearly evident.	There should be a buffer or separation distance imposed on the existing activity so that the activities do not unfairly impact on the quiet enjoyment of our property. This buffer should be used to install attenuation measures such as planting trees or install a noise mound to reduce the noise pollution impact.
The noise that is emitted from the motorcycle park is not contained on their own property, and regrettably this impacts on our property.	The operations and motorcycle track should be relocated away from the boundary that adjoins Lot 3815.
The track does not appear to be explicitly approved and is too close to the property boundary.	The Shire should impose a setback requirement as there does not appear to be any kind of specific approval given to the track itself, and its close proximity to our property is a direct cause of noise and dust nuisance.

2. Extent of Hours of Operation

Problem	Solution
7 day a week operation from 8am – 5pm. This means noise emitted 9 hours a day, every day of the year is too much – 56 hours per week is an unacceptable amount of time to constantly be operating motorcycles causing noise pollution.	There needs to be respite for adjoining landowners who are impacted by the noise of this land use activity. It is against the Environmental (Noise) Regulations to exposure surrounding owners to such noise levels over this timeframe.
8am start on Sunday – the current proposal specifies a 9am start.	The early morning hours of Sunday are sacred and should be protected and the 9am start time should not be eroded. The same should apply for 'long weekends'. Public Holidays such as Easter are sacrilegious and should be respected with a start time of no earlier than 9am.

3. Number of motor bikes operating

Problem	Solution
The proposal to increase to 60 patrons from Friday to Monday is completely unacceptable as it increases the severity of the noise impact.	Weekends should be limited or prohibited as this is when we are at the property and is the time for recuperation. The weekdays should be the time that accommodates the majority of patrons during 'business hours'.

4. Noise

Problem	Solution
The Shire's Officers and Council would find it difficult to assess this application and its impact on surrounding property owners without any supporting information from noise testing.	Require noise testing equipment to be installed to measure (and monitor) the noise levels against the Environmental Protection (Noise) Regulations 1997. This use is not exempt and must comply with the assigned levels of 60dba.
The Shire has said that they don't have their own noise measuring equipment.	Equipment is available for hire from the Department of Environment Regulation and no decision should be made until the data and information is collected so that an informed decision can be made.
There is no enforcement or monitoring of the noise emissions.	There should be specific conditions and restrictions on noise on the existing activity. The Noise regulations identify that noise may only occur for 10% of the day, and this proposal is clearly exceeding that by asking for approval for 9 hours of constant operation, 7 days a week. There is no respite and there should be restrictions in place to protect all surrounding property owners.

The Shire must consider the Environmental (Noise) Regulations and the specific limits and requirements placed on noise emitting activity. The Motorcycle Park is not exempt is subject to monitoring and compliance. The application to expand the operations will cause further noise pollution impact on our property. I object that the applicant did not submit any noise information or studies, or data to support their application and the Shire should obtain noise testing equipment so that an informed decision can be made before any intensification of the existing activity is considered.

Please don't hesitate to contact me for further information. I would also be prepared to work through facilitated mediation to resolve this problem. I believe that if the applicants would amend their activities to reduce their direct impact on our property, that a mutually agreeable outcome could be reached.

Regards

Ryan Hall, Director - Colour Magic International Pty Ltd

Lot 3815 Calcoran Brook Road, Popanyinning

17 AUG 2016

A990

PO Box 133

Pingelly

16-8-16

Cuballing CEO and Councilors

Re the extention of the Motor Cycle track on Reed Road.

Our main concern is the hoon behavior of some car drivers on the full length of Reed Rd.

IE fistbating + circlwork from East Popo road to Yamelling Road, - best after freshlaying graded!

Moving sheep along the road is sometimes a ~~worry~~ worry - yes we do use signs.

Yours faithfully

R J O'Brien

P. L. O'Brien

A990

Gary Sherry

From: Barry Wood <bwqms@westnet.com.au>
Sent: Monday, 22 August 2016 12:06 PM
To: Gary Sherry
Cc: mjmconley@westnet.com.au; t.w.dowling@bigpond.com;
gunnastay@bigpond.com; hillcroftbradford@gmail.com; haslems1@bournet.com.au; roger@lintonparkfarms.com; dhopper@westnet.com.au
Subject: Bike Park Reeds Rd Popanyinning.
Attachments: Bike Park 2.docx; 2015-South-West-Interclub-Series-Supplementary-Regulations-R1.pdf

Dear Gary

Please find attached my disapproval and reasons for any extension to the operating hours and increase in numbers to the motorcycle park in Popanyinning.

Also attached is a copy, for your interest, of the south west interclub regulations.

My views have come from many years in safety on construction and mining sites in Western Australia and around Australia.

During this time I sought and obtained formal Qualifications in Occupational Health and Safety.

Each and every person has a duty of care one to another and it would be wrong of me not to express my point of view. Also entities have a duty of care to all persons within their areas of control.

It is my view that the potential for incidents are high both on the road network and at the park itself and this is of great concern to me

Regards

Barry Wood

PO Box 57, Popanyinning 6309

0439945453

Bike Park

I wish to register my strong objection to the application by John and Maewyn Street for Council to approve and increase the numbers of patrons allowed at the Motorbike Park at Lot 101 Reeds Road from 10 per day to 15 per day on Wednesday and Thursday and to 60 per day on other days and to extend their days and hours of operation.

In approving the original application the Council showed the applicants some goodwill but in my opinion that goodwill has not been returned by the operators of the Motorbike Park. They have shown a disregard for the conditions attached to the development approval. The numbers attending the Park regularly exceed 10 per day by a considerable margin. Currently the operators advertise days and hours of operation outside of those approved by Council and they allow camping on the site. The breach of the conditions has an impact upon other residents that is unacceptable. I don't think that Council should reward the applicants for their disregard of the conditions of approval. If Council does approve the current application what confidence can it have that the applicants will respect the decision and do the right thing?

The Application

The operators of the Park have applied for an 'Extension' to an existing approval. I submit that given the size and scale of the increased activity (over 500% increase) the application should not be considered as an extension. The Council should refuse the extension and recognise that the operator should submit a new Development Application which addresses the issues properly. The Park is no longer a place where a handful of blokes muck about on their bikes over a weekend almost as a hobby. It now operates outside of its conditions as a fully fledged business and residents and users need the benefit and protection of carefully considered conditions

In my opinion the application is poorly documented and doesn't provide the necessary documentation and assurances that will enable Council to make a proper decision. There is no risk assessment for the site or the activity. There are no details of any accreditation that the tracks have received. There are no details of any insurances. There are no details of any safety procedures. There are no details of any noise management procedures. There is no documentation of any first aid training that has been undertaken. The site plan shows no details of parking arrangements and internal vehicle movement systems. There are no details concerning the ablution block or effluent disposal. The fire management plan is sketchy. All in all it's a pretty casual effort that runs the risk of exposing the owners and Council if something goes wrong such as a serious accident on site. To protect itself (and ratepayers) the Council should insist on a proper standard of development application.

To produce a proper application to industry standards will cost the Streets some money and some may argue that poor old John and Maewyn shouldn't have to pay out. But Council

should do the sums. At the rates charged, sixty clients a day 6 days a week, the business has the potential to generate a gross income of excess of \$600,000 a year - and that is not counting in any contribution by those commercial operators who are allowed to run training courses on site. As the Park has been running with increased numbers for some time there should be funds available to prepare a proper application.

Traffic

Popanyinning Road East and Reeds Road are not designed to provide safe vehicle movements for the numbers of vehicles that are currently accessing the Park. If the operators of the park respected the conditions of their approval (10 per day) then it might be O.K but they are not. At the very least the applicants should provide a risk assessment by a traffic engineer so that Council can be confident of the safe movement of traffic. If a traffic engineer recommends that the road system should be upgraded because of the Park, then the cost should be borne by the applicants.

I note that the Council has placed traffic counters on Reeds Road in an attempt to measure the traffic flow to the park. I am confident that the counters will show that the operators of the Park are exceeding the approved numbers but they will not provide an accurate measure of what happens on long weekends and during holiday periods when attendances are much higher. When assessing the traffic counts I would ask that Council remember that the busiest periods for the Park are during spring and autumn and times like the Easter break when we have observed that attendances are much higher. (Our elevated property overlooks Popanyinning Road East and we have a good view of the constant traffic movements.

Popanyinning Road East and Reeds Road.

Popanyinning Road East's traditional use has been for local traffic movements associated with farming activities and local residents accessing the highway. Even though it is bituminised it is very narrow as it leaves the town area and progresses east. It is not designed to cater for large numbers of users currently visiting the park unfamiliar with the road and not used to the need to pull over onto the verges when oncoming traffic approaches. The situation is made worse by the numbers of users accessing the park pulling trailers. My experience is that many with trailers refuse to pull over to one side when approached by oncoming traffic. The conflict is major when farm equipment is being moved.

Reeds Road is gravel and is utilised by some as a skid track with vehicles broad siding from side to side as evidenced on the road surface and especially after the weekends. While the operators of the Park are not directly responsible for what happens after their clients leave, arguably the nature of the activity and the kinds of clients it attracts generates this behaviour which is almost inevitable. The proposed plan has the potential to increase vehicle movements to the bike park by in excess of 450 extra vehicle movements a week. It is an accident waiting to happen. Council must consider how

it is to manage this issue if approval is unwisely given. It should recognise that because of the location it is unlikely that traffic police can assist.

Amenity of Our Property

We chose and purchased our property seven years ago and took up residence because we wanted the peaceful enjoyment provided by the General Rural Zone within the Shire of Cuballing. We chose Popanyinning East Rd, not the highway, because it was a local road with local traffic. We expected the usual seasonal noise generated by farming activities (we generate a few of our own). Now we find that our peaceful enjoyment has been disrupted by the operations of the Park caused by the huge increase in traffic and the constant noise produced by the large numbers of high powered motorbikes that use the Park. Notwithstanding the current approval the noise from the bikes frequently starts well before the approved operating hours and occurs on days of the week when the park is not supposed to open. As evidence, the operators currently advertise on their Facebook page that they are open every day except Wednesday, and that their hours are 8am to 5pm.

DUCKS NUTS FACEBOOK PAGE 9/8/16.
PAGE INFO

▸ Address

Reeds Road, Popanyinning, Western Australia 6309

▸ Hours

Mon-Tue: 8:00 am - 5:00 pm

Thu-Sun: 8:00 am - 5:00 pm

Discretionary Approval

In exercising its discretionary powers under its Town Planning Scheme for a use like the Park, the Council is expected to be mindful of the objectives for the General Rural Zone and ensure that any approval does not compromise them. I believe that the Park use, especially at the scale at which it is operating is not compatible with the General Rural Zone

Noise Management

In the first approval for the Park the Council asked for noise monitoring to be undertaken but for some reason I find very hard to understand that condition was rescinded. It's obvious that an activity like the Park can generate unacceptable levels of noise that make it hard for neighbouring properties and that is what is happening. The operators of the park do not observe the current conditions and cause noise problems. If the Council can't control the previous conditions how does it expect to control the noise from a huge increase in numbers? What steps are being taken to make sure motorbikes and quads are fitted with standard exhausts and spark arresters? From what we can hear from our place many of them haven't. Has the operator a noise management plan and the will to enforce it? How is Council going to monitor the noise? How is it going to enforce conditions re hours and days

of operation? The operators of the Park have shown they are not prepared to be self-regulating.

Camping

The advertising material for the Park on the internet proves our observation that the operators of the Park allow users to camp on site overnight. We do not think that allowing camping was part of the previous approval or is allowed by the Town Planning Scheme without proper application. I notice that the current application is silent on the matter of camping. Where are the sites located? What health and safety provisions have been made for campers?

Our belief is that allowing unsupervised campers on site overnight is contributing to the breach of the development conditions. The overnight campers are not prepared to wait for the approved starting times contributing to noise nuisance.

A number of those who visit the site and stay have dogs which are not always kept under control. We have anecdotal evidence of an increase in dog packs over the weekends representing a threat to livestock.

Council must address the issue of camping on site and ensure that the development application reflects what is happening on site properly.

Fire Management Plan

The Fire Management Plan provided in the application is a step in the right direction but much more work needs to be done. For an operation of this size it should be prepared by a properly qualified consultant who understands risks and how they should be managed.

The fire risks on the site potentially come from,

- Bike motors under extremes of operation emitting sparks,
- The exhausts of overturned bikes or bikes that have run off the track igniting fires,
- Out of control camp fires (overnight winds!),
- Smokers,
- Cross boundary wild fires.
- Smokers

The plan indicates that no fires will be allowed in the fire season. Presumably they mean camp fires. How is this going to be enforced? Is the camping area (which is not included in the application) going to have overnight supervision? A properly planned camping area for a site like this usually has electric barbecues or similar so that campers are not tempted to light up.

The plan says that in the event of a fire an air horn will be sounded to alert users and call them back to the muster point. Sounds a good idea but is the air horn louder than a highly tuned motorbike going full bore around the tracks? Need to rethink this one.

The plan says that 'Raewyn' will make sure that everyone is accounted for. Hope she is not having a day off when there is a fire! How will she know who is accounted for? There is nothing in the Development Application which indicates that an attendance register will be kept.

The site plan attached to the application shows the location of a 'Fire Trailer'. What is going to pull the trailer. A Tractor? A four wheel drive? If so time will be lost accessing the trailer and hitching up - and trailed fire fighting units are less manoeuvrable. In my opinion the fire fighting unit for an operation on this scale needs a unit equivalent to a Fast Attack vehicle, self powered.

The issue of safe and effective evacuation remains, given that the easement runs through wooded country and has several 90 degree bends.

Has anyone associated with the Park, which has a higher than normal fire risk, undertaken fire control training? In an operation like this anyone would expect that the owner or a staff member would have completed some of the readily available fire training modules.

I believe that the Fire Management Plan is too dependent upon the services of volunteers, who are usually willing but may not be able to access the site with the necessary speed. An operation of the scale proposed with its associated risk levels should take more responsibility through its own staff and training, for fire control.

Safety of Users

The activities on site carry a high level of risk of personal injury either to riders or to spectators. A Development Application for this type of activity should include comprehensive details of safety measures that have been or will be undertaken. If Council approves this activity which results in an injury to a person through negligence or poor planning, then it may find itself part of any subsequent legal action. In my opinion Council must address all of the following with the operator. Any response from the operator should be properly documented and signed.

First Aid

- There is some superficial mention of first aid training and first aid kits in the application but no details.
- How many people will be in a supervisory capacity during the operation of the four tracks?
- How many of those people have received first aid training?

- Where is the evidence of the training they have received - documentation from St John's etc?
- What kind of first aid kits have been provided?
- Is there an Oxy Viva kit on site and someone trained in its use?
- Is there at least a stretcher or some other approved means of shifting an injured person?
- Is there a first aid room?
- What records/documentation exists for accidents that have already occurred on site?
- What procedures are in place for incident management and review?

Insurance

The application is silent on the matter of insurance for riders and spectators and any other members of the public. The Council must satisfy itself that proper provision has been made for insurance, especially public liability insurance.

In some of the earlier correspondence reference is made to insurance cover provided by the Motor Cycle organisation but where is the documentation?

Council must satisfy itself that proper insurance cover exists - a letter-certificate from the Motor Bike organisation or its insurer detailing level of cover and who and what is covered by any policy. It must do so to protect itself from any action. The applicant has stated elsewhere that those who ride on the tracks sign a waiver before being allowed to ride. As I understand the law, when you sign a waiver, you do not sign away your common law rights (can't be done). An injured party can still sue (operator or Council) if it can be shown that the operator has been negligent or that the Council has approved an activity that does not meet the necessary standards.

Ablution Block

The applicant says that he has purchased an ablution block and the site plan shows a location next to the creek (not sure that meets the requirements of the Health Act). The application is silent about the size and design of the ablution block. Any application should address the following issues.

Is the ablution block of sufficient size to provide for the numbers of visitors to the site. (There are formulas for this)?

- What kind of effluent disposal system is proposed? (or has it already been installed?)
- Does the ablution block meet the requirements of the Disability Services Act? It's not just wheelchair users who need the services provided by a disabled toilet).
- Is the capacity of the water supply on site sufficient for the toilets and showers provided by the ablution block and the increased numbers of users?

- Is there a sufficient supply of potable water on site?

**2015 SOUTH WEST INTERCLUB SERIES
SUPPLEMENTARY REGULATIONS**



PERMIT NO:

TRACK LICENCE NO:

INDEMNITY

MOTORCYCLE RACING IS DANGEROUS AND CAN RESULT IN INJURY TO COMPETITORS AND DAMAGE TO MACHINERY

These supplementary regulations are important documents, which affect your legal rights and obligations. Read these documents carefully and do not agree to the conditions of entry for this competition unless you are completely satisfied that you understand the contents **and agree to be bound by them.**

ANNOUNCEMENT

The Bunbury Motorcycle Club, Collie Motorcycle Club, Cranbrook Motorcycle Club, Denmark Motorcycle Club, Manjimup Motorcycle Club, and Southern Capes Motorcycle Club, herewith known as the PROMOTER, will conduct the SOUTH WEST INTERCLUB SERIES meetings in accordance with the GENERAL COMPETITION RULES OF MOTORCYCLING AUSTRALIA (GCR's), these supplementary regulations & any additions or amendments approved by Motorcycling Western Australia.

JURISDICTION:

The above mentioned meeting has been authorized by Motorcycling Western Australia which will issue the Motorcycling Australia Interclub Permit and is open to all Junior and Senior Competition license holders from the following clubs affiliated with Motorcycling Western Australia.

Bunbury Motorcycle Club, Collie Motorcycle Club, Cranbrook Motorcycle Club, Denmark Motorcycle Club, Manjimup Motorcycle Club and the Southern Capes Motorcycle Club.

Motorcycling Australia Interclub Permit is open to a minimum standard of a One Event Meeting License Holder.

OFFICIALS

Officials are appointed with the approval of Motorcycling Western Australia. Control will be under the Clerk of Course with the supervision from the Steward/s of the meeting who reserve the right to alter, postpone or cancel all or part of the event program if required, without notice.

The Steward, Chief Machine Examiner, Adjudicator, OC of flags and Sound Control Officer will be appointed for the series.

The Clerk of Course, Race Secretary and any assistants will be appointed by the nominating club with the approval of Motorcycling Western Australia

Series Officials are as follows:

Steward	Jarrold Shepherd
Clerk of Course	Nominated by hosting club
Race Secretary	Nominated by hosting club
Chief Machine Examiner	Dallis Preston
Ajudicator	Kayleen Roberts
OC Flags	Greg Banfield
Sound Tester	Paul Copley

ELIGIBLE CLASSES

CLASSES Junior		
50cc Demo	Non Competitive	4 - u9 yrs
50cc Auto		7 - u9 yrs
65cc		7 - u13 yrs
85cc 2 str/150 4 str standard		9 - u12 yrs
85cc 2 str/150 4 str standard/big wheel		12 - u16 yrs
125cc 2 Stroke		13 - u16 yrs
150cc 2 str - 250cc 4 stroke		13 - u16 yrs

CLASSES Senior		
Lites	(125cc 2 stroke to 250cc 2 stroke / 250cc 4 stroke)	
Open	(251cc 4 stroke and above)	
Clubman		
Veterans		
Ladies		
Novice		

To be considered a series championship class, a minimum of 10 bikes are required to constitute a class at the commencement of the series.

250cc 2 stroke machines will only be accepted in the Lites as per current GCR,s

Competitors may advance their grading or change class through the meeting or series, but points will not be carried over. Ie if progressing from novice to clubman

Clubman class is open to all clubman and ungraded competitors.

Lites and Open class is open to all Pro and Intermediate graded competitors.

Novice class is open only to 1st time competitors. Entrants for the novice class will be scrutinized by the event officials. Any rider who is clearly not a novice rider will be regarded to the appropriate class without transfer of points.

MINIMUM / MAXIMUM RIDERS

The maximum number of entries that will be accepted per class is 40 riders.

Entries are taken on an "as received basis" up to the maximum per class. Any entrants in excess of the maximum may be held as reserves for that class.

Subject to entries received, classes may be combined at the discretion of the Steward of the meeting. In such cases, classes will be scored separately.

ENTRY FEES AND CONDITIONS

Entry is only accepted on the day of the meeting.

Entries must be submitted on the official entry form and will only be accepted up until 7.45am on the day of competition. Entries will not be accepted after that time.

ENTRY FEES

Entry: Junior competitors
 \$25.00 per rider
 \$5.00 Extra class.
 2nd Junior family member \$15
 3rd Junior family member \$10

Senior Competitors
 \$35.00 per rider
 \$15.00 Extra Class

\$25.00 per One event recreational license for non competitive riders (Div 1)

\$55.00 per One Event Competition License.

Juniors must present a log book with competency signoff completed.

Cancellation by entrant: As entries are completed on the day of competition, no refund will be provided. No refund will be provided should an entrant withdraw from the meeting once entered.

REGISTRATION

All riders will be required to register on the day of competition and receive entry acknowledgement.

The entry acknowledgement will be required to enter machine examination.

All competitors must present themselves with their Parent/Guardian, MA Log Book (as required), MA license, proof of current club membership.

Riders under the age of 18 will need a parent/guardian to accompany them. Those riders at the event with a guardian will need a completed Deed of temporary guardianship form. Available to download from www.motorcyclingwa.org.au >Riders, >Licensing, >Deed of Temporary Guardianship..

SERIES VENUES AND DATES

The South West Interclub Series will be conducted over 6 rounds at venues nominated by the hosting clubs. The venues unless otherwise advised will be the home venue of the hosting club.

The Venues and dates are as follows

Round	Club	Date
1	Collie	12 th April 2015
2	Bunbury	26 th April 2015
3	Denmark	17 th May 2015
4	Southern Capes	14 th June 2015
5	Cranbrook	2 nd August 2015
6	Manjimup	10 th October 2015 (Saturday)

The final event will be followed by presentations of round and series awards.

MACHINE EXAMINATION

Machine examination will commence from 0630 and conclude at 800am on the day of competition.

Your machine will have some form of identifier placed on it to provide evidence of Machine Examination.

All competitors must present themselves, with their Machine, Riding attire, Boots, Body Armour (Juniors) and Helmet for inspection.

Helmet fitment tests may be carried out.

ALL MACHINES MUST CONFORM TO THE GCRS

Extra machine will be allowed but the machine must go through machine examination in the time specified.

TRANSPONDERS

Transponders will not be used at any series meeting.

RACE CONDITIONS

The promoters reserve the right to postpone, cancel or change the program if necessary with permission from the Steward on the day of the meeting.

Control will be under the Clerk of Course with supervision from the Steward whose interpretation shall be binding and is FINAL.

RIDERS MEETING

A riders meeting will be held 8.15am All riders must attend.

PRACTICE

Practice will commence at 8.30am on the day for all capacity classes. Minimum 3 laps time permitting.

Senior practice will be in two groups. All lites machines in in group 1 and all open machines in group 2, irrespective of grade or class.

START METHOD

Self-penalising drop gates. Clutch start.

15 second board displayed to all riders for full 15 seconds

At the end of 15 sec a 5-sec board will be displayed.

The gate will drop between 5 and 10 seconds after the 5-sec board is shown.

Gate positions will be selected on an as presented basis unless the Clerk of Course determines otherwise. In which case gate positions will be drawn by ballot.

No rider assistance will be allowed once the last lapboard is displayed. Riders only allowed in front of gates.

FINISH METHOD

A one-lap board will be displayed to the riders indicating when one lap remains. The chequered flag is displayed to signal the race is finished.

RACE FORMAT

The race format will be announced on the day of competition and will be dependent on entries received. Classes may be combined (but scored separately) at the promoters discretion. Consideration will be given to riders competing in multiple classes were possible.

FLAG ROSTER

Every rider is required to do 1.4 hours flag duty per event. This requires each rider to provide a flag official every 2.5 events.

Families with more than 2 junior riders will have their flag duty capped.

An allowance will be given for riders competing in more than 1 class ie first class will require fully duty, second class half duty.

First time riders without a flag official may be exempt from duty on that occasion.

Riders with genuine reason for not supplying a flag official may be excused from that event only with the understanding that they must supply

an all day flag official at their next event.

There will be no payment systems used as a substitution for the provision of a flag official.

Key officials are exempt from flags – Steward, Clerk of Course, Race Secretary, Timing team x 4, Flag coordinator, Series coordinator, Adjudicator, Series Scrutineers x 2, Noise Testing

This exemption is for the key official's riders only and is not transferable to other riders.

Key officials do not accrue credits but will be excused from the flag roster.

A spreadsheet will keep track of everyone's contribution and updated each event for more accurate records.

Failure to provide a flag marshal when requested will result in exclusion from the event

NO FLAG, NO RIDE, NO PROBLEM

PROTESTS

All protests shall be in writing and accompanied by a fee of \$70.00

A protest may only be made by a competitor.

For Junior competitors, the competitor must indicate the protest to an official prior to returning to the pits.

The Clerk of Course will designate an area, to be announced at the riders briefing and to be marked by a purple flag, where an official must be present to note any indications of protest.

AWARDS

In all competitive classes, 1st, 2nd, and 3rd places will be recognized at each event.

1st, 2nd, and 3rd places shall be recognized in each class for the series.

Place getters of each class in the series will be permitted to run the placing position number on their machine for the following year's series.

Junior and Senior Champion Awards shall be recognized for highest points score in the Junior and Senior capacities respectively.

Places will be determined on the competitor's accumulated points of every race contested.

Where any number of competitors ties for placing or Championship points, placing will be determined in accordance with the GCR's

Scoring will be in accordance with the GCR's. Note that points awarded per place have changed for 2015. Refer GCR 15.15.13

50cc Demo riders will be presented with Participation Awards all of equal value.

All female competitors will be presented with participation awards of equal value

SOUND EMISSIONS

Sound testing will take place at the event. Sound testing will be in accordance with GCR 15.19. Testing may be conducted pre or post competition.

FIRST AID

Ambulance personnel will be in attendance at each meeting from the commencement of practice until the conclusion of the last event.

It is a condition of entry that First Aid MUST be accepted wherever deemed necessary by the attending first aides. The Clerk of Course of the day has the right to refuse further racing of a rider if first aide requirements are not adhered to.

INJURIES

Riders transported to hospital must obtain a medical clearance stating they are fit for Motorcycle activity which is to be forwarded to Motorcycling Western Australia and retain a copy to be produced as required at subsequent events.

AMBULANCE COVER

All riders are reminded that ambulance cover is compulsory as a condition of your licence. Cover must be maintained for the duration of your licence.

NO HASSLE POLICY (member protection policy)

Any rider or entrant or person associated with the rider or entrant shall conduct themselves in an orderly manner. A rider shall be responsible for his own conduct and that of any person with whom he is associated. Anyone who abuses or threatens personally or physically any official or any other person present at the event shall be deemed to be in Breach of this rule.

The Clerk of Course shall deal with all member protection issues in the first instance.

GENERAL RULES

- 10.1. No alcoholic beverages allowed in pits or racing circuit.
- 10.2. There will be no riding of bikes other than on the track.
- 10.3. Machines must be pushed to and from vehicles and in and out of the pits. Engine may be running to assist.
- 10.4. Dogs will not be permitted (except guide dogs).
- 10.5. Enclosed footwear must be worn in the pits at all times.
- 10.6. NO quads, scooters or pit bikes permitted anywhere within the premises.

RIGHT TO USE IMAGE

It is a condition of entry that consent is given by the entrant/rider and/or parent/guardian for all photographs and electronic images (including moving images) that may be taken during the event by or on behalf of the Promoter, or with permission of the Promoter. All such images are the property of the Promoter and will only be used in accordance with the Motorcycling Australia Member Protection Policy and for the purposes of promotional or other purposes without further consent being required.

TIME SCHEDULE

The following time schedule is indicative and may be altered at specific venues dependent on local regulatory requirements.

PITS OPEN	6:00am
ENTRIES	6.30am to 7.45am
MACHINE EXAMINING	6:30am to 8.00am
RIDERS MEETING	8.15am
PRACTICE	8:30am
FIRST RACE	9:15am

PRESENTATIONS

Presentation of awards for participation and place getters shall be conducted approximately 30 minutes after the conclusion of the last event.

A990

ON & JF FRANCIS
T/A C & N FRANCIS
PO Box 6
POPANYINNING WA 6309
Telephone 08 98875056
ABN 85 919 719 934

22 AUG 2016

16 August 2016

Mr Garry Sherry
C.E.O.
Shire of Cuballing
PO Box 13
Cuballing WA 6311

Dear Mr Sherry

RE: Planning application – Motor Cycle Park expansion – Lot 101 Reeds Road Popanyinning

We would like to submit our comments on the expansion of the Ducks Nuts Motor Cycle Park.

We have seen how well supported the park is and feel that there must be a need for such a facility for riders to use. It gives people who are interested in motor cycle riding a controlled area to ride.

By the amount of people travelling from near and far to ride at this park only goes to show the need for such a facility.

We are in complete agreeance for the extension of the park to accommodate more riders and do not know of any reason for the Council not to give their approval.

Sincerely



ON & JF Francis

Gary Sherry

From: Deb Hopper <dhopper@westnet.com.au>
Sent: Tuesday, 23 August 2016 11:25 AM
To: Gary Sherry
Subject: FW: Ducks Nuts application: Public Comment
Attachments: Nannup Shire of Minutes July 2014 Noise Management Plan.pdf; Nannup Shire of Minutes Mar 2013 approval of motorcycle park.pdf; Nannup Noise report.pdf; Planning Review (002).docx

Dear Gary

We want to emphasise our objection to the application by the operators of the Ducks Nuts Motorcycle Park to amend their existing development approval for the following reasons especially.

- The levels of noise coming from the site are having an unacceptable impact on our amenity.
- The increase in numbers from 10 a day to 60 a day on Friday to Monday and 15 a day on Wednesday and Thursday and the increase in the days and hours of operation are increases of a scale that go far beyond an amendment.
- The application does not supply the information that should be expected (neither did the original application) or required by the Planning Scheme.
- The application is unclear. By 'numbers' do the operators mean the numbers of riders allowed to use the tracks or do they mean the total number of people allowed on site at any one time? They need to be properly defined.
- The apparent breach of the current conditions of approval (including camping) do not give us confidence that the operators of the Motorcycle Park will do the right thing by any approval.
- The application does not make any attempt to deal with the issue of the noise that is causing great concern.
- There is no management plan which shows how the operators of the Park will manage such a significant increase in numbers or the provisions they have made for safety or insurances. 'She'll be right' assurances are not enough. Details and documents should be produced to protect the Shire and to protect users.
- The Fire Management Plan still needs lots of work.

Our request is for the Council refuse the current application and tell the operators of the Park that they must observe the conditions of their current approval.

We ask the Council to instruct its Environmental Health Officer to take the steps necessary to reduce the current noise from the Park.

If the Council refuses the application, we ask that the operators of the Park be informed that before Council considers any further Development Application, the applicants must prepare an application which provides all of the details required by the Planning Scheme. Preferably the report should be prepared by a proper planning consultant.

Should the Council believe that the Development Application can be considered as an amendment to the exiting approval we believe that the Council should withhold any approval until the applicants submit a properly documented application like it originally wanted to do. Council is perfectly entitled under the legislation to request that. It will be a chance to remedy those things that were missed last time.

To help us understand the issues better we asked a Town Planner to look at the application/s and the decisions of Council. His report (attached) makes interesting reading. He points to what the Shire of Nannup did when it found

itself in a similar situation. We think the Nannup situation and reports show what can be done. We have attached the minutes from Nannup even though they would be available to you on the internet.

Regards

Deb Hopper-Wood and Barry Wood

Lot 2 Popanyinning Road East, Popanyinning 6309

PO Box 57, Popanyinning 6309



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Roger Stubbs AM, BA, Grad Dip Urban and Regional Planning
2/72 Hayes St
East Bunbury

D Hopper, B Wood
Popanyinning East Rd
Popanyinning

16th August 2016

Dear Deb and Barry

As requested I have reviewed the Development Application by John and Raewyn Street for an amendment to their existing Development Approval for Lot 101 Reeds Rd which, if approved, will enable them to increase the numbers of visitors to the Motorcycle Park and to increase the hours and days of operation.

As part of my review I have looked at the decisions of the Shire of Cuballing from the time when the issue of the Motorcycle Park first appeared in its agendas (April 2013).

The attached commentary is informed by information provided in the Street's current Development Application and from the reports and minutes of the Shire of Cuballing's meetings. There may be other documentation and decisions made under delegation, but one would expect them to be referenced in the minutes.

Apart from any issues associated with the activities that occur at the Motorcycle Park, I believe you would be completely justified to include in your objections, an observation that the Council should not consider the current Development Application as an amendment to the existing approval. Regulation 77 of the Planning and Development Regulations 2015 does allow Council to consider a request for an amendment. But clause (c) reads,

(c)to amend an aspect of the development approved which, if amended, would not substantially change the development approved;

In my opinion, the application to increase the numbers of users from 10 per day to 60 and to increase the days of operation from 4 to 6 would substantially change the development approved with significant implications for on-site activity and management, and significant implications for the amenity of local residents associated with traffic movement and noise abatement.

If Council does not agree with your submission and decides to consider the application as an amendment, I believe that it should now insist on the preparation of a proper planning report which addresses the issues identified by the Council's planning consultant Mr Moran in his earlier advice to Council. It has the power to do so. To insist that the applicant addresses those issues will provide protection for the Local Government, the ratepayers, the users of the Park and the operators of the Park. I have expanded upon the issues in the following document.

Yours faithfully



1. GENERAL OBSERVATION

Motor sport is a dangerous activity. quotation sourced from Motorcycling WA website

When people patronise an extreme sports venue like the Duck's Nuts Motorcycle Park they are entitled to expect that the regulating authority, in this case the Shire of Cuballing, has satisfied itself that the facility has been developed to a proper standard. That for example,

- the tracks have been developed to an industry standard and accredited,
- proper provision has been made for insurance,
- the facility operates with the benefit of an approved management plan and trained staff to ensure its safe operation,
- the operators have made proper provision for an emergency response to fire or to serious injury and,
- proper provision has been to meet the requirements of health and environmental legislation.

When a noise and traffic generating activity is proposed or approved for the General Rural Zone, residents and ratepayers are entitled to expect that the Shire of Cuballing has properly assessed any impacts upon amenity and put in place conditions to regulate noise especially, and traffic.

The obligation for the Shire of Cuballing to do so, is established by the Planning and Development Act and its own Town Planning Scheme (which has the status of statutory law).

In my opinion, if the Shire of Cuballing does not assess a development like the Park in accordance with the requirements of its Town Planning Scheme in a demonstrable way, it may expose itself to the possibility of legal action.

The kind of can-do and risk taking blokes who enjoy using the Park may dismiss the above as 'bureaucratic bullshit'. But if one of them suffers a serious injury at the Park and loses income, then you may be sure that their lawyer will explore every avenue for compensation and look for someone to blame. Could the Shire defend itself from a claim that it was negligent because it failed to put in place conditions which minimised risks to users? On the basis of the documentary evidence in the minutes, I think it would be difficult.

I know that the operator has indicated that users must sign a waiver, but has the Council sighted the wording of the waiver? As I understand it, a waiver does not extinguish a person's common-law rights to sue if say, they can demonstrate negligence or incompetence.

It is always difficult for smaller Local Governments without a Planning or a Health Department when they receive unusual Development Applications for discretionary uses like the Motorcycle Park. Expertise to assist is available but is often perceived as too costly. But nonetheless, Council needs the benefit of good advice. Its Town Planning Scheme is statutory law and the Local Government is responsible for its application. It must get it right.

The applicants are probably very pleasant people who are very enthusiastic about growing their business which obviously meets a demand. But this does not relieve them or the Shire from an obligation to demonstrate that the Park meets the requirements of the Town Planning Scheme and other legislation, before any approval is given.

There is a similar facility to the Ducks Nuts Motorcycle Park at Kirup. It may assist the Shire of Cuballing if it were to examine the minutes and reports of the Shire of Nannup especially with regard to the information

sought from the applicant, the conditions that were imposed and the provisions for a noise management plan. It is all readily available on the internet.

2. THE STATUTORY ENVIRONMENT

2.1 Making an Application - Requirements of the Town Planning Scheme

Section 9.2 of the Shire's Town Planning Scheme clearly establishes the information 'which every application for planning approval is to be accompanied by'. In my opinion the information included in the earlier application and the current application for the Motorcycle Park, does not meet the requirements of Section 9.2. The Council of course may waive any of the requirements of 9.2 but when considering an application for an extreme sports venue, it would perhaps be wise to insist upon better information being provided, as was advised by the Council's own planning consultant. There is no record in the minutes of the Council resolving to waive any of the requirements of Section 9.2 in regards to the application for the Park. Neither is there any explanation of why the advice of its planning consultant was ultimately ignored.

2.2 Considering an Application - Requirements of the Town Planning Scheme

Section 10.2 of the Shire's Town Planning Scheme identifies those matters for which the Local Government should have 'due regard' when considering an application. Not all of them are relevant to the application for the Motorcycle Park but in my view, at the very least, the Council should have due regard for the following, 10.2 (a), (b), (i), (j), (l), (m), (n), (o), (p), (q), (s), (t), (u), (v), (w), (y), (za). In my view, neither of the applications lodged, adequately addresses these matters. The officer's reports and the deliberations of Council as recorded in the minutes, do not appear to give a clear indication that these matters have been given 'due regard'.

3. RESOLUTIONS OF COUNCIL IN RELATION TO THE MOTORCYCLE PARK

3.1 April 2013

The application was first considered at the **April 2013** meeting of Council. Given the information provided by the applicant Council was not in a position to properly consider the proposal and resolved accordingly.

COUNCIL DECISION

1. Council write a letter to the applicant stating that they require a report from a Town planning consultant with regards to the Motorcycle Park.
2. A copy of the Shire of Cuballing Town Planning Scheme be provided to the applicant with the guidelines outlined.

A better option may have been for the Council to refuse the application on the grounds that it did not provide sufficient information as required by Section 9.2 of the Town Planning Scheme and then suggest to the applicant that before any further consideration, it requires a report from a town planning consultant.

3.2 July 2013

The minutes of the **July 2013** meeting of Council records advice from the Council's planning consultant (Mr Moran) that details the information Council needed for it to properly assess the application for the Motorcycle Park. There is no comment about Mr Moran's advice in the minutes but of course the resolution of the April meeting was still in place.

The meeting considered the matter of the easement to the site and agreed to what appears to be a fairly generous concession to the applicants concerning the standards required for the easement.

3.3 August 2013

At the **August 2013** meeting Council resolved to approve the Motorcycle Park subject to a number of conditions even though the requested report from a town planning consultant had not been received. There is no explanation in the minutes as to why Council resolved to approve, even though the minutes record that Mrs Street had undertaken to submit a report to the September meeting of Council. **It should be noted that Mr Ramsay, the Environmental Health Officer, asked for it to be recorded that he recommended that the application not be approved in its present form.**

The Council resolution is very ambivalent. Part 2 reads, 'The Motorcycle Park at lot 101 Reeds Rd Popanyinning be approved subject to the following conditions'. A number of conditions follow (a), (b), (c) and so on. Condition (a) relates to the standards for the easement. A number of dot points follow including one which reads ' This approval does not mean that the application for the Motorcycle Park is approved as it only refers to the easement for the SAT Mediation Meeting to be held on the **7th August 2013** as the first step of the approval process.' As the Council Meeting was held on the **15th August**, the content of the dot point is rather difficult to comprehend. As it is not a notated condition, in my opinion, the qualification in the dot point that approval for the Park has not been given, has no status.

What follows is a series of conditions re the operation of the Motorcycle Park that clearly imply that approval has been given.

It would have been better for Council to resolve,

'That the applicants be advised that should the Council approve the application for the Motorcycle Park at a future meeting, the following are some of the conditions that it will apply....' OR ' That the applicants be advised that before the Council can consider its application further, it requires the submission of a report from a town planning consultant which addresses the following issues.....'

If I had been advising the applicants, I would tell them to insist that approval had been given for the Motorcycle Park.

I can understand why Mr Ramsay asked for his concerns to be recorded.

3.4 February 2014

The proceedings relating to the Motorcycle Park at the **February 2014** meeting are a little unusual. I note that there was a confidential briefing from the CEO at the meeting's commencement. It's a temptation to believe that the briefing concerned the Motorcycle Park, especially as the applicants had earlier held a meeting with the CEO and the former Shire President, but in the absence of any documentation in the minutes, that would only be speculation.

At the **February 2014** meeting all previous decisions relating to the Motorcycle Park were 'Revoked' (rescinded?) upon the officer's recommendation. The officer's report indicated that it would be 'prudent' to do so. The only explanation of why it would be 'prudent' was that, 'there has been so much discussion on this matter'.

Council then passed a resolution which approved the Motorcycle Park with a range of conditions.

Some of the conditions are difficult to understand. For example, Condition 7 indicates that 'The Fire and Emergency Plan approved by the Shire of Cuballing Emergency Services Officer be summarised and distributed to all patrons....'. Yet the officer's report (c) indicates that at the time of the decision, 'the Fire Management Plan has not been received from the Popanyinning Bushfire Control Officer.'

It would appear from the resolution, that Council has stepped away from establishing proper standards for the easement. This is unusual, especially given the importance of the easement as an evacuation route and the number of 90-degree bends. What is a 'satisfactory standard'?

Condition 5 is a catchall condition, but the applicants and the community should have been given the comfort of those provisions of the Health Act and the Environmental Protection Act relevant to the site being identified in the approval, especially in relation to noise control, lavatories and on-site water supply.

Condition 10 is unusual because it almost invites the applicant to breach the conditions of approval. 'Should this number be exceeded (n.b. it shouldn't be exceeded!) the Environmental Health Officer shall be advised to enable further assessment and subsequent approval of Council'. The condition should have read, 'The applicant be advised that if he wishes to increase the numbers of visitors permitted on site then a further application must be made to Council.'

I may be wrong, but I am not sure that Condition 11 is enforceable. Unless there has been a change of which I am unaware, conditions like this cannot be imposed. As I understand it, Development Approval applies to the LAND, not to the applicant. Council is not issuing a licence which subject to renewal.

4. OBSERVANCE BY APPLICANTS OF CURRENT CONDITIONS OF APPROVAL

The current conditions of approval provide that only 10 visitors should be on site at any one time and that the Motorcycle Park should only operate on Friday, Saturday and Monday between the hours of 8am and 5pm and on Sundays between 9am and 5pm.

Given the volumes of traffic accessing Reeds Rd (with motorbikes aboard) local residents are confident that the numbers of visitors the operators allow to visit the site are well in excess of 10 per day and that visits are allowed on days other than those approved. Further, residents note that activity on the tracks regularly occurs outside of the approved hours of operation.

Resident's observations are reinforced by postings on the Duck's Nuts Motorcycle Park's Facebook page. The operators advertise that the park is open 6 days a week between the hours of 8am and 5pm.

About The Ducks Nuts Motorbike Park

◆ Address

Reeds Road, Popanyinning, Western Australia 6309

◆ Hours

Mon-Tue: 8:00 am - 5:00 pm

Thu-Sun: 8:00 am - 5:00 pm

The Ducks Nuts Motorbike Park is a private property with four maintained tracks available to riders of any skill level and any age. Bookings essential.

Further, an examination of the many photographs posted on the Facebook page suggests that the numbers of visitors to the Park frequently exceed 10 by a significant margin.

Information on the internet also indicates that the operators of the Park allow camping on the site for which there is no approval. The presence of campers has implications for a range of issues associated with the provision for parking, the safe separation of campers from motorcycle activity, the provision of toilets, showers and potable water, and the availability of cooking facilities like electric barbecues (fire prevention).

If the operators are breaching their conditions of approval in terms of the number of visitors and by allowing camping on site, are there implications for their insurance policy? Given the need for insurance companies to scrupulously protect their interests would they refuse to pay out on an injury if an accident occurred when there were 40 visitors on site instead of the 10 approved? If a camper accidentally caused a major fire would the operators have public liability cover?

The apparent preparedness of the operators to breach the conditions of approval for the Park should motivate the Council to be especially focussed when they consider the new application. In the meantime, I would suggest that the Council should immediately advise the operators to observe the conditions of their approval.

5. ISSUES ASSOCIATED WITH THE APPLICATION/S AND CONDITIONS

5.1 The Tracks

Was development approval sought for the tracks at the Park and approval given? There is nothing in the minutes or the documentation to indicate that the four motorcycle tracks have ever received development approval. In the minutes of the February 2014 meeting the officer's report says that the tracks have been 'built in a professional manner'. But there is nothing to support this claim - no certification, no engineers certificate, no design, no management plan.

The Planning and Development Act 2005 Part 1 clause 4, to which the Council is subject, defines development (for which approval should be sought) as follows,

development means the development or use of any land, including —

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
- (b) the carrying out on the land of any excavation or other works;
- (c) in the case of a place to which a Conservation Order made under section 59 of the *Heritage of Western Australia Act 1990* applies, any act or thing that —
 - (i) is likely to change the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration of the fabric of any building;

Clause 4 (b) clearly establishes that the work necessary for the construction of the four motorcycle tracks should be the subject of a development application.

Councils, especially in broad-acre rural locations, do not always rigidly enforce this provision of the Act if say, an excavation occurs on a farm, when it has no implications for other properties.

But the Motorcycle Park is a 'public building' within the terms of the Health Act. A dangerous extreme sport is undertaken on the tracks. The operators have been providing access to the tracks for a considerable number of people including children. The tracks are adjacent to a creek system. The operator allows camping relatively close to the tracks. Clearly there are some significant risks to be managed.

In the development application submitted by the Streets, they say that the tracks are not for motocross. But an examination of the photographs on Facebook shows that some or all of the tracks have the characteristics of a motocross track. Riders are able to achieve considerable speeds. There are tightly banked curves, rises and falls, berms and jumps, that enable adventurous riders to achieve considerable heights. It's all great fun, until something goes wrong.

In my opinion it would be most prudent for the Council to require the operator of Motorcycle Park to submit a Development Application for the 4 tracks in order for Council to fulfil its responsibility for ensuring that the Park is operating in a way that minimises risk.

The Council should perhaps insist that the applicant at least supply the following so that the application may be assessed properly.

- An accurate site plan that clearly shows the design and location of each track and their relationship to each other, the parking area, the camp site, the ablution block and movement systems. The more challenging aspects of the tracks should be identified (such as the jumps).
- Certification from a properly qualified and competent person (say from a motor sport organisation) that the tracks have been developed to an appropriate industry standard and that effective measures have been taken to minimise risk and maximise safety. Issues such as the separation between tracks and movement systems in particular should be addressed.
- A management plan for the tracks which addresses issues such as, the level of supervision, the capacity of each track (ie the maximum number of riders at any one time), noise abatement, separation of pedestrian traffic from motorcycle traffic and safety zones.

5.2 Insurance and Affiliation with Motorcycling WA.

It is imperative that an activity such as the Motorcycling Park have in place proper insurance cover for personal injury and public liability.

Has the Council documentary evidence that the operators have an appropriate level of insurance cover both for riders and for visitors, spectators and neighbours? If not, it should demand to see evidence. When the Streets lodged their first application, a certificate of insurance was produced, but it was for Farm Insurance. A farm insurance policy would certainly not cover the activities currently undertaken on site or the users of the Park. It would not cover damage to a neighbour's property if a visiting rider caused a fire which escaped.

As part of their application the Streets indicated that they would affiliate with Motorcycling WA and issue riders with day licences which would provide insurance cover.

'We have contacted Motorcycling WA and we are going to affiliate with them which will cover any insurance issues which will arise....Riders will be issued with Day Licences provided by Motorcycling WA.' (minutes April 2013)

Has Council documentary evidence that the Motorcycling Park has in fact affiliated with Motorcycling WA. If so does the affiliation 'cover any insurance issues'? Is the Park issuing Day Licences from Motorcycling WA? Do the Day Licences provide insurance cover? It would be prudent for Council to check with Motorcycling WA.

I have visited the comprehensive and professional web-site of Motorcycling WA. (<http://www.motorcyclingwa.org.au/>) They have a section which explains the level of insurance cover that the nominated insurer provides. As with any policy there are many ifs and buts. A particular emphasis is placed upon activities and tracks having a permit or certification from Motorcycling WA before their insurance cover is effective. Do Day Licences provide insurance cover for individuals not members of clubs affiliated with Motorcycling WA? There are qualifications and limits placed upon providing personal liability insurance. It would be in the interests of all concerned if Council were to check this out. The staff of the Local Government Insurance Scheme may assist.

As I read the policies, if a person who becomes a quadriplegic as a result of a motorcycling accident, the payout from Motorcycling WA's insurer is limited to \$150,000. The public liability cover is only \$2,000,000. (the detailed policies are available on Motorcycling Australia's website). In my opinion the amounts are

inadequate, waivers notwithstanding. I am not an expert on insurance policies but there is cause for the Shire to require more detail.

5.3 Safety and First Aid.

As the Motorcycle Park is an extreme sports venue, the potential for severe injuries is high. If an ambulance is required, it must travel from either Pingelly or Narrogin and is dependent upon the availability and promptness of volunteers. It may be thirty minutes or more before an ambulance may reach the site. In my view it is important that the operators of the Motorcycle Park demonstrate that they have an effective first response strategy in place for when someone is injured.

The application by the Streets states that the staff of the Park have first aid training, but what does that mean? There are many levels of first aid training offered by organisations such as St John Ambulance. Given the level of activity on site it would be reasonable to expect that staff of the Park will have qualified in one of the higher level courses that train first aiders in resuscitation techniques using the appropriate equipment, and especially the management of head and spinal injuries, as well as broken bones. It would be prudent at least for the following questions to be asked and answered, and answers assessed.

- How many staff with first aid training are on duty at any one time and who are they?
- What level of first aid certification has been achieved and are the certificates available for inspection?
- Is the level of staff training appropriate for the kinds of injuries that may occur to motorcycle riders undertaking extreme sports?
- Is there an OxyViva and or a defibrillator (as required in Local Government swimming pools) on site and staff trained in their use?
- What level of first aid kits are available?
- Is the first aid team equipped to immobilise neck and/or spinal injuries (neck braces as used by football teams etc)?
- Is the Park equipped to transport injured riders off the track to a safe place such as a treatment post - stretcher, litter etc?
- Does the Park's management plan cover things like procedures for halting activity when accidents occur, control of spectators following accidents, protocols for calling ambulance, police and relatives?

5.4 Fire Management Plan

The Council agrees that a Fire Management Plan is necessary for the site. There is a fire risk associated with high performance motorcycles of the kind used on site. Similarly, vehicles travelling through the site and along the easement represent a fire risk especially in summer. Campers on site represent a fire risk - cooking fires and sit-a-around bonfires etc.

Key issues in any Fire Management Plan include, the training of staff, fire prevention, the protection and or evacuation of visitors, first response to fire until the brigade arrives and the protection of neighbouring properties.

The applicants have articulated a Fire Management Plan in their latest application. I am not an expert in Fire Management so I am not qualified to evaluate it, but I would make the following observations.

- The Plan provides for keeping vegetation and grasses under control. That is a good thing but it must be remembered that on a hot day with a following wind a fire often has little difficulty crossing a nearly bare paddock.
- The Plan makes no mention of any fire control training undertaken by staff. Given the size of the site and its location, the levels of risk and the numbers who visit the site, would it be unreasonable to expect that the Park's staff undertake one or more of the training modules available for volunteer fire fighters, to become proficient in the use of equipment on site?
- The Plan indicates that in the event of a fire, visitors will be mustered by the use of an air horn. Will the riders using high performance machines on the track and wearing crash helmets be able to hear an air horn? Maybe a re-think needed.
- The Plan indicates that fire extinguishers are available but the Plan doesn't say what type they are. Are they dry powder extinguishers as required by Motorcycling WA?
- Is a fire trailer which has to be hitched up to a tractor or other vehicle when needed, the best kind of fire fighting unit for the site?
- The evacuation plan needs careful assessment, especially as the evacuation routes are little more than tracks and the easement has three 90 degree turns.

5.6 Camping

The operators allow camping on site. The documentation gives no indication that the operators of the Park have Development Approval to do so.

If camping is to be allowed on site, then proper provision needs to be demonstrated.

- The area set aside for camping - tents, caravans, motor homes - needs to have a safe degree of separation from motorcycles and the tracks.
- Campers need to cook, so provision needs to be made for barbecues. In the fire season gas barbecues are not allowed so it would be appropriate for the park to provide electric barbecues similar to those provided by Local Government in recreation areas.
- Campers are sociable people and like to spend the evenings, especially on cold nights, around a bonfire. Many camp sites provide a fire pit/s.
- Campers need to ablute so proper provision needs to be made for male, female and disabled toilets and showers.
- An adequate supply of potable water on site needs to be demonstrated.
- Arrangements for waste management need to be demonstrated.

As a point of comparison, a similar facility, West Moto Park, has worked with the Shire of Wyalkatchem to provide the following for its users. Notice the camping area is set away from the tracks.

8/12/2016

West Moto Park | The ultimate off-road family riding park just 2 hours from Perth, Western Australia.

Camping

Situated in 5 acres of natural bushland, our campground features a modern toilet block with separate toilets for ladies and gentlemen with a dedicated disabled access toilet. Hot showers are available and all of the water is clean and drinkable.

We invite visitors to bring swags, tents, caravans or motorhomes and their own generator if they require power. You can enjoy sitting around the campfire* toasting marshmallows after an enjoyable day of riding and we have a number of barbecues available for use. Our cafe is situated next to the campground with a selection of cold drinks, sweets, pies, pasties and sausage rolls available for purchase, with hot coffee and hot chocolate made to order. Our shop also stocks a range of spare parts for your dirt bike and quad including oils, levers, tyres and tubes.

5.7 Noise Abatement

The noise generated by activities such as those at the Motorcycle Park often causes great conflict within the community.

Amongst other parts, Division 3 Regulation 16A of the Environmental Protection (Noise) Regulations 1997 provides for the operators of motor sport venues to develop a noise management plan for approval by the CEO of the Local Government. Although the main purpose of the regulation is to provide noise management plans for race events, it also appears to cover the kinds of activities which take place at the Motorcycle Park. eg.

racing activity means racing of motor vehicles or motor vessels conducted as part of a competition day, practice or training session, exhibition run, trial, test, entertainment event, promotion or other similar activity.

If it is uncertain about its powers and responsibilities, perhaps the Shire of Cuballing could liaise with the Department of the Environment or WALGA, through its Environmental Health Officer, to establish if Regulation 16A or other parts of the regulations may be applied to the Motorcycle Park.

The regulations provide for the payment of various fees by the operator to meet the cost of compliance.

Given the noise generating activities and its potential for nuisance that take place at the Motor Cycle Park, it is reasonable to expect that the Shire of Cuballing would make a noise management plan or similar, a condition of any Development Approval. Central to any condition or plan should be that all bikes using the tracks have standard exhaust systems. It should be noted that at one stage, the Streets offered to monitor noise levels (April 2013).

6. THE SHIRE OF NANNUP - WEST COAST TRAIL BIKE PARK KIRUP

At Kirup, within the boundaries of the Shire of Nannup and the Shire of Donnybrook-Balingup, a similar facility to the Ducks Nuts Motorcycle Park operates. I have looked at the minutes from the meetings (March 2013, July 2014) at which the Shire of Nannup approved the Development Application for West Coast Trail Bike Park and the associated Noise Management Plan, and suggest that it would assist the Shire of Cuballing greatly if it were to do the same. The minutes provide a model for the kind of information that should be provided by the applicant, the report provided to elected members and the conditions imposed (including for a detailed Noise Management Plan).

Roger Stubbs AM, BA, Grad Diploma of Urban and Regional Planning

Freeman of the City of Armadale,

Previously,

Elected Member and Mayor, City of Armadale and long time Chair of its Planning Committee.

President of the Local Government Association

Member of WALGA Executive

Holder of the Planning Portfolio for WALGA and the Australian Local Government Association

WALGA's representative on a range of WA Planning Commission's committees (including Deputy Member of the Commission).

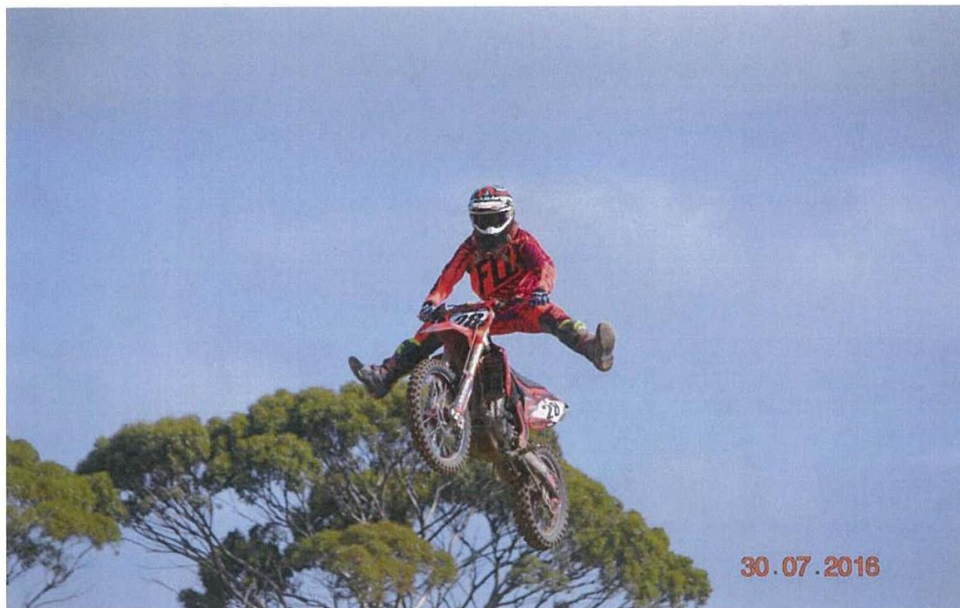
The following selection of photographs are taken from the Ducks Nuts Facebook page. The photographs on the Facebook page illustrate some skilful and exciting riding, but they also illustrate the need for a management plan which focuses upon safety and the importance for properly trained first aiders to be on site.



Even allowing for the telephoto lens, that this child was wandering near the track where motorcycles are at speed is cause for concern.



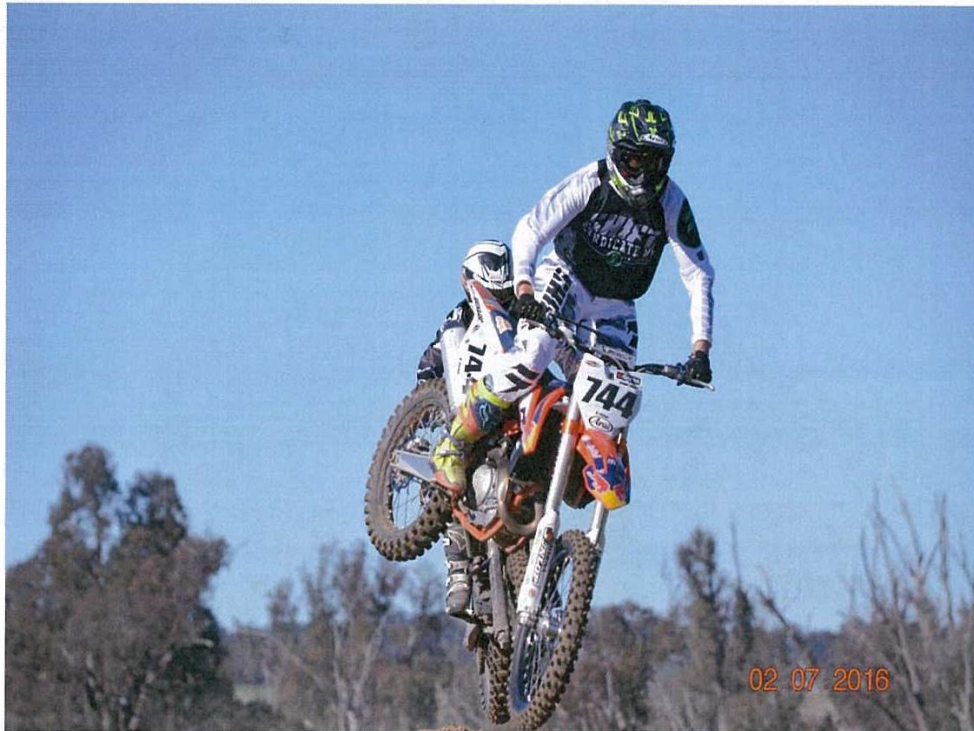
The great majority of riders wear the right kit, but why was this young man allowed on track without the proper protective clothing?



Great to see someone testing their skill and courage, but illustrates why it is important to have good first aid on standby.



Despite their reputation for instability a number of riders take quad bikes across the jumps.



Rider going over jump, coming in front wheel first. Look closely, there is another rider hard on his heels.



An enthusiastic jumper, but his height and angle of approach highlights the need for first aiders to be on standby.



Pushing the boundaries on an embankment. On the edge.



Another enthusiastic jumper. Hope he straightens up.

AGENDA NUMBER:	12.2
SUBJECT:	Trail Bike Park – acoustic assessment and managing noise impacts
LOCATION/ADDRESS:	Lot 4 White Road, Cundinup
NAME OF APPLICANT:	John & Georgina Staines (West Coast Trail Bike Safaris & Riding Park)
FILE REFERENCE:	A154
AUTHOR:	Steve Thompson – Consultant Planner
REPORTING OFFICER:	Robert Jennings – Chief Executive Officer
DISCLOSURE OF INTEREST:	Edge Planning & Property receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.70 of the Local Government Act 1995
DATE OF REPORT	14 July 2014

- Attachment:
1. Location map
 2. Report to Council on 28 March 2013
 3. Draft Environmental Site Services report (15 July 2013)
 4. Correspondence from Department of Environment Regulation (19 August 2013)
 5. Correspondence from applicant (12 June 2014) and extract of information recently submitted by applicant

BACKGROUND:

The purpose of the report is to consider the acoustic assessment undertaken and the associated measures being undertaken by the applicant (to be called the operator) to manage noise impacts.

The site is shown in Attachment 1. The site is approximately 25 kilometres north of the Nannup townsite.

At the Council Meeting on 28 March 2013, the Council passed a motion, at minute number 8928 which granted conditional planning approval to the riding park. The motion included condition 3 which stated:

“The applicant must have commissioned a suitably qualified acoustic consultant with the resulting acoustic assessment submitted to the local government by 30 June 2013. The acoustic assessment is to incorporate a series of noise tests, measured at appropriate locations, to the satisfaction of the local government. The results of the noise tests should confirm that the trail bike park use is being conducted in a manner so that noise emissions do not exceed the levels cited in the Environmental Protection (Noise) Regulations 1997. The recommendations arising from the acoustic assessment must be carried out to the satisfaction of the Shire of Nannup by 31 March 2014.”

The report to Council on 28 March 2013 is set out in Attachment 2. This provides background information which is not repeated in this report.

Since the Council granted conditional planning approval, the operator has been working through and addressing the conditions. The operator has submitted other required documentation and appears to be making on-going attempts to minimise off-site impacts. The Shire administration is satisfied that the operator has met conditions 1, 2 and 4 – 8 inclusive. In accordance with the conditions, there is a requirement that the operator continues to ensure that the conditions are met on an on-going basis.

Condition 3, relating to the acoustic assessment, is the only matter requiring Council consideration at this stage or in the foreseeable future.

Following the Council's decision, the operator commissioned Environmental Site Services (ESS) consultants to prepare a draft acoustic report which was submitted to the Shire in May 2013 (see Attachment 3). ESS concluded that "Measured noise levels at the nearest noise sensitive premises (White Road Residents) were found to be compliant." In relation to worst case noise levels near the southern boundary, the realignment of the track approximately 60 metres from the original track "resulted in reduced noise levels complying with Regulations."

Following the receipt of the draft ESS report, the Shire administration provided the draft report to landowners who made a submission on the Planning Application and to other stakeholders. The advice from the Department of Environment Regulation's (DER) Noise Regulation Branch is outlined in Attachment 4. The response from neighbours and other stakeholders in 2013 is available to Councillors on request.

Since the receipt of submitter and stakeholder comments on the draft ESS report along with the Shire's comments, the Shire administration has sought for the operators to arrange for ESS to update the report or alternatively, for the operators to commission another acoustic consultancy to prepare a new acoustic assessment. This has not occurred, although the operators have undertaken a range of supported measures to monitor noise and reduce noise impacts over the past 12 months. This includes incorporating a larger buffer near the southern boundary, purchasing and utilising a noise measuring device and checking noise levels of relevant motorbikes upon arrival.

Attachment 5 sets out the most recent correspondence from the operators and an extract of the supporting information provided to the Shire. This includes setting out the noise buffer zones (implemented by the operators post the ESS report) and the sound testing procedures now undertaken by the operators. Some of the supporting information recently provided by the applicant is included as Attachments 3 and 4.

The Shire administration has advised adjoining/nearby landowners who previously made submissions that the matter will be considered by the Council on 24 July 2014.

COMMENT:

Ideally, the ESS report would have been updated to address DER and Shire administration requirements or the operator would have engaged an alternative acoustic consultant to prepare a new acoustic assessment. An updated or new acoustic assessment would have provided technical evidence, professional sign off and increased certainty for everyone with an interest in the matter. While highlighting the above, the reasons put forward by the operator for not doing this (Attachment 5) are noted.

It is suggested the operator's measures to address noise as outlined in Attachments 3 and 5 be noted (draft ESS report along with a range of additional measures put in place by the operator to reduce noise off-site). In particular, it is suggested that the measures set out in Attachments 3 and 5 suitably address planning approval condition 3 at this stage. This is however on the basis that:

- the operator continues to ensure that the measures set out in Attachments 3 and 5 are met/maintained on an on-going basis, which includes the ride neighbourly principles, undertaking sound testing and implementing the noise buffer zones;
- should a written noise complaint be received by the Shire of Nannup from landowners within the district, that the Shire administration will investigate. Subject to the nature of the investigations, this could require additional measures to reduce noise impacts and/or the preparation of a new acoustic assessment; and
- should the riding park propose to operate after the clearing of the blue gum plantation, there will be a need for a new acoustic assessment post clearing.

The reasons for the above position include:

- no written noise complaints have been received by the Shire or the Shire of Donnybrook-Balingup in the last 12 months;
- the operator has commissioned a draft acoustic assessment which revealed that the trail bike park should be able to comply with the noise regulations for most of the routes in most conditions;
- the operator has adopted other measures (including an increased buffer area in the southern section) and these measures are supported;
- the site is located in a sparsely populated area of the district and there are limited sensitive land uses (residences) located near the site which are generally located around 1 km from the riding park. It is suggested that noise from much of the riding park can generally be controlled due to the topography, buffers of blue gums and prevailing winds (generally from the south west);

- the riding park operates between March – November and up to 6 days per month during this period;
- a condition of the planning approval limits customer use of motorbikes on the site between the hours of 9.00am and 6.00pm; and
- the *Environmental Protection (Noise) Regulations 1997* apply to the site (and throughout Western Australia) regardless of whether a planning approval is given. As outlined above, should a written complaint on noise be received, the Shire will separately investigate. Subject to outcomes, this could, for instance, result in extending the noise buffer and/or restricting certain routes in particularly windy conditions; and
- the Donnybrook-Balingup Council did not require an acoustic assessment in issuing the planning approval until the receipt of noise complaints.

Should the Council not support the measures set out in Attachments 3 and 5, then alternative options are:

- requiring the operator to commission a new acoustic assessment that satisfies DER and the Shire administration's requirements; or
- stopping the riding park's operation or commencing non-compliance/legal action. Should non-compliance action be considered by the Council, then this should be discussed with the Shire administration. It is also suggested that a consistent approach should be sought with the Shire of Donnybrook-Balingup.

STATUTORY ENVIRONMENT:

Environmental Protection Noise Regulations 1997, Planning and Development Act 2005 and LPS3.

POLICY AND CONSULTATION IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None

STRATEGIC IMPLICATIONS:

The trail bike park is used by people from the Shire of Nannup, South West, Perth and from other parts of Western Australia. It supports local business.

VOTING REQUIREMENTS: Simple Majority

RECOMMENDATION:

That Council in relation to the Trail Bike Park (recreation – private) at Lot 4 White Road, Cundinup:

1. Note the draft Environmental Site Services report set out in Attachment 3. Combined with additional measures set out in Attachment 5, that suitably

addresses condition 3 of the planning approval issued by the Council on 28 March 2013 at this stage.

2. Support the operator's additional measures to reduce off-site noise as set out in Attachment 5. This is however on the basis that the measures are maintained on an on-going basis which includes the ride neighbourly principles, undertaking sound testing and adopting the noise buffer zones.
3. Note that should a written noise complaint be received by the Shire of Nannup from landowners/residents within the district, that the Shire administration will investigate.
4. Outline that should the riding park propose to operate post-clearing of the blue gum plantation, that there will be a need for an appropriate new acoustic assessment post clearing to the satisfaction of the Shire of Nannup.
5. Advise the operator and adjoining/nearby landowners/residents who previously made a submission on the Planning Application of the above.
6. Inform the Donnybrook-Balingup Council of the outcome.

9151 MELLEMA/LORKIEWICZ

That Council in relation to the Trail Bike Park (recreation – private) at Lot 4 White Road, Cundinup:

1. Note the draft Environmental Site Services report set out in Attachment 3. Combined with additional measures set out in Attachment 5, that suitably addresses condition 3 of the planning approval issued by the Council on 28 March 2013 at this stage.
2. Support the operator's additional measures to reduce off-site noise as set out in Attachment 5. This is however on the basis that the measures are maintained on an on-going basis which includes the ride neighbourly principles, undertaking sound testing and adopting the noise buffer zones.
3. Note that should a written noise complaint be received by the Shire of Nannup from landowners/residents within the district, that the Shire administration will investigate.
4. Outline that should the riding park propose to operate post-clearing of the blue gum plantation, that there will be a need for an appropriate new acoustic assessment post clearing to the satisfaction of the Shire of Nannup.

5. Advise the operator and adjoining/nearby landowners/residents who previously made a submission on the Planning Application of the above.
6. Inform the Donnybrook-Balingup Council of the outcome.

CARRIED 6/0

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8927 CAMARRI/GILBERT

Cr Dunnet to stay, participate and vote on item 11.1 – Application for Planning Approval – Retrospective Planning Consent for Trail Bike Park.

CARRIED 8/0

AGENDA NUMBER:	11.1
SUBJECT:	Application for Planning Approval – Retrospective Planning Consent for Trail Bike Park
LOCATION/ADDRESS:	Lot 4 White Road, Cundinup
NAME OF APPLICANT:	John & Georgina Staines (West Coast Trail Bike Safaris & Riding Park)
FILE REFERENCE:	A154
AUTHOR:	Steve Thompson – Consultant Planner
REPORTING OFFICER:	Robert Jennings – Chief Executive Officer
DISCLOSURE OF INTEREST:	Edge Planning & Property receive planning fees for advice to the Shire therefore declare a Financial Interest – Section 5.70 of the Local Government Act 1995
DATE OF REPORT	18 March 2013

- Attachment:
1. Location Map
 2. Extract of information provided by applicant
 3. Submissions
 4. Supplementary advice from applicant (including letters of support)
 5. Shire of Donnybrook–Balingup Planning Approval Minutes

BACKGROUND:Site details

The site subject to this Planning Application is Lot 4 White Road, Cundinup which is shown in Attachment 1. The site is approximately 25 kilometres north of the Nannup townsite.

The site:

- is 154.68 hectares in area;
- contains a blue gum tree plantation over nearly all of the site with native vegetation along watercourses/creek lines;
- has a mixture of slopes from gentle to steeply sloping;
- contains a large dam and smaller dams/soaks; and

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- is used as a motorbike riding park with various trails using firebreaks created for the plantation.

While Lot 4 is within the Shire of Nannup, the trail bike park is predominantly within the Shire of Donnybrook-Balingup on Lot 8101 White Road, Cundinup and Lot 8991 Price Road, Balingup. The entire property subject to the riding park is approximately 470 hectares which contains approximately 80 kilometres of bike trails.

Adjoining and surrounding land is land managed by Department of Environment and Conservation (DEC) and freehold land which is predominantly used for grazing of livestock and tree plantations.

Planning Application

The applicant has lodged a Planning Application seeking retrospective approval for a trail bike park (Attachment 2). The trail bike park commenced operation three years ago.

In addition to information set out in Attachment 2, the applicant has provided a Fire Management Plan that was prepared for the blue gum tree plantation. The Fire Management Plan is available to Councillors on request.

As mentioned, most of the trail bike park is within the Shire of Donnybrook-Balingup. There are no buildings on land within the Shire of Nannup. The portion of the site within the Shire of Donnybrook-Balingup includes a registration area (site office, storeroom and toilets), a campground along with trail bike circuits.

The applicants also operate tours which extend throughout the South West. The tours are not subject to this Planning Application.

Consultation

The Shire administration invited public comment on the Planning Application for a four week period by writing to adjoining/nearby landowners and relevant State Government agencies and having details available at the Shire office.

The Shire received 13 submissions on the Planning Application and these are provided in full in Attachment 3. Six submissions have been received from adjoining/nearby landowners and seven submissions have been received from State Government agencies, service providers and the Shire's Community Emergency Services Manager. The submissions from adjoining and nearby landowners generally oppose the application, while submissions from other agencies raise no objection but provide a range of advice.

The five submissions which oppose the application (4 landowners plus a leaseholder) raise a number of matters including:

- noise impacts on amenity/lifestyle including a loss of tranquility;

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- bushfire risks – the site is fire prone and the riding park will add to the risks;
- logistical challenges given the site's relatively isolated location, including the availability of medical, ambulance and fire fighting services; and
- detrimental impact on property values.

Supplementary advice from applicant

In accordance with standard practice, the Shire provided the applicant with the submissions and the opportunity to respond to the objections, and issues. Attachment 4 sets out the applicant's response along with three letters of support. The letters of support highlight:

- safety and environment benefits of commercial ride parks;
- the facility reduces Shire resources in managing off-road areas; and
- the riding park is well managed including in relation to soil, water, noxious weed management and fire protection.

Planning framework

The site is zoned "Priority Agriculture 2" in the *Shire of Nannup Local Planning Scheme No. 3* (LPS3).

Sub-clause 4.13.3 of LPS3 titled "specific objectives of the Zone" states:

- “(a) To conserve the productive potential of the land and support the continued development of large scale agricultural establishments;
- (b) To preserve the rural character and setting of the zone; and
- (c) To ensure that any non-agricultural development is complementary to the predominant agricultural use and capability of the land”.

The use is best defined as "recreation - private" which means "premises used for indoor and outdoor leisure, recreation and sport which are not usually open to the public without charge." Recreation - Private is included within "Recreation and Leisure" in sub-clause 4.3.4. Recreation and Leisure is a "D" use in the Agriculture Priority 2 zone as set out in the Zoning Table. Sub-clause 4.3.2 states "'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval."

Clause 10.2 of LPS3 titled "Matters to be considered by local government" in part states:

"The local government in considering an application for planning approval shall have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development subject of the application:

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- (a) the aims and provisions of this Scheme and any other relevant town planning scheme(s) operating within the Scheme Area;
- (b) the Local Planning Strategy;
- (c) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;
- (j) the compatibility of a use or development within its setting;
- (k) any social issues that have an effect on the amenity of the locality;
- (m) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;
- (n) whether the land to which that application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to flooding, inundation, subsidence, landslip, bush fire or any other risk;
- (o) the preservation of the amenity of the locality;
- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (w) whether adequate provision has been made for the landscaping of the land to which the planning application relates and whether any trees or other vegetation on the land should be preserved;
- (z) any relevant submissions received on the application;
- (za) the comments or submissions received from any authority consulted under sub-clause 10.1.1; and
- (zb) any other planning consideration the local government considers relevant.

Clause 8.4 titled, "unauthorised existing developments" states:

"8.4.1 The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, providing the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning

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approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.”

The site is located in Precinct NR6 in the *Shire of Nannup Local Planning Strategy*. Precinct objectives include to:

- Provide for the sustainable use of land within the agricultural zones for a range of rural pursuits.
- Protection of Agriculture Priority area from potential land use conflict with tourism developments.

Planning consent issued by the Shire of Donnybrook-Balingup

The Donnybrook-Balingup Council, at its meeting on 27 February 2013, granted conditional planning approval for the retrospective use of a trail bike park on Lot 8101 White Road, Cundinup and on Lot 8991 Price Road, Balingup.

COMMENT:

Overview

It is recommended that Council approve the Planning Application subject to conditions. This follows assessment against LPS3, the Local Planning Strategy, Local Planning Policies, State Planning Policies, the submissions, supplementary advice from the applicant, and noting the recent decision of the Donnybrook-Balingup Council.

While noting opposition from some adjoining/nearby landowners, it is concluded that the riding park is conditionally appropriate for this site for reasons including:

- the predominant use of the site is the Blue Gum Plantation and not the Riding Park;
- it provides an important recreational facility, in a controlled environment, which is ideally located away from dwellings and “sensitive” uses;
- it appears to be well managed in addressing land management and other considerations;
- State Government agencies raise no objection; and
- it assists in diversifying the local economy.

Consistency with LPS3

The use of the land (4 White Road, Cundinup) for a trail bike park is deemed to be consistent with the aims and objective of the Priority Agricultural 2 Zone in LPS3. The dominant use of the land is the existing Blue Gum plantation and that the use of the land for a trail bike park (recreation – private) is incidental to the main use.

The use is best described as “recreation - private” which is a “D” use in the Agricultural Priority 2 Zone. This means the Council has the discretion to approve the use without requiring a Scheme Amendment. Accordingly, a Scheme Amendment of the land is not required. It is therefore recommended that the Council dismiss this particular matter raised by Mr Olde.

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Noise impacts

It is suggested that excessive noise is the most frequent reason people have concerns regarding trail bikes. Accordingly, it is suggested that noise is the key issue with this Planning Application.

At this stage, the applicant has not commissioned a noise impact assessment to confirm that measures will be sufficient to ensure that there are no unacceptable noise impacts to neighbouring properties. To provide technical evidence to the matter, the officer recommendation includes a condition requiring that a noise impact assessment be prepared. Subject to the outcomes of the noise impact assessment, this may limit portions of the site e.g. along the boundary of the site, for trail bikes at all times or certain times e.g. subject to prevailing winds.

The *Environmental Protection (Noise) Regulations 1997* apply to the site (and throughout Western Australia) regardless of whether a Planning Application is lodged or a planning approval is given. Should written complaints on noise be received in the future, the Shire will separately investigate.

While noting the above, it is highlighted that the site is located in a sparsely populated area of the municipality and there are, currently, limited sensitive land uses (residences) located near the site. Based on aerial photography, the closest dwelling appears to be located over 1 km west of the riding park. It is suggested that noise from much of the riding park can be controlled due to the topography, buffers of blue gums and prevailing winds.

It is recommended that if the Council grants (retrospective) planning consent for the trail bike park, a condition be included in any approval advising that customer use of motorbikes on the tracks is only permitted between the hours of 9.00am and 6.00pm.

Fire management

The site has an extreme bushfire hazard. Further, it also adjoins State Forest. A Fire Management Plan (FMP) was prepared for the site as part of the establishment of the blue gum plantation. It is recommended that an updated FMP be prepared which addresses the additional fire risks and required implementation measures for the trail bike park and associated uses e.g. camping. The Department of Fire and Emergency Services, the Shire's Community Emergency Services Manager and other submissions highlighted the need for an updated FMP.

The FMP should in part identify the procedures in the event of an emergency. Should the Council resolve to grant Planning Approval, it is recommended that the FMP should be periodically reviewed by the operator to ensure it remains current.

On-going management

There are on-going issues relating to the safety, security and management of riders/visitors, along with logistical challenges including the availability of medical,

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ambulance and fire fighting services. While noting the site's relatively isolated location, it is suggested that many of these safety, security and management issues primarily relate to duty of care considerations for the operator.

Effective on-going management is a critical issue. Significantly, the responsibility for appropriate on-going management rests with the landowner/operator to ensure that riders and visitors are responsible and do not create inappropriate impacts, including noise, fire, litter etc. to adjoining/nearby properties.

To minimise land use impacts and encourage appropriate neighbourly relations, a recommended condition requires the applicant to prepare and gain approval for an appropriate Management Plan. It is suggested that the Management Plan, amongst other matters, should:

- address the responsibility for rider/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
- outline the approach to maximise the safety and security of riders/visitors;
- seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks;
- acknowledge that the riding park is located in an agricultural area and that the impacts of agricultural pursuits should be expected and tolerated; and
- highlight the requirement to not enter adjoining privately owned or DEC managed land.

It is also noted that adjoining/nearby landowners have a common law right that addresses trespass.

Detrimental impact on property values

No professional evidence has been provided to verify this claim.

DEC advice

The support of DEC is noted. DEC advise the riding park provides a controlled off-road facility and assists to reduce uncontrolled off-road riding within DEC managed land. DEC also note amongst other matters that:

- the site contains remnant vegetation;
- the site contains potential Black Cockatoo habitat;
- the site is adjacent to DEC managed land;
- there are opportunities to minimise environmental impacts;
- there is a need for appropriate fire fighting equipment; and
- the use must comply with Noise Regulations.

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STATUTORY ENVIRONMENT:

Planning and Development Act 2005 and LPS3.

POLICY IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None

STRATEGIC IMPLICATIONS:

The trail bike park is used by people from the Shire of Nannup, South West, Perth and from other parts of Western Australia. It has potential to support local business.

VOTING REQUIREMENTS: Simple Majority

RECOMMENDATION:

That Council approve the Planning Application for the Trail Bike Park (recreation – private) at Lot 4 White Road, Cundinup received on 13 December 2012 subject to the following conditions:

1. The development hereby approved is to be carried out in accordance with the plans and specifications submitted with the application, addressing all conditions, or otherwise amended by the local government and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
2. A Fire Management Plan is to be submitted to the local government and the Department of Fire and Emergency Services by 30 September 2013. The Fire Management Plan is to be prepared to the satisfaction of the local government and the Department of Fire and Emergency Services. Following this, measures and recommendations in the approved Fire Management Plan are to be implemented by 31 March 2014 and maintained to the satisfaction of the local government.
3. The applicant must have commissioned a suitably qualified acoustic consultant with the resulting acoustic assessment submitted to the local government by 30 September 2013. The acoustic assessment is to incorporate a series of noise tests, measured at appropriate locations, to the satisfaction of the local government. The results of the noise tests should confirm that the trail bike park use is being conducted in a manner so that noise emissions do not exceed the levels cited in the *Environmental Protection (Noise) Regulations 1997*. The recommendations arising from the acoustic assessment must be carried out to the satisfaction of the Shire of Nannup by 31 March 2014.

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4. The proponent is to submit and gain local government acceptance of a Management Plan, prior to 30 September 2013, which addresses the responsibility for the behaviour of riders, clients and visitors and the management measures to be implemented to minimise adverse impacts on the amenity of the locality.
5. Customer motorcycle use on the site shall be confined between 9.00am to 6.00pm.
6. The trails and fire protection areas are to be located within existing cleared areas in order to avoid impacts on native vegetation.
7. Fencing to restrict rider, vehicle and walking access to the adjoining State Forest and freehold land is to be maintained to the satisfaction of the local government.
8. The operator of the trail bike park shall take all necessary steps to ensure the safety of persons visiting and working at the site at all times.
9. The operator to develop, in consultation with the Department of Environment and Conservation, a management plan to control the spread of noxious weed, dieback and other harmful diseases by 31 December 2014.
10. The applicant retaining adequate public liability insurance to the satisfaction of the local government.

Advice

- A) In relation to Condition 2, the Fire Management Plan is required to be relevant to the trail bike park use in addition to the tree plantation and to address matters including evacuation. The Fire Management Plan should be regularly reviewed to ensure it complies with best practice to assist in managing risk. Additionally, the development is to comply with the Shire of Nannup's Fuel Reduction Order and observance of the Restricted and Prohibited Season.
- B) In relation to Condition 3, noise emissions must comply with the *Environmental Protection (Noise) Regulations 1997*. The *Environmental Protection Act 1986* contains penalties where the assigned levels prescribed by the *Environmental Protection (Noise) Regulations 1997* are exceeded.
- C) In relation to Condition 4, the Management Plan is to:
 - address the responsibility for rider/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
 - outline the approach to maximise the safety and security of riders/visitors;
 - seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks;

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- acknowledge that the riding park is located in an agricultural area and that the impacts of agricultural pursuits should be expected and tolerated; and
 - highlight the requirement to not enter adjoining Department of Environmental and Conservation or private land.
- D) In relation to Condition 10 it is understood that West Coast Trail Bike Safaris & Riding Park have public liability cover of not less than \$10,000,000 in respect of any one event to provide indemnity to both injury to persons and damage to property.
- E) The applicant is advised that the Council reserves the right to cancel this approval where it is of the view that any or all of the conditions of approval are not being appropriately complied with.
- F) The Department of Environment and Conservation advises that:
- the clearing of native vegetation is prohibited, unless the clearing is authorised by a clearing permit obtained from DEC, or is a kind that is exempt in accordance with Schedule 6 or Regulation 5 (*Clearing of Native Vegetation Regulations*) under the *Environmental Protection Act 1986*;
 - the site contains several water courses;
 - the site is adjacent to the Jarrahwood and Mullalyup State Forests managed by DEC advising that approval of the development should not result in impositions being placed upon the management of DEC managed lands;
 - that any discharges associated with the proposed riding park must comply with the *Environmental Protection (Unauthorised Discharges) Regulations 2004* and that the proponent may consider the inclusion of designated bike repair/maintenance areas to reduce the risk of hydrocarbon discharge to the land and/or streams; and
 - waterways and major drainage crossings should be managed with suitable bridging, piping and hardening of approaches.
- G) Creek crossings should be designed in accordance with the Department of Water's creek crossing brochure.
- H) It is recommended that:
- written policies and procedures on injury management and the transfer of injured people to medical care are developed and regularly reviewed;
 - appropriate evacuation resources are provided and maintained;
 - the applicant/operator has suitably trained personnel on-site whenever there are clients using the trails; and
 - the applicant/operator informs St Johns Ambulance (Donnybrook and Nannup) prior to events and informs the local hospitals (Donnybrook and Nannup) prior to significant events.

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- I) The proponent is advised that development of the subject property in accordance with this Planning Approval may result in the method of rating for the property being reviewed.
- J) It is the responsibility of the proponent/landowner to advise the local government when all conditions relating to the development have been satisfied.
- K) Part 14 of the *Planning and Development Act 2005* provides the right to apply to the State Administrative Tribunal for review of some planning decisions and you may wish to take professional advice to determine whether or not such a right exists in the present instance. The *State Administrative Tribunal Rules 2004* require that any such applications for review be lodged with the Tribunal within 28 days of the date on which notice of the decision is given.

CAMARRI/DUNNET

That Council approve the Planning Application for the Trail Bike Park (recreation – private) at Lot 4 White Road, Cundinup received on 13 December 2012 subject to the following conditions as amended:

1. The development hereby approved is to be carried out in accordance with the plans and specifications submitted with the application, addressing all conditions, or otherwise amended by the local government and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
2. A Fire Management Plan is to be submitted to the local government and the Department of Fire and Emergency Services by 30 September 2013. The Fire Management Plan is to be prepared to the satisfaction of the local government and the Department of Fire and Emergency Services. Following this, measures and recommendations in the approved Fire Management Plan are to be implemented by 31 March 2014 and maintained to the satisfaction of the local government.
3. Removed.
4. The proponent is to submit and gain local government acceptance of a Management Plan, prior to 30 September 2013, which addresses the responsibility for the behaviour of riders, clients and visitors and the management measures to be implemented to minimise adverse impacts on the amenity of the locality.
5. Customer motorcycle use on the site shall be confined between 9.00am to 6.00pm.

Shire of Nannup
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6. The trails and fire protection areas are to be located within existing cleared areas in order to avoid impacts on native vegetation.
7. Fencing to restrict rider, vehicle and walking access to the adjoining State Forest and freehold land is to be maintained to the satisfaction of the local government.
8. The operator of the trail bike park shall take all necessary steps to ensure the safety of persons visiting and working at the site at all times.
9. Deleted.
10. Moved to Advice.

Advice

- A) In relation to Condition 2, the Fire Management Plan is required to be relevant to the trail bike park use in addition to the tree plantation and to address matters including evacuation. The Fire Management Plan should be regularly reviewed to ensure it complies with best practice to assist in managing risk. Additionally, the development is to comply with the Shire of Nannup's Fuel Reduction Order and observance of the Restricted and Prohibited Season.
- B) Deleted.
- C) In relation to Condition 4, the Management Plan is to:
 - address the responsibility for rider/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
 - outline the approach to maximise the safety and security of riders/visitors;
 - seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks;
 - acknowledge that the riding park is located in an agricultural area and that the impacts of agricultural pursuits should be expected and tolerated; and
 - highlight the requirement to not enter adjoining Department of Environmental and Conservation or private land.
- D) In relation to Condition 10 it is understood that West Coast Trail Bike Safaris & Riding Park have public liability cover of not less than \$10,000,000 in respect of any one event to provide indemnity to both injury to persons and damage to property.
- E) The applicant is advised that the Council reserves the right to cancel this approval where it is of the view that any or all of the conditions of approval are not being appropriately complied with.

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- F) The Department of Environment and Conservation advises that:
- the clearing of native vegetation is prohibited, unless the clearing is authorised by a clearing permit obtained from DEC, or is a kind that is exempt in accordance with Schedule 6 or Regulation 5 (*Clearing of Native Vegetation Regulations*) under the *Environmental Protection Act 1986*;
 - the site contains several water courses;
 - the site is adjacent to the Jarrahood and Mullalyup State Forests managed by DEC advising that approval of the development should not result in impositions being placed upon the management of DEC managed lands;
 - that any discharges associated with the proposed riding park must comply with the *Environmental Protection (Unauthorised Discharges) Regulations 2004* and that the proponent may consider the inclusion of designated bike repair/maintenance areas to reduce the risk of hydrocarbon discharge to the land and/or streams; and
 - waterways and major drainage crossings should be managed with suitable bridging, piping and hardening of approaches.
- G) Creek crossings should be designed in accordance with the Department of Water's creek crossing brochure.
- H) It is recommended that:
- written policies and procedures on injury management and the transfer of injured people to medical care are developed and regularly reviewed;
 - appropriate evacuation resources are provided and maintained;
 - the applicant/operator has suitably trained personnel on-site whenever there are clients using the trails; and
 - the applicant/operator informs St Johns Ambulance (Donnybrook and Nannup) prior to events and informs the local hospitals (Donnybrook and Nannup) prior to significant events.
- I) The proponent is advised that development of the subject property in accordance with this Planning Approval may result in the method of rating for the property being reviewed.
- J) It is the responsibility of the proponent/landowner to advise the local government when all conditions relating to the development have been satisfied.
- K) Part 14 of the *Planning and Development Act 2005* provides the right to apply to the State Administrative Tribunal for review of some planning decisions and you may wish to take professional advice to determine whether or not such a right exists in the present instance. The *State Administrative Tribunal Rules*

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2004 require that any such applications for review be lodged with the Tribunal within 28 days of the date on which notice of the decision is given.

- L) The applicant retaining adequate public liability insurance to the satisfaction of the local government.

LOST 3/5

Voting for the motion: Dunnet, Camarri and Lorkiewicz.

Voting against the motion: Dean, Gilbert, Longmore, Mellema and Steer

8928 MELLEMA/LONGMORE

That Council approve the Planning Application for the Trail Bike Park (recreation – private) at Lot 4 White Road, Cundinup received on 13 December 2012 subject to the following conditions as amended:

1. The development hereby approved is to be carried out in accordance with the plans and specifications submitted with the application, addressing all conditions, or otherwise amended by the local government and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
2. A Fire Management Plan is to be submitted to the local government and the Department of Fire and Emergency Services by 30 September 2013. The Fire Management Plan is to be prepared to the satisfaction of the local government and the Department of Fire and Emergency Services. Following this, measures and recommendations in the approved Fire Management Plan are to be implemented by 31 March 2014 and maintained to the satisfaction of the local government.
3. The applicant must have commissioned a suitably qualified acoustic consultant with the resulting acoustic assessment submitted to the local government by ~~30 September 2013~~ 30 June 2013. The acoustic assessment is to incorporate a series of noise tests, measured at appropriate locations, to the satisfaction of the local government. The results of the noise tests should confirm that the trail bike park use is being conducted in a manner so that noise emissions do not exceed the levels cited in the *Environmental Protection (Noise) Regulations 1997*. The recommendations arising from the acoustic assessment must be carried out to the satisfaction of the Shire of Nannup by 31 March 2014.
4. The proponent is to submit and gain local government acceptance of a Management Plan, prior to 30 September 2013, which addresses the responsibility for the behaviour of riders, clients and visitors and the management measures to be implemented to minimise adverse impacts on the amenity of the locality.

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5. Customer motorcycle use on the site shall be confined between 9.00am to 6.00pm.
6. The trails and fire protection areas are to be located within existing cleared areas in order to avoid impacts on native vegetation.
7. Fencing to restrict rider, vehicle and walking access to the adjoining State Forest and freehold land is to be maintained to the satisfaction of the local government.
8. The operator of the trail bike park shall take all necessary steps to ensure the safety of persons visiting and working at the site at all times.
9. Moved to Advice.
10. Moved to Advice.

Advice

- A) In relation to Condition 2, the Fire Management Plan is required to be relevant to the trail bike park use in addition to the tree plantation and to address matters including evacuation. The Fire Management Plan should be regularly reviewed to ensure it complies with best practice to assist in managing risk. Additionally, the development is to comply with the Shire of Nannup's Fuel Reduction Order and observance of the Restricted and Prohibited Season.
- B) In relation to Condition 3, noise emissions must comply with the Environmental Protection (Noise) Regulations 1997. The Environmental Protection Act 1986 contains penalties where the assigned levels prescribed by the Environmental Protection (Noise) Regulations 1997 are exceeded.
- C) In relation to Condition 4, the Management Plan is to:
- address the responsibility for rider/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
 - outline the approach to maximise the safety and security of riders/visitors;
 - seek the operation to be a good neighbour and be considerate including noise, litter and the approach to reducing fire risks;
 - acknowledge that the riding park is located in an agricultural area and that the impacts of agricultural pursuits should be expected and tolerated; and
 - highlight the requirement to not enter adjoining Department of Environmental and Conservation or private land.
- D) In relation to Condition 10 it is understood that West Coast Trail Bike Safaris & Riding Park have public liability cover of not less than \$10,000,000 in respect of

Shire of Nannup
Ordinary Council Meeting Minutes: March 2013

any one event to provide indemnity to both injury to persons and damage to property.

E) The applicant is advised that the Council reserves the right to cancel this approval where it is of the view that any or all of the conditions of approval are not being appropriately complied with.

F) The Department of Environment and Conservation advises that:

- the clearing of native vegetation is prohibited, unless the clearing is authorised by a clearing permit obtained from DEC, or is a kind that is exempt in accordance with Schedule 6 or Regulation 5 (*Clearing of Native Vegetation Regulations*) under the *Environmental Protection Act 1986*;
- the site contains several water courses;
- the site is adjacent to the Jarrahwood and Mullalyup State Forests managed by DEC advising that approval of the development should not result in impositions being placed upon the management of DEC managed lands;
- that any discharges associated with the proposed riding park must comply with the *Environmental Protection (Unauthorised Discharges) Regulations 2004* and that the proponent may consider the inclusion of designated bike repair/maintenance areas to reduce the risk of hydrocarbon discharge to the land and/or streams; and
- waterways and major drainage crossings should be managed with suitable bridging, piping and hardening of approaches.

G) Creek crossings should be designed in accordance with the Department of Water's creek crossing brochure.

H) It is recommended that:

- written policies and procedures on injury management and the transfer of injured people to medical care are developed and regularly reviewed;
- appropriate evacuation resources are provided and maintained;
- the applicant/operator has suitably trained personnel on-site whenever there are clients using the trails; and
- the applicant/operator informs St Johns Ambulance (Donnybrook and Nannup) prior to events and informs the local hospitals (Donnybrook and Nannup) prior to significant events.

I) The proponent is advised that development of the subject property in accordance with this Planning Approval may result in the method of rating for the property being reviewed.

J) It is the responsibility of the proponent/landowner to advise the local government when all conditions relating to the development have been satisfied.

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- K) Part 14 of the *Planning and Development Act 2005* provides the right to apply to the State Administrative Tribunal for review of some planning decisions and you may wish to take professional advice to determine whether or not such a right exists in the present instance. The *State Administrative Tribunal Rules 2004* require that any such applications for review be lodged with the Tribunal within 28 days of the date on which notice of the decision is given.
- L) The operator to develop, in consultation with the relevant authorities and the WAPRES management plan to control the spread of noxious weeds, dieback and other harmful diseases by 31 December 2014.
- M) The applicant retaining adequate public liability insurance to the satisfaction of the local government.

CARRIED 5/3

Voting for the motion: Dean, Dunnet, Longmore, Mellema and Steer
Voting against the motion: Gilbert, Camarri and Lorkiewicz

Reason for the change:

The control of noxious weeds is not the sole responsibility of the applicant and it would be unreasonable to include it as a planning condition.

Environmental Site Services
 ABN: 33881176321
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 Office: Suite 3/172 St Brigids Terrace Scarborough Perth WA 6019
 P: (08) 9341 4625 F: (08) 9463 6277 M: 0459 458 948
 Email: admin@environmentalsiteservices.com.au
 Web: www.environmentalsiteservices.com.au



15th July 2013

Reference: WCS1305REVB

John Staines
 West Coast Trail Bike Safaris & Riding Park
 C/- Kirup Post Office
 Kirup WA 6251
 M: 0429 825 775
 E: ride@westcoastsafaris.com.au

1. Introduction

John and Georgina Staines of West Coast Trail Bike Safaris & Riding Park operate a riding park situated on 1200 acres of private property off Gardener Road in Kirup. The Park is surrounded by State Forrest and land zoned rural. The park is open on Saturdays, Sundays and Public Holidays with the hours of operation being 9am to 4:30pm.

Environmental Site Services was commissioned by to undertake noise level measurements at the boundary of the park, at the nearest sensitive receptor and provide a summary report detailing the measurements.

There are sensitive receptors located in the form of rural property and residential premises. One residence is located off White Road approximately 900 meters to the South East of the riding park boundary and one residence to the West of the riding Park (1100 meters approximately)

The facility is utilised by riders operating a number of different makes and models of motorcycles. On the day measurements were taken 60 riders were using the park. The park has a number of designated tracks (approximately 30 kilometres) with the majority of riders utilising the motocross track which is near the centre of the park.

The objective of the study was to undertake noise level measurements on the boundary of the park and at the nearest sensitive receptor and assess these levels against assigned criteria in the Environmental Protection (Noise) Regulations 1997.

2. Summary

Owing to the area being zoned rural, the accessible criteria of LA10 of 60 dB(A) at the boundary at all hours and days of the week is assigned. The assigned criteria for noise sensitive premises at locations within 15 metres of a building directly associated with a noise sensitive use is LA10 45 dB on a weekday or Saturday, and LA10 40 dB(A) on a Sunday or public holiday.

Measured characteristics of noise was assessed for tonal characteristics and deemed not to be tonal; therefore noise received at the neighbouring properties would not attract any penalties in accordance with the Regulations.

Noise level measurements were taken under normal operating conditions on the southern boundary where riders follow the "Blue Track" (the track closest to the nearest sensitive receptors) these were found to be within Regulations.

Riders were directed to follow the Blue Track to produce worst case noise levels, these noise levels were found to be non-compliant with the Regulations, however; the number of riders directed to the Blue Track would not be a likely scenario as there are over 80 kilometres of trails in the Bike Park.

A test run was completed in-lieu of the high worst case noise recordings with a modified course (riders were directed lower down into the gully 60 meters from the boundary) noise measurements complied with Regulations.



3. Noise Criteria

Environmental noise in Western Australia is governed by the Environmental Protection Act 1986, through the Environmental Protection (Noise) Regulations 1997. Regulations 7 & 8 stipulate the maximum allowable external noise levels determined by calculating the influencing factor which is added to the values in Table 1. The influencing factor is calculated through the usage of land within a 100 meter and 450 meters radii from the premises of concern.

The influencing factor for nearby residences is zero owing to no major roads or commercial/industrial land uses within 450 meters of the nearest residence.

The various assigned levels at different times of the day are presented in Table 1.

Table 1. Assigned Noise Levels.

Type of premises receiving noise	Time of day	Assigned level (dBA)		
		L _{A10}	L _{A1}	L _{Amax}
Noise sensitive premises at locations within 15 metres of a building directly associated with a noise sensitive use	0700 to 1900 hours Monday to Saturday	45 + influencing factor	55 + influencing factor	65 + influencing factor
	0900 to 1900 hours Sunday and public holidays	40 + influencing factor	50 + influencing factor	65 + influencing factor
	1900 to 2200 hours all days	40 + influencing factor	50 + influencing factor	55 + influencing factor
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 + influencing factor	45 + influencing factor	55 + influencing factor
Noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use	All hours	60	70	80
Commercial premises	All hours	60	75	80
Industrial and utility premises	All hours	65	80	90

1. The "influencing factor" is calculated for each noise-sensitive premises receiving noise. It takes into account the amount of industrial and commercial land and the presence of major roads within a 450 m radius around the noise receiver.
2. The influencing factor will range from zero to about 20 in most cases.
3. Construction work is not required to meet the requirements of the table.

If noise emitted from any premises when received at any other premises cannot reasonably be free of intrusive characteristics of tonality, modulation, and impulsiveness, then a series of adjustments must be added to the emitted levels (measured or calculated) and the adjusted level must comply with the assigned level. The adjustments are detailed in Table 2.

Table 2. Table of Adjustments

Adjustment where noise emission is not music (these adjustments are cumulative to a maximum of 15 dB)		
Where tonality is present	Where modulation is present	Where impulsiveness is present
+5 dB	+5 dB	+10 dB



4. Measurements

To enable the assessment of noise emissions from the Ride Park noise measurements were carried out on the 18th of May 2013 whilst the ride park was operating. Noise measurements were taken at the boundary close to the Blue Track (a loop at the southern end of the ride park closest to the nearest sensitive receptors) under normal operating conditions; riders were then directed to follow the Blue Track to create worst case noise levels.

Weather conditions during the assessment were partly cloudy with a wind speed of 4 meters per second.

Noise level measurements were conducted taking short term noise measurements using a NATA calibrated 3M Quest Sound Pro DL Type 1 integrating Sound Level Meter (SLM).

Attachment



5. Results

Noise level measurements were conducted at the Bike Park boundary and at the nearest sensitive receptor (White Road) on the 18th of May 2013

Results are as followed

- o Short term measured boundary noise levels are detailed in Table 3.
- o Short term measured nearest sensitive receptor noise levels are detailed in Table 4.

Table 3. Assessment of Noise Level Emissions

Location	Assessable Noise Levels (dBA)			Types of Premises Receiving Noise	Applicable Times of Day	Applicable Times of Day			Exceedance to Assigned Noise Level (dB)
	LA10	LA1	LAmix			LA10	LA1	LAmix	
Southern Boundary (normal operating conditions for the Blue Track)	44	55	62	Noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use	All Hours	60	75	80	Complies
Southern Boundary (riders directed to follow Blue Track to produce worst case scenario)	72	77	84	Noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use	All Hours	60	75	80	Fails
Southern Boundary "Modified Course"	46	61	63	Noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use	All Hours	60	75	80	Complies

Table 4. Assessment of Noise Level Emissions at the Nearest Sensitive Receptor

Location	Assessable Noise Levels (dBA)			Types of Premises Receiving Noise	Applicable Times of Day	Applicable Times of Day			Exceedance to Assigned Noise Level (dB)
	LA10	LA1	LAmix			LA10	LA1	LAmix	
White Road Residence	39	45	58	Noise sensitive premises within 15 metres of a dwelling	0700 – 1900 Hours Monday to Saturday	45	55	65	Complies
					0700 – 1900 Sunday and Public Holidays	40	50	65	Complies



6. Discussion

Measured noise levels at the nearest noise sensitive premises (White Road Residents) were found to be compliant.

Measured noise levels at noise sensitive premises at locations further than 15 metres from a building directly associated with a noise sensitive use (the boundary) were within during normal operating conditions.

When riders were directed to follow the Blue Track to produce worst case noise levels, noise emissions were non-compliant with the Regulations at the measurement point. In-lieu of the high noise levels the Blue Track was modified near the measurement point with riders directed approximately 60 meters away from the original track (along the boundary) and into a gully, this resulted in reduced noise levels complying with Regulations.

Environmental Site Services recommends further noise monitoring should further concerns be raised.

If you have any questions or require any further information please do not hesitate to contact the undersigned.

A handwritten signature in black ink, appearing to read 'Andrew Breed'.

Andrew Breed
Principal Consultant
Environmental Site Services

Attachment



Government of Western Australia
Department of Environment Regulation

CEO	AD	L/B	Fl/O
MCS	EO	PUB	YC
WMA	CDO		RO
MDS	CR:		

Your ref A154
Our ref 2012/000858-1
Enquiries Dr Jingnan Guo
Phone 64675278
Fax 64675581
Email jingnan.guo@der.wa.gov.au

Mr Robert Jennings
Chief Executive Officer
Shire of Nannup
Adam Street, PO Box 11,
Nannup WA 6275

Dear Mr Jennings

Comments - Trail Bike Park – Lot 4 White Road, Cundinup

Thank you for your letter of 18 July 2013, inviting the Department of Parks and Wildlife (DPaW) to comment on the acoustic assessment for the proposed Trail Bike Park located on Lot 4 White Road, Cundinup. As the former Department of Environmental Protection has now been separated into two departments DPaW has forwarded the request to Department of Environment Regulation (DER).

The DER Noise Regulation Branch (NRB) has reviewed the Acoustic Assessment Report (Report) prepared by Environmental Site Services (ESS) in July 2013 and would like to provide the following comments and advice.

In general, the NRB's experience of noise from motorcross track indicates that with the proposed noise buffer, noise from the proposed Trail Bike Park may be able to be managed to comply with the noise regulations. However, the submitted Report is too simplified and has not satisfactorily demonstrated the noise compliance, due to lack of required information as below:

1. There is no map/graph showing the locations of the neighbouring noise sensitive receivers, the ride tracks, as well as the boundaries with neighbouring lots, which makes assessment of the Report very difficult;
2. It states in the Report that the noise from the proposed Trail Bike Park is deemed not to be tonal. There is no information as how this conclusion was achieved. NRB's experience indicates that the noise from motorcross track could be tonal – depending on the operations of the motor bikes and the location of the assessment. ESS needs to detail in the Report how the tonal assessment was done;
3. The noise measurement conducted on the southern boundary was conducted at two scenarios – normal operating conditions when riders follow the 'Blue Track' and worst-case conditions when riders were directed to follow the Blue Track to produce worst case levels. There were differences in the measured noise levels for these two scenarios: 28dB in L_{A10} ; 27 dB in L_{A1} and 22 dB in L_{Amax} , which are

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www.der.wa.gov.au

substantial differences. However, there was not enough information showing the differences in operating conditions of these two scenarios. ESS needs to detail the differences between these two scenarios and the likelihood of their occurrence. For instance, the number of motor bikes running during the measurement, their models, speeds and spatial distributions;

4. Noise measurement was conducted at one nearby sensitive receptor, which showed the noise compliance was marginally achieved on Sunday/Public Holidays. There is however no indication as to under what operating conditions this measurement was conducted: normal, worst-case, or 'modified courses'.

In summary, NRB considers that the submitted Report for the proposed Trail Bike Park has not satisfactorily demonstrated noise compliance with the noise regulations. NRB would recommend that the noise assessment be redone, and should clearly demonstrate the noise compliance – before the approval is granted.

I hope the above comments are helpful in enabling the Shire to make decision on this application. If you have any questions regarding these comments, please contact Peter Popoff-Asotoff on (08) 6467 5275 or Jingnan Guo on (08) 6467 5278.

Yours sincerely



Peter Popoff-Asotoff
Manager, Noise Regulation Branch

Attachment

19 August 2013



12 June 2014

Mr Robert Jennings
Shire of Nannup
PO Box 11
NANNUP WA 6275

Dear Mr Jennings

RE: Acoustic Testing

As you are aware we engaged Environment Site Services (ESS) to conduct an Acoustic Assessment of our Riding Park in May 2013 and a report was submitted to the Nannup Shire shortly afterward.

This Report was forwarded to the Department of Environment and Regulation Noise Regulation Branch (DER), however DER did not consider it detailed enough, and in turn the Nannup Shire requested the report be redone.

ESS said that the scope of work they received from the Shire documentation did not cover what the Shire/DER now requires. We think that the notes from DER's letter dated 19 August 2103 are quite reasonable and should have been included in the original report (see Appendix A).

We have spent considerable time, over 12 months, in discussion with ESS trying to get this extra data addressed. The employee who conducted the testing left the business soon after the report was sent out and ESS said they no longer had our data on file and that they did not wish to revisit the report or conduct anymore testing at our facility. They did quote us an additional \$3000 to complete the work on top of the \$2800 we already paid, but now they do not wish to complete the work, citing they are too busy.

This has left us in a predicament that we now have a substandard report and are thousands of dollars out of pocket. (See Appendix B – ESS Noise Report).

In response to DER's letter dated 19 August 2013 we will answer their issues raised to the best of our ability and to explain and give more details to what happened on the day of testing.

On the day of testing there were 46 adult riders, 14 kids and 9 spectators at the Riding Park. The maximum temperature at Jarrahwood (the nearest BOM site No: 9842) was recorded at 18.2 degrees celsius. The wind speed was 4 metres per second and the wind direction being East North East.

Location: Shire of Donnybrook–Balingup, Gardiner Road, off Mailman Road, Cundinup, Co-Ordinates: 33° 47' 11" S 115° 49' 5" E.

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Ph: 0429 825 775 Fax: (08) 9731 6630
Web: www.westcoastsafaris.com.au Email: ride@westcoastsafaris.com.au
ABN: 44 501 003 479

DEC Commercial Operations Licence – HQ68501

Point 1: There was no map showing noise sensitive receptors or the boundaries of neighbouring lots which made it hard to assess the report

We have supplied 3 maps, Appendix C showing the location of the property, Appendix D, the Site Map and Appendix E showing the Riding Park Trails with Noise Buffer Zones 1 (NBZ1) and the new and current Noise Buffer Zone 2 (NBZ2) and the locations of the surrounding properties.

The nearest sensitive receptor is the Mullins residence (see Appendix F), 750 meters from the southern fenceline, both the Dawson and Wallace residences are 1150 meters from the fenceline. I believe Mr Mullens forwarded a letter to the Nannup Shire stating that they did not think the noise offensive and the Wallace Residence do not have an issue with sound from the Riding Park.

Point 2: Tonality

The report also failed to address how they deemed that the noise was not tonal. After discussing this with ESS and others, we understand that had the noise been deemed tonal, an additional 5dB would need to be added for a worst case scenario. If this was the case, our noise level would still comply. We therefore feel that ESS's failure to address how they deemed the noise was not tonal to be somewhat irrelevant.

Point 3: Southern Boundary Testing Scenarios

DER have asked for ESS to detail the differences between our normal operating conditions, and the worst case scenario, and the likelihood of their occurrence.

During our first round of testing at the southern fenceline with NBZ1 in use, (which was implemented the weekend after the first Shire meeting after discussion with the Helms for us to be good neighbours, only 8 bikes went past during a 15-minute interval - this was a normal scenario. The Riding Park has over 50 kms of trails, riders can choose trails to their noise and skill level, and this prevents congestion of bikes in an location as was the case during the test.

To instigate a worst case scenario reading, we asked all riders present at the track (approximately 46 adults) to ride the Blue Loop in an effort to get an idea of the noise output from a very busy weekend. This is when the noise level exceeded the assigned noise level, which is highlighted yellow in Table 3 of EES Report.

From here we conducted other testing, firstly at Peter Mullens residence. These readings can be seen in Table 4 of the ESS report and comply.

We then visited various sites around the Riding Park but the ESS representative said that due to the state forest boundary, testing was irrelevant.

We then travelled back to the southern boundary and it was then decided that we would extend NBZ1 a further 60 meters down the hill. We call this new zone, Noise Buffer Zone 2 (NBZ2). We then tested under a worst case scenario again, (we directed riders to ride the Blue Loop again) and the assessment complied (See Table 3 of the ESS report).

After feedback from riding parents that this route was difficult for junior and novice riders we assessed the topography and moved the trail another 60 meters further down the gully (120 meters in total) to a better suited contour. This modified course is our 'Noise Buffer Zone 2' (NBZ2) and has been in use since the day of the testing so that our noise is legal on the southern boundary where the initial noise complaint arose.

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 ABN: 44 501 003 479
DEC Commercial Operations Licence – HQ68501

The EES report states in Section 2 - Summary, paragraph 4: *A test run was completed in-lieu of the high worst case noise records with a modified course (riders were directed lower down into the gully 60 meters from the boundary) noise measurements complied with Regulations.*

Point 4: In regards to the testing at the Mullen residence, this testing was done under worst case scenario and the reading still complied – (see table 4). The wind was in a North Easterly direction at 4 meter per second.

What we have implemented to be good neighbours

From this experience with ESS, we knew they had to be proactive and monitor our own noise to try and save our business.

We have therefore implemented a 'Ride Neighbourly' program. This program was introduced shortly after the Acoustic assessment in May 2013 to reduce the noise impact of riding operations on nearby properties.

We have also conducted our own noise monitoring several times during busy periods, at the southern boundary fence line and at the fence line at Cliff Dawson's property and the highest reading to date was 49.3dB.

We have also adopted the following sound measuring procedure from Motorcycling Western Australia Trail and Enduro Club. This is the nearest format of trail bike riding to our facility, but they are a competitive club and we are not, we are trail riding, not racing. See Appendix F - Sound Testing Procedure for a full explanation of the procedure we have been using since July 2013.

The aim of our Ride Neighbourly Program focuses on rider education by way of correspondence with customers during the booking in process prior to arrival, once again during the induction process prior to riding and the use of signs around the property to indicate noise sensitive areas. We expect all riders using the West Coast Trail Bike Park (Riding Park) to be considerate of neighbouring property owners/areas and follow the Ride Neighbourly principles as below.

Ride Neighbourly Principles

- All bikes are to have standard exhausts fitted – any riders who turn up with a non-standard exhaust or has an excessively noisy motorbike, are sound tested and maybe restricted to the MX track only, well off the boundary to ensure we do not exceed noise levels. The rider will require a standard exhaust on their next visit. See Appendix E – Sound Testing Procedure.
- When entering the 'Noise Buffer Zone' riders are to reduce engine revs and slow down as soon as possible and safe to do so.
- Riders are always to stay on the designated trails.
- The Riding Park is a non-competitive environment, so racing or aggressive riding is prohibited.
- Riding on the 80km trail loops is between 9am & 4:30pm.
- Riding on the PeeWee & MX tracks at the camping ground is allowed between 9am & 5pm.
- The Riding Park is to conduct their own sound testing at various sites to make sure the sound generated at the boundaries is legal.
- Extension of the noise buffer zone will be considered, pending future development or reasonable noise complaints from neighbours.

C/- Kirup Post Office, South West Hwy, KIRUP WA 6251
 Ph: 0429 825 775 Fax: (08) 9731 6630
 Web: www.westcoastsafaris.com.au Email: ride@westcoastsafaris.com.au
 ABN: 44 501 003 479
DEC Commercial Operations Licence – HQ68501

We would like the Shire to consider the following points:

- Our lease agreement with WAPRES is only valid until 2017, potentially we could only run for another 3 years before the property is due for logging and we cease operations.
- If we do not operate, where do these families who frequent our Park legally ride? The Donnybrook-Balingup & Nannup Shires have no legal riding area to our knowledge where unlicensed or unregistered bikes can ride.
- Standard exhaust policy - Please note that this policy has meant fewer customers visit our Riding Park as they do not have standard exhausts – I wonder where they ride now.... Out in the bush somewhere in an uncontrolled environment maybe.
- There was no Shire Representative present during the noise testing and the behaviour of the complainant (Mr Helms), was totally unacceptable with his constant threats of legal action and intimidating behaviour towards the ESS representative – I wonder if this has a bearing as to why ESS would not undertake the completion of work for us?
- Has the Shire received any noise complaints since we implemented NBZ2? As part of our Donnybrook-Balingup Shire application, noise testing would only be required following Noise Complaints; can this be considered an option for the Nannup Shire application?

We are one of four riding parks operating in Western Australia at this time, these businesses offer a much needed facility as the number of bike sales across the state and the popularity of the sport keeps increasing year after year and people need somewhere legal and safe to ride. Our business also provides much needed business to the region through services such as fuel, food and accommodation.

Noise is always going to be the biggest issue we face as an off-road motorbike business. Over the years of running our Safaris Tours and the Riding Park we have implemented many principles to combat the noise issue. The best practice so far has been working with other visitors and owners and other trail users to work out a mutually beneficial outcome for all parties, as once the complainant knows the whole story, and understand what we are trying to achieve by educating riders in the best practice of their sport, they generally end up not having an issue with our business.

We appreciate the Shires patience in this matter and we hope the Shire understands the effort we have gone to keep our noise legal and the expense we have incurred to achieve this. The money we have spent on the Nannup Shire planning application has stalled progress of our facilities however we appreciate the fact that we can move forward knowing we have improved our business by meeting the Shires planning requirements.

As a small business that only operates the Riding Park between 2 to 6 days per month between March and November, we cannot afford to pay for another acoustic assessment. We are currently looking into funding to cover this cost if required, but as we are a commercial operator and not a non-for-profit organisation this is proving difficult. If we cannot secure funding we will be contacting our local government member to ask for their assistance in this matter.

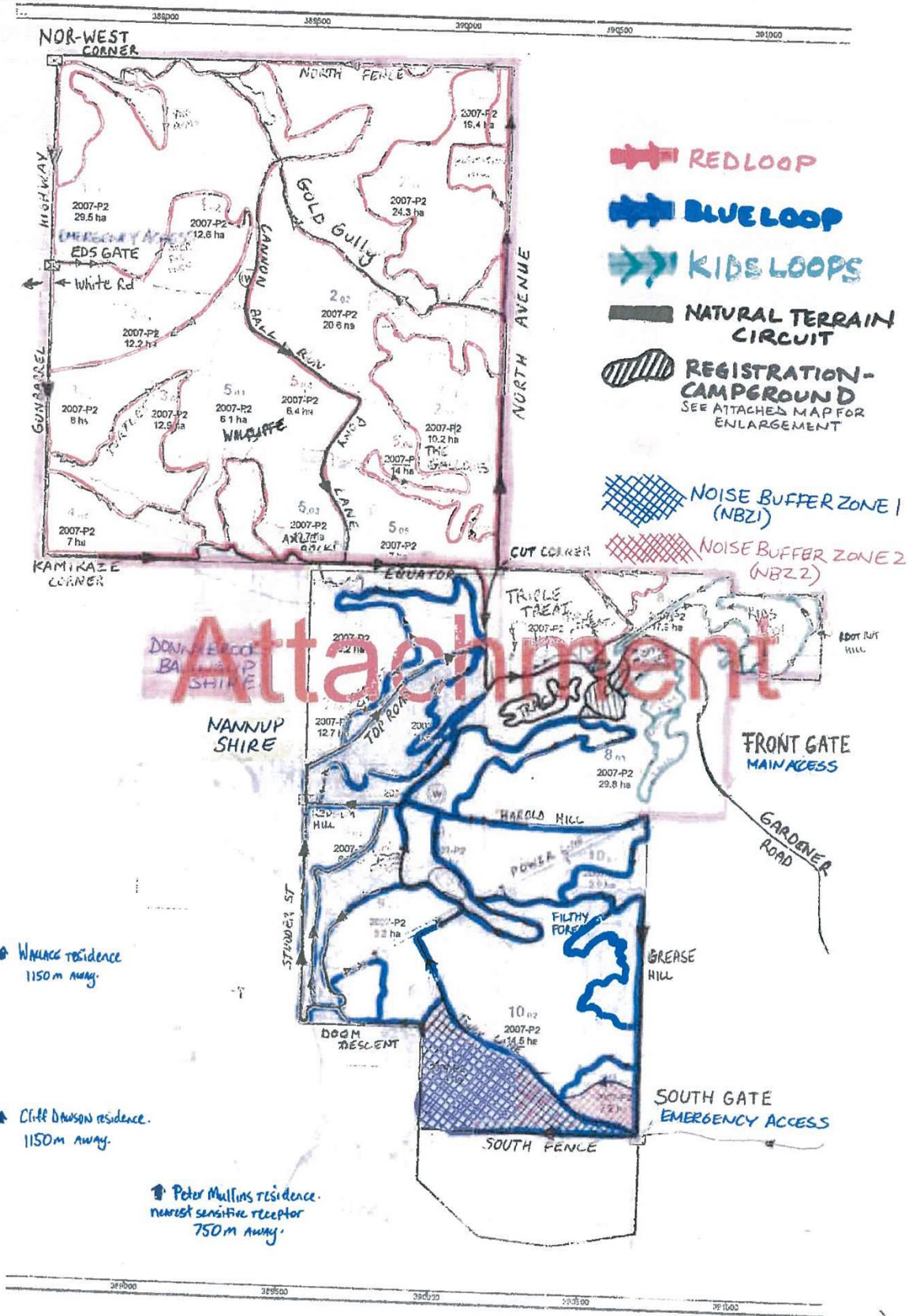
Yours sincerely



John & Georgina Staines
West Coast Trail Bike Safaris & Riding Park

C/- Kirup Post Office, South West Hwy, KIRUP WA 6251
Ph: 0429 825 775 Fax: (08) 9731 6630
Web: www.westcoastsafaris.com.au Email: ride@westcoastsafaris.com.au
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Sound Testing Procedure

Why do we need sound testing? Because noise is one of the main complaints against off-road motorbikes.

West Coast Trail Bike Safaris & Riding Park (WCTBSRP) wants to best manage their noise by minimizing impact to their neighbours and other trail users.

In order for WCTBSRP to do this, we must take a proactive stance in managing this issue. Therefore, we have adopted the procedure below. This procedure is carried out at all Motorcycling Western Australia (MWA) permitted off-road riding events to manage noise.

Please note that as WCTBSRP is a non-competitive riding environment. We have adopted this MWA procedure as a general guide. Some of our customers are racing competitors and have been subjected to this testing at outside events. We feel these guidelines are most suited to keeping a consistent approach to noise in the WA motorcycling industry.

WCTBSRP has purchased a Sound Testing Kit and are currently looking into becoming a qualified Motorcycling Western Australia Sound Control Officer trained to complete sound tests on motorcycles.

Who will be tested?

Any motorbike with a non-standard exhaust or a bike that seems to be excessively noisy.

Also, any motorbikes which failed the noise test at a previous opening where they were officially tested.

The Sound Testing Procedure

The method used is called the "2 Metre Max Method"

(NOTE: The full Sound Testing procedure can be found under section 12.10 Sound Emissions section of MOM. This is an abbreviated version to give a general overview).

The selected motorbike is moved to the centre of the Testing Area with the front of the machine pointing downwind. The measurement is made with the motorbike upright and on its wheels with a hot engine.

The Testing Area is basically a 10 metre diameter circle clear of all obstacles with background noise no greater than 100 dB(A).

The Sound Meter is located 2 metres from the rear axle at an angle of 45 degrees and is located on the exhaust side of the motorbike. The meter is mounted on a stand 1.35 metres above the ground. If the bike has twin exhausts then both sides are tested.

There are only 2 people permitted within the 10 meter diameter circle, the Sound Control Officer (the Operator) and the rider.

The rider is in control of the motorbike at all times and is responsible for holding the motorbike upright.

- The rider will be asked the following questions:
- Are you aware of how the test procedure is carried out?
- Are you aware your engine will be run at full throttle for approx. 1 second?
- Do you agree to have your machine Sound Tested?

NOTE: If the rider declines to have their machine tested it is considered a failure and they will not be allowed to ride until the motorcycle has been sound tested and passes.

If the rider agrees to have their motorbike tested they will be asked to start their machine. The rider will stand on the left hand side of the motorbike and the Operator on the right. The rider will be asked to pull the clutch in and hold it in during the test. The Operator will open the throttle fully for approx. 1 second. The throttle will then be closed. The Operator will then check the sound meter for a reading.

At all times the rider is responsible for holding the motorbike upright, the Operator will only operate the throttle during the test. The rider will be invited to observe the reading if they wish to do so.

This sound emission reading along with the Date, Time and Temperature and other details are recorded in the Recorded Sound Test Log. This log is available at WCTBSRP office.

The Sound Limits

The Sound Emission Limit for Enduros, Motorcross & Supercross events is 112 dB(A) with a 4 dB(A) allowance as per General Competition Rules (GCR) 12.10.1.1 Sound Emissions.

I have been Sound Tested now what?

Depending on the reading one of two things will happen:

If the motorbike is under the limit then off you go and have a good ride or;

If the bike is over the limit then the Operator will fill out a Sound Test Failure Report. The operator will then make a decision on their participation and they may be restricted to riding the MX track only. If the rider wishes to continue riding at the facility, then they will be required to meet noise expectations at their next visit.

Your File Ref: A990

Chief Executive Officer
PO Box 13
CUBALLING WA 6311

Dear Gary

PLANNING APPLICATION - MOTOR CYCLE PARK EXPANSION - LOT 101 REEDS ROAD, POPANYINNING

Thank you for the opportunity to provide comments on the proposed development at Lot 101 Reeds Road Popanyinning as above.

I am not in favour of any Motor Cycle Park in the vicinity of the Pingelly/Popanyinning areas as this is where I run my business. Having a motor cycle park provides little or no benefits to local people, and for much of the time, it is highly inconvenient, particularly for those who conduct productive agricultural activities; usually 7 days per week.

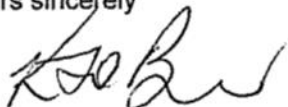
Motorcycles create unwanted and unnecessary noise, disturbing stock, wildlife and the lifestyle enjoyed by those who live here. It interferes with our way of life as the noise made by the motorcycles can be heard, on occasion, from at least 12kms away. Catering for FIFO workers is a poor excuse for longer opening hours as these people have very flexible working conditions.

Coincidentally, since its opening, there has been an increase in hooning witnessed close to the Reeds Road entrance of the Motor Cycle Park.

This Motor cycle business runs on a property that has only one title; deeming the rates to be minimal, and yet demands more essential services, whether they be local or regional, than those who live and work in the area. These services include local Shire services such as road maintenance, Police and Royal Flying Doctor, as well as local volunteer services such as St John Ambulance, the SES and Fire Fighting services, all of which are in place to accommodate the people who live and work in the area.

May I request that if this business is to continue, that it is closed on at least two weekends each month to allow us to continue to go about our own business, and not open until 10am at the earliest which would allow us to move stock on Reeds Road and/or enjoy the quiet.

Yours sincerely



Kevin O'Brien

28 August 2016

29 AUG 2016

Nichole Gould

From: Anthony N Henriques <chooksh2@bigpond.com>
Sent: Sunday, 28 August 2016 9:47 PM
To: Shire of Cuballing Enquiries
Subject: Motor Cycle Park Expansion.

Mr Gary Sherry,

As the motor cycle park is an existing business operating at the same location, I have no objection to its expansion.

At the council meeting I mentioned the condition of our stony road surface. I did not pursue the issue as the works manager was not present. I did mention the pebbles that are now making up the dangerous top layer of the road surface, after the rain we have enjoyed this winter. This is the 1st time this type of road base has been use in this areas 3 roads. Do you think you will be able to do something about these roads?

I thank you in anticipation

Yours faithfully
Anthony N Henriques

28/8/2016



Graeme J Down BSc
P.O. Box 10
POPANYINNING WA 6309

Mr. Gary Sherry
Chief Executive Officer
Shire of Cuballing
P.O. Box 13
CUBALLING WA 6311

Dear Mr. Sherry,

Thanks for the opportunity to comment on the proposed changes requested in the Planning Application – Motor Cycle Park Expansion – Lot 101 Reeds Road.

I will preface my comments by declaring that developments which bring activity to the Shire and, in particular, to the town of Popanyinning are welcome from the point of view of wider public exposure and increased commercial activity.

On that basis, the proponents have not presented any research into the increase in actual or perceived benefits for the Popanyinning community. In fact, there is anecdotal evidence from the proprietor of the local store that motor cycle visitors do not frequent the store for purchase of either food or fuel.

I will also declare that I am not aware of any of the conditions placed on the proponents in granting approval for the initial application. However, as this is an application to upgrade, it automatically changes the form and function of the Motor Cycle operation and I would have anticipated a full risk assessment and risk management plan to accompany the application.

As a matter of course, the application for this proposal needs to be couched in terms of a risk management assessment. If I ask the question, "Have the proponents identified, assessed and provided mitigation strategies for the actual and perceived risks?" my answer would have to be; "No!" It would be interesting to compare the conditions imposed on the proponents of this application compared with those of the Cuballing Equestrian Centre. And while the park is currently operating under some kind of Shire sanctioned conditions, it is noted that this proposal has the potential to become a very financially viable operation and patrons will expect a very high level of safety and emergency response capability. The Motor Cycle Park (The Duck's Nuts) are already currently advertising the new operating hours as if the proposal have been accepted (http://all-opening-hours.com.au/0724654/The_Ducks_Nuts_Motorbike_Park)

Certainly, the fire risk has been addressed to some degree. However, the publication of a contact list does not meet the requirements of a risk assessment. It merely details some small part of a response strategy. Also, the only fire risk that has been identified is that of bush fire. There seems to be no provision in the fire plan for a fuel fire incident and no fuel handling area has been identified with fire suppression capabilities. This will become increasingly important as the number of riders and crews increase.

There are, also, a number of risks which have not even been identified.

With increased participation of both riders and spectators there is a risk of accident and injury. There is no documentation identifying this risk and no stated provision in the proposal for the treatment and management of casualties. The proponents have not identified the availability of first aid or any on-site qualified first aid responders.

The fire risk did have a list of fire relevant contacts but contact details for Police, hospitals and ambulance and any other emergency responders required in an accident emergency are non-existent. An operation of this magnitude needs to have a fully comprehensive plan which is submitted to all identified responding agencies including maps showing ingress and egress to the site and detailing on-site capability.

The other risk is traffic management. East Popanyinning road is a major access route to surrounding farming operations. The road itself is not constructed as a major thoroughfare. Movement of extremely heavy and bulky machinery takes place at various times of the year. Many of the motor bike

fraternity are sometimes reluctant to move their vehicles off the roads they may damage the cargo they are carrying. This is likely to increase the risk of motor vehicle accidents involving farm machinery and motor bike carriers. Also, the nature of the main access road into the park is gravel and will require constant maintenance attention by the Shire throughout the year.

The other risks which have not been identified are environmental.

Two issues came to mind immediately. The first relates to the increased activity and the possibility of fuel and oil spills resulting from refueling and mechanical problems and the second relates to noise.

The fuel and oil spill risk may be minor but the operator will be irresponsible if these materials are allowed to be wasted in the environment. At present, no mention has been made of any strategy to combat this risk. This has the potential to build up over the length of time the operation is running. There is no clear indication of how this fuel spill risk will be monitored and mitigated.

However, I'm sure noise is quite a major risk considering the increased participation. Noise, along with prevailing winds, can transmit the sound of motor bikes over some considerable distance and disturbing the amenity of the area and the attractiveness of living in a rural setting afforded non-participating resident. The noise can also be exacerbated by the operating times. Once again, there seems to be no identification of this aspect of the operation or any proposals to even monitor this aspect of the operation let alone reduce the impact of noise pollution.

This leads me to a perceived risk to the LGA. Is the LGA aware of the operator's insurance provisions? If Cuballing Shire is granting permission for the proponent to operate this facility in its proposed format without suitable risk management strategies are the Shire aware of the level of the operator's level of public liability insurance. Furthermore, is the Shire aware if the operator has adequate insurance? If the operator has insufficient public liability insurance any claimant may then transfer the risk to the Shire as the organization which approved the application.

Once again, I draw attention to the process for approving the Equestrian Centre and suggest a similar process needs to undertaken here to protect local residents, enthusiasts and the Local Government. It may be an opportune time to suggest the LGA undertake a formal risk management assessment for those proposing new projects in the Shire. It may add more clarity for both the LGA and the proponent to gauge the implications and impacts of the project.

Yours faithfully,



Graeme J Down
28th August, 2016

31 AUG 2016

Aaron @ cindy robertson
67 Calcoran rd
Popanyining 6309

28-08-2016

Gary sherry
Ceo
Cuballing Shire

Dear gary,

We are writing in regards to the motorcycle park expansion. Thank you very much for this opportunity and extension given to respond, as this is our first of any correspondence received regarding the park.

By way of background we are the closest residents to the park. We own the property at 67 calcoran rd. Our boundary is the eastside of the park where the location of the tracks are situated.

Heading east in a direct line from tracks location and here is our residence approx 750m. Our workplace ie shearing shed and other sheds, is approx. 700m from the bike tracks location.

There is no bush between our residence and the park. Since 2008 we are the landowners of block 103 reeds rd which is south side of the park. An easement runs through the middle of our farm that we share with the park and neighbours.

We are farmers and at the present are running approx. 800 ewes/lambs and cropping. We aim to increase our number of livestock and plant more crop. We hope to have some cows and horses.

We have looked at their proposal and oppose expansion. In the short period of time the park has been operating problematic issues have occurred.

Our objections to the bike park application are:

Noise and dust pollution..

At present *all* bikes can be heard from our resident/workplace area, dust and riders are clearly visible We have on numerous occasions counted more than 10 bikes going at the same time.

Noise is very loud, annoying and constant even with minimal bike users,

Every weekend we are woken by annoying bike noise, 6 hours of continuous noise exposure, is particularly taxing and a ***significant disturbance for*** the major part of the day 4 Consecutive days of constant, noise and dust exposure is a public nuisance in a rural zone.

We cannot enjoy any outdoor activities as noise/dust has impacted on our peace and comfort, privacy, health, *our way of life*

We fear water contamination from dust pollution as we are on rainwater

Noise/dust pollution also has *impacted* on our livestock and our **freedom to farm.**

We are *limited* to when and where we can move livestock
Noise and movement from the bikes scare our sheep
causing *stress* to pregnant ewes and lambs, which cannot
graze in paddocks next to park,
Noise and movement from the bikes has *hindered us* from
farming other livestock, ie horses/cows

Fire danger concerns:

As our farm is split in half by the way of the shared
easement, a major concern is increase of vehicles/bike
riders, *increases the potential of fire danger*.
Our paddocks bordering the park are pasture, the physical
location of the bike tracks are approx 1-2m from our
boundary. We believe the tracks are too close to
boundaries putting crops in neighbouring paddocks in the
high risk category.

Non grazed bush blocks adjoining the bike park is an
extreme fire hazard

Sparks from high revving motors are a potential fire hazard
especially in the summer time when risk is at its highest
peak, we feel the park should ***not be operating during the
summer season***

We are very happy with the new mobile tower in pop as the
park may now have coverage and able to receive fire ban
notifications as this may not have been a reliable option in
the past

Winter time the easement can get very boggy due to rain
and traffic

Security issues:

Trespassers/trespassing has impacted greatly on our security

We have bike users illegally riding around on our property and the public roads in vicinity calcoran/reeds rd, park owner is aware of some instances,

Because of the increase of these instances happening we have had to put up security surveillance on our farm, and padlock all farm gates along easement and calcoran rd.

Reeds road and intersection of reed rd easement is continuously ripped up by reckless drivers. Neighbours as well as our own safety feared, from reckless driving/drivers On occasion usually after long weekends when campers and users of park are at a high attendance, roads/paddocks littered with rubbish beer cans

Environmental concerns:

Sewage/water

Where would the sewage from abolution block go with the creek being very close?

Where does water come from for use of abolution block?

With part of bike track partially crossing the creek it has restricted flow and has caused salt buildup leading to **environmental degradation**

At this stage we are oppose to the motorcycle parks application to expand

We believe the location of actual bike tracks are too close to our residence and neighbours, and too close to a agricultural and farming community.

It is a high fire risk to our livelihood residence, our neighbours, our agricultural and farming community,
It is a source of noise/dust pollution, *destroying the simple pleasures of country living, and freedom of choice.*

It has the potential to create/ aggravate health/safety issues

It attracts all kinds of people to our neighbourhood where personal security measures are enforced for the protection of private property.

It detracts from the landscape and the character of its surroundings in a rural zone

Expansion to park will enhance these problematic issues greatly, we believe closure of park will give back our freedom and liberty, and is the solution to all our issues present and future.

Yours sincerely

Aaron & Cindy Robertson

31 AUG 2016

Gary Sherry

From: FERGUSON Dianne [PD82339] <dianne.ferguson@police.wa.gov.au>
Sent: Friday, 26 August 2016 4:29 PM
To: Gary Sherry
Subject: PLANNING APPLICATION - MOTOR CYCLE PARK EXPANSION - LOT 101 REEDS ROAD, POPANYINNING

C.E.O
Shire of Cuballing
PO BOX 13
CUBALLING WA 6311

Dear Sire

RE: THE ABOVE APPLCATION – POPANYINNING REEDS ROAD – MOTOR BIKE PARK

Thankyou for your correspondence in relation to the above Planning Application of the Motor Cycle Club, “Duck’s Nuts”, of which I believe would like to extend their property in Popanyinning.

Popanyinning is a small country town, with a small community, made up of retirees and small “hobby farmers”. It is here where these residents enjoy “living the dream” the peace and quiet of country living.

At the moment, most residents, in the vicinity of the Motor Cycle Park are tolerant with what has been occurring with the Motor Cycle Club events, held over most weekends, and with the constant noise and the constant flow of traffic on the town boundary roads, it becomes a hum drum of motor bike noise.

On speaking to a few other residents, of which I do hope they advise the Shire of their opinions, is that the extension is not welcomed and warranted to have in the Popanyinning community. These types of people, the users of the Motor Bike Park, are rather young and carefree who don’t really bring their families, which could support our local store, instead they bring the “riff raff” aspect of hooning and no respect to our roads, of which has been occurring.

Then on the other hand, there are many other reasons, to do with this Corporation, if it is one, such a Fire Control, First Aid Post, Amenities, Camping areas, Public Liability – not just to have a Farm Insurance Policy, and I believe the owner has made an income out of this park, and has made and approx \$600,000.00 from the Admissions to use the Motor Bike Park.

So on those few notes, I strongly disagree to having the Motor Cycle Park Expansion approved.

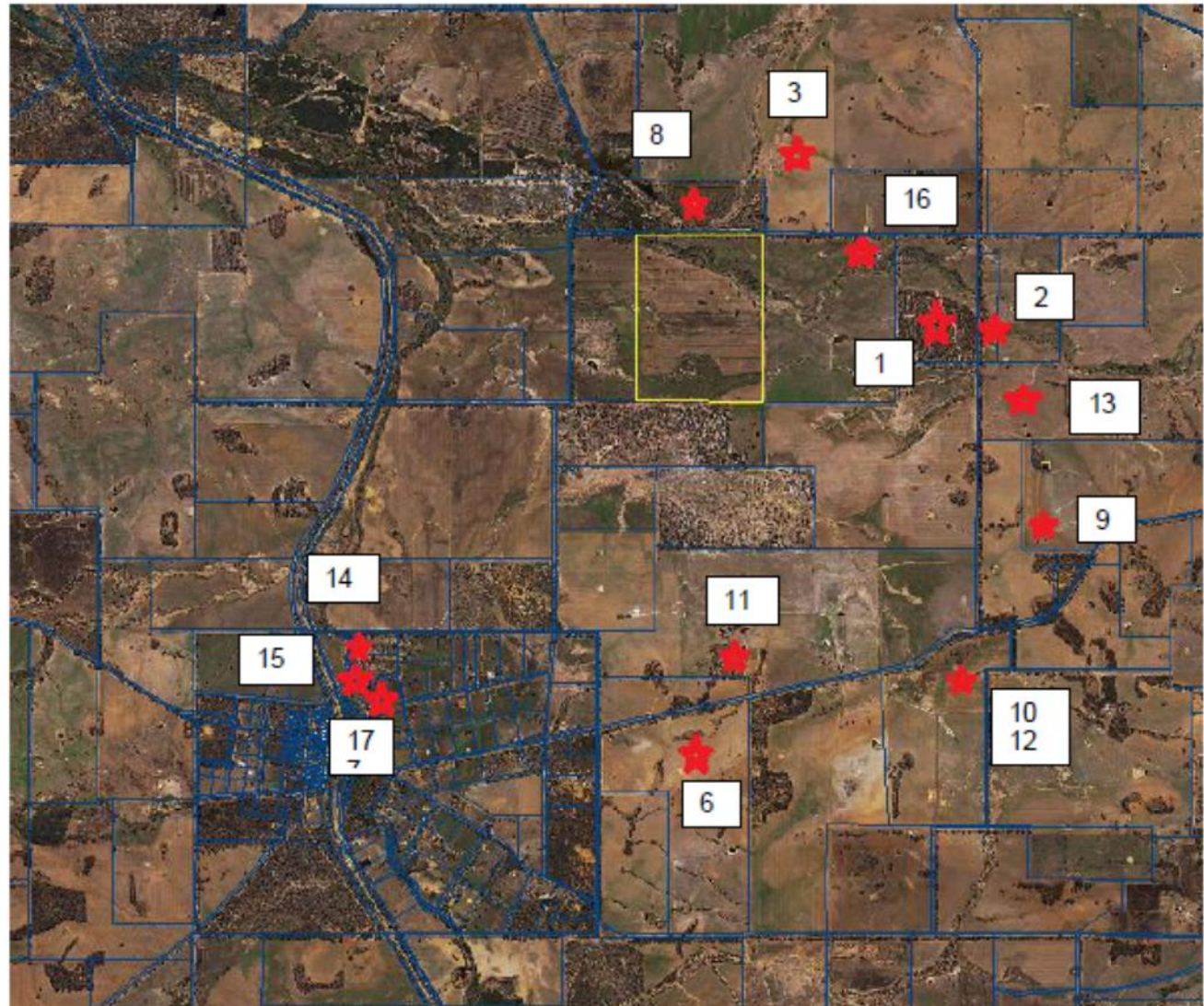
What “Duck’s Nuts” have now, in my opinion, is quite sufficient.

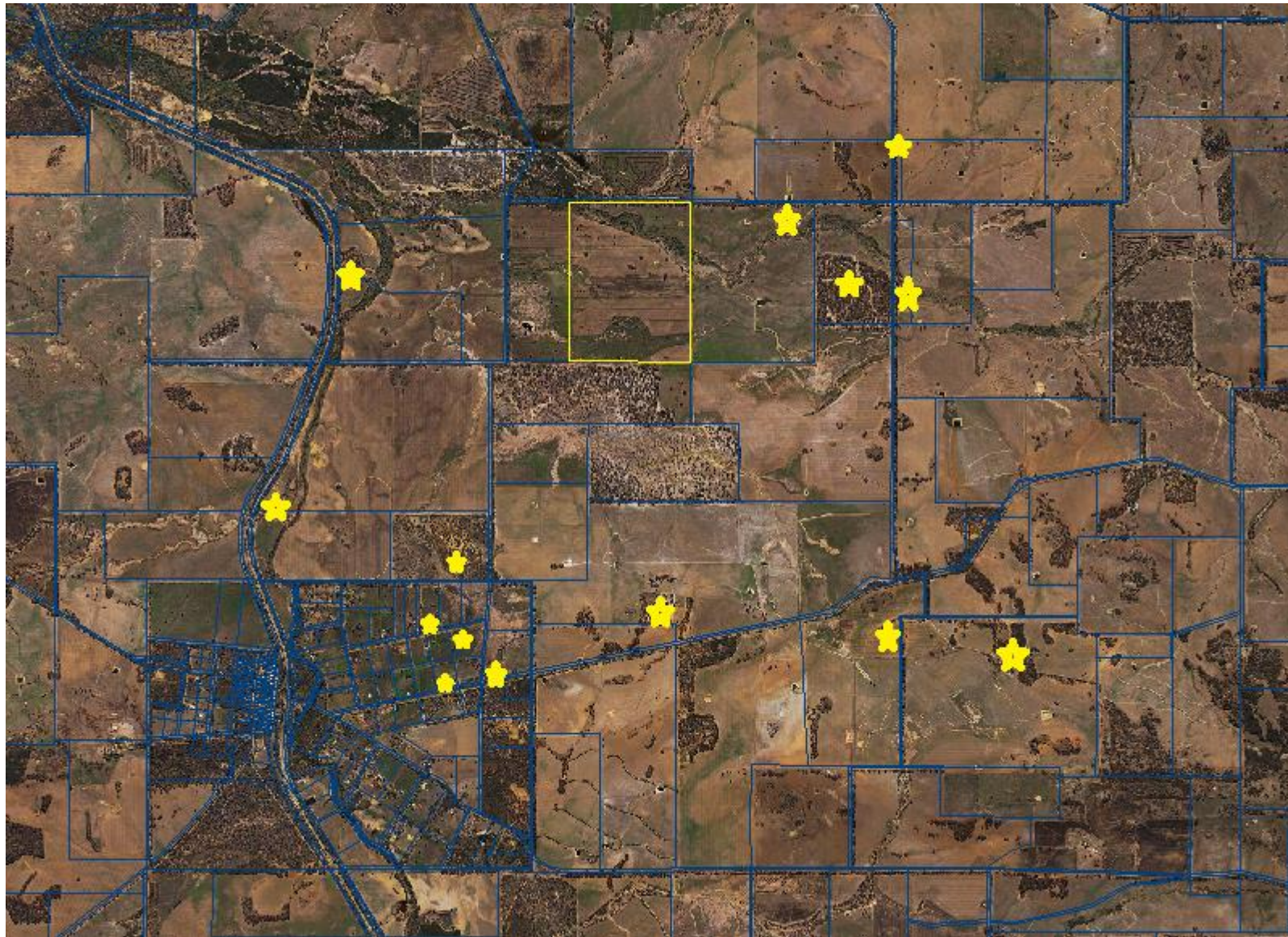
Thanking you for your consideration to my opinion.

Regards

Dianne Ferguson
Popanyinning Resident

No	Name and Address of Submitter
1	F and T Hendriks, 12 Liliika street, Armadale. WA 6112
2	Mr S De Rooy Ms M E de Rooy Salmon Downs Reeds Road Reeds Road Popanyinning Popanyinning WA 6309
3	R.W. Dowling Dowlco Nominees Popanyinning
6	Kevin & Simone Lansdell PO Box 20 Popanyinning WA 6309
8	Ryan Hall Director - Colour Magic International Pty Ltd Lot 3815 Calcoran Brook Road, Popanyinning
9	RF & PL O'Brien PO Box 133 PINGELLY
10	Barry Wood PO Box 57 POPANYINNING 6309
11	ON & JF Francis T/A C & N Francis PO Box 6 Popanyinning WA 6309
12	D Hopper & B Wood PO Box 57 Popanyinning WA 6309
13	Kevin O'Brien RMB 357 PINGELLY WA 6308
14	Anthony N Henriques 103 Victoria Road POPANYINNING WA 6309
15	Graeme Downe PO Box 10 Popanyinning WA 6309
16	Aaron & Cindy Robertson 67 Calcoran Road Popanyinning WA 6309
17	Dianne Ferguson PO Box 470 NARROGIN WA 6312





62 Seville Drive
SEVILLE GROVE WA 6112

27 September 2016

Dear Gary & Councillors

Thank you for the opportunity to comment on the queries that have arisen due to our Expansion Application and thank you to the Councillors who came out to have a look at the park.

We are a couple in our 50's, we own the property 333 acre's, it is run as an agricultural property with crops and livestock incorporated into the motorbike park.

Like any business that has grown, needs have changed hence our application, we have put the application due to the fact we now have more than 10 riders coming to the park on some days, the number we have put in the application is a maximum for provisions for one off events eg training days, fun days.

The procedures for the days of riding are:

- All riders sign in
- Rules of the Park and the Tracks are explained
- Car park is part of the sign in area
- Staff are onsite at all times

We have had 2 incidents in the past 3 years where the emergency services have been needed. Our emergency plan worked well. We have had good feedback from the emergency services on our procedure.

We have intentions on planting numerous trees to help with noise reduction to the neighbouring properties plus to add beauty to the park.

The nearest neighbouring residence is 1km from our boundary fence, with their woolsheds and natural barriers in between. Their stock are unaffected by the noise of the park as they graze in the paddock right beside the track, please see attached photo's 440 & 443.

We are reluctant to have a noise report/acoustic study to determine noise as the noise on a particular day is subject to atmospheric and prevailing wind conditions and we feel the money would be better spent on trees and also on the fact that the neighbours have been very insulting and unprofessional in their letters. One of these neighbours had a party this past long weekend Sunday night 25th September 2016 with the music turned up to the maximum and could be heard all over our property with men yelling at the top of their voices and women screaming to the point our campers were concerned what was happening, and this is the behaviour of someone wanting a bed and breakfast!

We get accused by neighbours for actions that are actually happening on neighbouring properties, we have no control over what they do. Some neighbouring properties also have motorbike tracks on them and they do ride out of the hours we run.

If we allow people to stay we are entitled to for 3 nights in any one month, we see it as part of our duty of care to allow people to this this as they can get very tired after a day's riding. We do suggest to them that they can stay at Lazaway Caravan Park or any of the local hotels. We would envisage up to 10-15 people stay the night and certainly isn't every weekend.

We have an ablution block that has an application currently going through the shire and the Health Department; we are hoping to have this installed in the next month. We have an eco-toilet and have hired port a loos in the meantime and also there is a camp shower for use.

Operating hours are met and park rules including the conditions of bikes are met to due to the fact staff are onsite at all times that there are riders.

The numbers proposed will stay within the approved by booking being essential and a web page being made stating this and that if they are not booked in and we are at the maximum they will be asked to leave.

There will be no change to the fire management plan due to the fact it will work no matter what numbers we have at the park. The parking/sign in area is all dirt. All fire restrictions are adhered to and have always been on the contact list for movement/harvest ban with both the Cuballing and Pingelly Shires.

Reeds Road is the only road to access our property, it is a public road and public users are entitled to use this road, there are no other options for this.

Kind regards

John & Raewyn Street

Shire of Cuballing
Planning Application – Motor Cycle Park Expansion - Lot 101 Reeds Road, Popanyinning
Proponent Response to Submissions

No	Summary of Submissions	John & Raewyn Street's Comments
1	<p>Thank you for the opportunity to provide our view on the above proposal, Which until now has created a problem for us, in the fact of noise and dust pollution.</p> <p>Because of this reason we say no to the extension of hours. We say no to public weekends opening. We say no to extend the numbers of attendance.</p> <p>Take note we have purchased our land, as rural zoned, that have a unique pocket of wandoo and salmon trees, whit some unique mammals and birds. We are members of the land for wildlife conservation to preserve and bring it back to its natural state.</p> <p>Please consider also the devaluation for all the blocks of land around reeds road. Nobody likes to stock there horses in a rural aria.</p> <p>We the signet both agree that there should be no further expansion Whatsoever, to all the inconveniences we are already experiencing</p>	<p>Our park has no impact on the trees. Birds & animals are not affected by the noise as we have sheep that choose to stay by the tracks eating the grass even though they have other areas they are able to go to. The birds still sit in the trees and we have a lot of nesting birds on the property - no impact.</p> <p>This property has their own motorbikes riding over it as well plus we have another property between us and them.</p>
2	<p>Thank you for the opportunity to comment on the above.</p> <p>Up until this time, the above business has created a problem in the fact of noise and negligent use of Reed Road; i.e. wheel spinning and ripping up of the road has been observed.</p> <p>The noise factor at 8 o'clock on a Sunday morning is not what one would expect given that this is zoned rural and labelled as use, General Agriculture, under the Department of Planning Scheme number 2.</p> <p>Further to the above, because the start time of 8 o'clock, would it be possible that people are camping and using the property as a caravan park?</p> <p>The volume of use of the road also affects the condition of the road; as ratepayers, we all contribute to the maintenance of Reed Road. It appears unfair that this access is the abused by other parties.</p>	<p>Local have been seen by other locals wheel spinning and ripping up Reeds road.</p> <p>People happily travel from Perth early to be here for an 8am start. Minimal bikes start at 8 am.</p> <p>Camping is allowed for 3 nights without a permit.</p> <p>The roads are for anybody with a current drivers licence to use, not just locals.</p>

<p>As ratepayers, we all contribute to an ESL (Emergency Services Levy), but by way of increased numbers using the motorcycle park, could this possibly contribute to increased risk of fire?</p> <p>Additionally, it is noted that the proposal t of the amendment purports to local business benefitting. May we counter this by saying, the business surrounding the cycle park are farming enterprises and see no benefit at all in a dirt bike riding track.</p> <p>It has been put forward by the proposer to the amendment that the cycle park is seasonal. To my ears, it appears to be exactly the opposite, year around use.</p> <p>The worrying side to an amendment and the change of use in a rural area, is an escalation of other activities such as hot rods, paintballing, parachuting or whatever, thus changing and degrading the use for which the land and zoning was intended.</p> <p>My property was purchased long before the cycle park was opened. We enjoyed peaceful use and serenity up until the opening of the cycle park. As ratepayers, we see that it is in our interest to preserve the values of our property and the continuation of the lifestyles that we chose at the time of purchase of our property.</p> <p>I believe that there should be no further expansion to the inconveniences that we are already experiencing and urge council to consider the issues I have raised.</p>	<p>There is no increase of risk of fire.</p> <p>Local businesses do benefit from both the riders and us. ie Popo Store, Cuballing Roadhouse</p> <p>Summer months we have less riders, some have stopped already for this year.</p>
<p>3 Thank you for your letter of the 19th July requesting comments on the proposed expansion of the motor cycle park.</p> <p>We oppose the expansion of the motorcycle park for the following reasons:</p> <p>There have been numerous cases of antisocial behaviour outside the motorcycle park on Reeds road and surrounds. These include cutting up the roads, hooning and dangerous driving. For those of us using the roads for access to property, including movement of heavy agricultural machinery, and for the Popanyinning residents living near the park, this poses a real risk.</p> <p>So far there have been no social or economic benefits to the Shire of having the motorcycle park. It has not, as far as we can tell, increased employment opportunities or benefited business and, with the cutting up of the roads, is more likely to be costing the Shire in road maintenance. Most of</p>	<p>Local have been seen by other locals wheel spinning and ripping up Reeds road. People happily travel from Perth early to be here for an 8am start. Minimal bikes start at 8 am.</p> <p>Local businesses do benefit from both the riders and ourselves. The roads are for anybody with a current drivers</p>

	<p>these city based people do not have respect or knowledge of our rural way of life, nor the responsibilities associated with issues such as fire.</p> <p>Living in West Popanyinning, we are not affected by the noise from the park, but we imagine that the existing noise would detract enormously from the rural lifestyle that those people who have built there were seeking. To extend the hours of operation would make living out in East Popanyinning unbearable and stop other people from moving into the area.</p>	<p>licence to use, they are Government public roads.</p> <p>To assume what the people on Popanyinning East Road are experiencing is not applicable. We have people who live on this road who do not have a problem with the Park.</p>
4	<p>I am writing to the Shire of Cuballing, regarding the proposal that has been submitted by John and Raewyn Street, trading as, Ducknuts Motorbike Park, located at Lot 101, Reed Road, Popanyinning.</p> <p>As a parent of young adults, that frequently travel down from Perth to use this facility, I am in full support of the request to increase the number of days that this track is available to the public. I am also in full support to increase the number of patrons that are allowed at the track at any one time.</p> <p>I as a parent, appreciate that my family can go to the Ducknuts Motorbike Track and have a great time without the worry of them being somewhere that is not adequate or safe.</p> <p>Ducknuts have a fire safety and an emergency plan in place.</p> <p>With an area like Ducknuts Motorbike Track, that has someone like John and Raewyn putting in their time to care and prepare the area for motorbike users, spectators and families, I think we should all support them 100%.</p>	<p>The Motorbike Park provides a safe and supervised riding area for people of all ages.</p>
5	<p>I am writing to the Shire of Cuballing, regarding the proposal that has been submitted by John and Raewyn Street, trading as, Ducknuts Motorbike Park, located at Lot 101, Reed Road, Popanyinning.</p> <p>As a business in this Shire, it is nice to see other businesses starting to grow. I think we need to encourage a business like Ducknuts Motorbike track to expand and grow as needed.</p> <p>With every new business that takes shape within this Shire, it helps to grow and support the businesses that are already here.</p> <p>If John and Roewyn are willing to put in the time and work with having extra days and extra patrons at there place of business, than we should all support them.</p>	

6	<p>We are writing in response to your letter dated 19th July 2016 in relation to the Planning Application - Motor Cycle Park Expansion - Lot 101 Reeds Road, Popanyinning.</p> <p>We currently lease land on Reed Road, owned by Mr Paul Harken. The way in which we have used this land has changed since the Motor Cycle Park has been in operation. Previously, we would run sheep on this block post-harvest to graze stubble. We now hesitate to run sheep here due to the problems that arise in moving the sheep down Reed's Road with increased traffic travelling on this road. We have taken steps to reduce risks by purchasing extra safety signs to indicate livestock movement.</p> <p>Shifting agricultural implements such as large tractors, header and field bins has also resulted in some anxious moments when road users not familiar with sharing the road space with an oversize vehicle attempt to overtake.</p> <p>We have also had concerns about the increased risk of fire when operating motorcycles near grasses. Given the information provided in the planning application, we trust that the business operators are aware of their responsibilities in regards to appropriate fire control measures and the serious consequences suffered by farmers when fire destroys crops, livestock and improvements.</p> <p>Whilst we like to encourage and support new businesses into the Shire of Cuballing, we do not think that the zoned agricultural use of land should be utilised for business ventures other than those of a strictly agricultural purpose.</p> <p>Therefore, we would be against the proposed expansion of the motor cycle park. We are happy for the business to continue operating on weekends, as we currently try to carry out farming activity during week days on this block to avoid potential issues on weekends.</p> <p>We are happy to be contacted for further comment if the need arises. Thank you for giving us the opportunity to comment on this Planning Application.</p>	<p>The roads are for anybody with a current drivers licence to use anytime.</p> <p>If all aspects of rules for oversize are adhered to there should not be issues ie pilot vehicles, flashing lights and signs are all in place when moving machinery and field bins down the road. The fire plan was approved by the Fire Chief with the original application. All grass areas are kept down through stock grazing. The tracks serve as numerous firebreaks!</p> <p>The land is used 100% as agricultural, cropping and stock use. Even where the tracks are the stock still feed in this area.</p>
7	<p>I am writing this Letter in support of promoting the Ducks Nuts Motorbike Park in Popanyinning.</p> <p>We have been in business in Brockton since 1989, in the past few years we have noticed a large increase of traffic from Perth and surrounding areas passing through Brockton supporting our Roadhouses, IGA, Newsagency and other local business houses all transporting motorbikes</p>	

	<p>heading to Ducks Nuts Motorbike Park.</p> <p>Many riders returning time and time again raving what a fantastic motorbike park John has created and offers to riders that have a passion to ride and escape from the danger of areas where riding is prohibited through natural bush tracks in Perth's outer suburbs.</p> <p>We visit Duck's Nuts regularly with two teenage sons' who ride and can only congratulate the owners of this park for their facility that is promoting our country towns and providing a safe riding environment for riders of all ages.</p>	
8	<p>Thank you for providing me with the opportunity to provide written comments on this proposal.</p> <p>I am the Director of Colour Magic International Pty Ltd, the land owner the property immediately adjoining the subject application area for the past 20 years. We have invested in the land by planting significant tree crops of Tasmanian Blue Gum, Pine and using the land for agricultural cropping and livestock grazing. We also have held long-term plans to build Bed & Breakfast accommodation to showcase the local area and local produce to tourists.</p> <p>Regrettably, this is now in jeopardy as our quiet enjoyment of the land has been negatively impacted upon by the activities and operation of the Motorcycle Park over the past few years – mostly from the noise pollution caused by the motorbikes. This activity is destroying our ability to use the land to its full potential, and we are deeply concerned about the intensification and expansion plans, and the further impact this will have on us.</p> <p>I provide this objection in good faith on planning grounds, for which the application can only be considered:</p> <p>The Planning Regulations which the Shire must follow, specify that:</p> <p>67. Matters to be considered by local government</p> <p>In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —</p>	<p>The B & B could be used by our riders, thus supporting this business proposal.</p>

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

The Shire of Cuballing's Town Planning Scheme states its aims as follows:

1.6 The Aims of the Scheme

The aims of the Scheme are –

- To protect good quality agricultural soils suitable for sustainable production from inappropriate subdivision and development for non-agricultural purposes

The proposed use of the land is specifically proposed for a “Non-agricultural” purpose / land use – which is an inappropriate use as specified by the Shire's Town Planning Scheme.

It would be inappropriate to further intensify the use. The current approval is limited to the current owner and is not transferrable to future owners, which means that the use is currently considered temporary, and does not have a permanent approval.

The Shire's Town Planning Scheme zones the land “General Agricultural”, and the objectives of the zone are set out as follows:

(b) General Agriculture Zone

- To preserve productive land suitable for grazing, cropping and other compatible productive rural uses in a sustainable manner;
- To allow for the extraction of basic raw materials where it is environmentally and socially acceptable;
- To ensure the preservation of the rural character and rural appearance of land within the zone;
- To encourage intensive agriculture where soil conditions and location are appropriate and it can be demonstrated that off-site impacts (if any) will not adversely affect existing agricultural activities;
- To protect the economic viability of rural zoned land through a presumption against subdivision except where such subdivision will enhance and/or promote the viability and diversity of general farming activity;
- To preserve and protect the natural undeveloped land areas throughout the zone; and
- To ensure that natural drainage patterns/catchments through out the Shire are

The land is used for cropping and stock use which is agricultural.

The land used for the park has salinity problems and is no good for cropping.

recognised in land management practices.

The application does not comply with any of the objectives listed above (which are taken directly from the Shire's Planning Scheme) as a Motorcycle Park is not a compatible productive rural use.

The motorbike activity does not preserve the rural character and appearance of land – the noise of motorbikes and track is detrimental to the area's character and visual appearance.

The Town Planning Scheme's provisions clearly outline a number of objectives aimed to protect and conserve the existing agricultural setting. A motorcycle park of such intensity as proposed is clearly contradictory. The proposed number of hours and number of motorbikes means that there will be a near-constant noise pollution problem for us. This is not compatible with the surrounding land, and non-compliant with the Shire's Scheme.

The Shire's Town Planning Scheme states that:

4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may –

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

As a Motorcycle Park is not specifically set out in the Zoning Table, the Shire must follow Clause 4.4.2 and determine if the use is consistent with the objectives of the General Agriculture zone or not.

The application is starkly inconsistent with the objectives of the General Agriculture zone. The

Agriculture zoned land and is used as such.

Shire must consider the application according to the Town Planning Scheme requirements. The application should be determined in accordance with Clause 4.4.2 (c) that the use is not consistent with the objectives of the General Agriculture zone and is therefore not permitted.

In addition to the land use problem that this application presents, there are a number of aspects of the proposal that are problematic:

1. Proximity of activities to boundary

Problem	Solution
The major problem is that the track is too close to our boundary and the noise and dust impact and nuisance is clearly evident.	There should be a buffer or separation distance imposed on the existing activity so that the activities do not unfairly impact on the quiet enjoyment of our property. This buffer should be used to install attenuation measures such as planting trees or install a noise mound to reduce the noise pollution impact.
The noise that is emitted from the motorcycle park is not contained on their own property, and regrettably this impacts on our property.	The operations and motorcycle track should be relocated away from the boundary that adjoins Lot 3815.
The track does not appear to be explicitly approved and is too close to the property boundary.	The Shire should impose a setback requirement as there does not appear to be any kind of specific approval given to the track itself, and its close proximity to our property is a direct cause of noise and dust nuisance.

2. Extent of Hours of Operation

Problem	Solution
7 day a week operation from 8am – 5pm. This means noise emitted 9 hours a day, every day of the year is too much – 56 hours per week is an unacceptable amount of time to constantly be operating motorcycles causing noise pollution.	There needs to be respite for adjoining landowners who are impacted by the noise of this land use activity. It is against the Environmental (Noise) Regulations to exposure surrounding owners to such noise levels over this timeframe.
8am start on Sunday – the current	The early morning hours of Sunday are sacred

This is not a residential property, it is used a few times a year by the family as more of a social gathering place to have a party. Calcoran Road, a gazetted road, is the boundary between this property and ours which already has numerous mature trees.

Only the junior/beginners track is at this end, so minimal noise level.

Original application – tracks were built and inspected by the Town Planner & Building/Health Officer as they are now.

Possibility of 6 days a week not 7. Weekends up to 60. Wednesday & Thursday up to 15 by booking only. Not every day every week, this is an overall maximum not a proposed every day.

The Sunday night of the long weekend 25th

<p>proposal specifies a 9am start.</p>	<p>and should be protected and the 9am start time should not be eroded. The same should apply for 'long weekends'. Public Holidays such as Easter are sacrilegious and should be respected with a start time of no earlier than 9am.</p>	<p>September 2016 this neighbour partied with music loud it could be heard over all of our property with men yelling at the top of their voices and women screaming. Our campers were very concerned as to what was happening there.</p>
<p>3. Number of motor bikes operating</p>		
<p>Problem The proposal to increase to 60 patrons from Friday to Monday is completely unacceptable as it increases the severity of the noise impact.</p>	<p>Solution Weekends should be limited or prohibited as this is when we are at the property and is the time for recuperation. The weekdays should be the time that accommodates the majority of patrons during 'business hours'.</p>	<p>Riders work as well, most only have weekends to ride.</p>
<p>4. Noise</p>		
<p>Problem The Shire's Officers and Council would find it difficult to assess this application and its impact on surrounding property owners without any supporting information from noise testing.</p>	<p>Solution Require noise testing equipment to be installed to measure (and monitor) the noise levels against the Environmental Protection (Noise) Regulations 1997. This use is not exempt and must comply with the assigned levels of 60dba.</p>	
<p>The Shire has said that they don't have their own noise measuring equipment.</p>	<p>Equipment is available for hire from the Department of Environment Regulation and no decision should be made until the data and information is collected so that an informed decision can be made.</p>	
<p>There is no enforcement or monitoring of the noise emissions.</p>	<p>There should be specific conditions and restrictions on noise on the existing activity.</p> <p>The Noise regulations identify that noise may only occur for 10% of the day, and this proposal is clearly exceeding that by asking for</p>	

approval for 9 hours of constant operation, 7 days a week. There is no respite and there should be restrictions in place to protect all surrounding property owners.

The Shire must consider the Environmental (Noise) Regulations and the specific limits and requirements placed on noise emitting activity. The Motorcycle Park is not exempt is subject to monitoring and compliance. The application to expand the operations will cause further noise pollution impact on our property. I object that the applicant did not submit any noise information or studies, or data to support their application and the Shire should obtain noise testing equipment so that an informed decision can be made before any intensification of the existing activity is considered.

Please don't hesitate to contact me for further information. I would also be prepared to work through facilitated mediation to resolve this problem. I believe that if the applicants would amend their activities to reduce their direct impact on our property, that a mutually agreeable outcome could be reached.

This application is to bring the original application up to date.

9 Our main concern is the hoon behaviour of some car drivers on the full length of Reed road. ie fishtailing & circlework from East Popo Road to Yenelling Road. Best after freshly graded!

Moving sheep along the road is sometimes a worry – yes we do use signs.

Locals have been seen by other locals wheel spinning and ripping up Reeds road. This happens at the entrance of our easement on days we haven't had riders.

10 Please find attached my disapproval and reasons for any extension to the operating hours and increase in numbers to the motorcycle park in Popanyinning.

Also attached is a copy, for your interest, of the south west interclub regulations.

M views have come from many years in safety on construction and mining sites in Western Australia and around Australia.

During this time I sought and obtained formal Qualifications in Occupational Health and Safety. Each and every person has a duty of care one to another and it would be wrong of me not to express my point of view. Also entities have a duty of care to all persons within their areas of control.

It is my view that the potential for incidents are high both on the road network and at the park itself and this is of great concern to me

I wish to register my strong objection to the application by John and Maewyn Street for Council to approve and increase the numbers of patrons allowed at the Motorbike Park at Lot 101 Reeds Road from 10 per day to 15 per day on Wednesday and Thursday and to 60 per day on other days and to extend their days and hours of operation.

In approving the original application the Council showed the applicants some goodwill but in my opinion that goodwill has not been returned by the operators of the Motorbike Park. They have shown a disregard for the conditions attached to the development approval. The numbers attending the Park regularly exceed 10 per day by a considerable margin. Currently the operators advertise days and hours of operation outside of those approved by Council and they allow camping on the site. The breach of the conditions has an impact upon other residents that is unacceptable. I don't think that Council should reward the applicants for their disregard of the conditions of approval. If Council does approve the current application what confidence can it have that the applicants will respect the decision and do the right thing?

The Application

The operators of the Park have applied for an 'Extension' to an existing approval. I submit that given the size and scale of the increased activity (over 500% increase) the application should not be considered as an extension. The Council should refuse the extension and recognise that the operator should submit a new Development Application which addresses the issues properly. The Park is no longer a place where a handful of blokes muck about on their bikes over a weekend almost as a hobby. It now operates outside of its conditions as a fully fledged business and residents and users need the benefit and protection of carefully considered conditions

In my opinion the application is poorly documented and doesn't provide the necessary documentation and assurances that will enable Council to make a proper decision. There is no risk assessment for the site or the activity. There are no details of any accreditation that the tracks have received. There are no details of any insurances. There are no details of any safety procedures. There are no details of any noise management procedures. There is no documentation of any first aid training that has been undertaken. The site plan shows no details of parking arrangements and internal vehicle movement systems. There are no details concerning the ablution block or effluent disposal. The fire management plan is sketchy. All in all it's a pretty casual effort that runs the risk of exposing the owners and Council if something goes wrong such as a serious accident on site. To protect itself (and ratepayers) the Council should insist on a proper standard of development application.

Camping is allowed for 3 nights without a permit.

The Motorbike Park is our livelihood is was never to be just a hobby.

The fire plan was approved by the Fire Chief with the original application. All grass areas are kept down through stock grazing. The tracks serve as numerous firebreaks!

We are insured and that is private information.

To produce a proper application to industry standards will cost the Streets some money and some may argue that poor old John and Maewyn shouldn't have to pay out. But Council should do the sums. At the rates charged, sixty clients a day 6 days a week, the business has the potential to generate a gross income of excess of \$600,000 a year - and that is not counting in any contribution by those commercial operators who are allowed to run training courses on site. As the Park has been running with increased numbers for some time there should be funds available to prepare a proper application.

Traffic

Popanyinning Road East and Reeds Road are not designed to provide safe vehicle movements for the numbers of vehicles that are currently accessing the Park. If the operators of the park respected the conditions of their approval (10 per day) then it might be O.K but they are not. At the very least the applicants should provide a risk assessment by a traffic engineer so that Council can be confident of the safe movement of traffic. If a traffic engineer recommends that the road system should be upgraded because of the Park, then the cost should be borne by the applicants.

I note that the Council has placed traffic counters on Reeds Road in an attempt to measure the traffic flow to the park. I am confident that the counters will show that the operators of the Park are exceeding the approved numbers but they will not provide an accurate measure of what happens on long weekends and during holiday periods when attendances are much higher. When assessing the traffic counts I would ask that Council remember that the busiest periods for the Park are during spring and autumn and times like the Easter break when we have observed that attendances are much higher. (Our elevated property overlooks Popanyinning Road East and we have a good view of the constant traffic movements.

Popanyinning Road East and Reeds Road.

Popanyinning Road East's traditional use has been for local traffic movements associated with farming activities and local residents accessing the highway. Even though it is bituminised it is very narrow as it leaves the town area and progresses east. It is not designed to cater for large numbers of users currently visiting the park unfamiliar with the road and not used to the need to pull over onto the verges when oncoming traffic approaches. The situation is made worse by the numbers of users accessing the park pulling trailers. My experience is that many with trailers refuse to pull over to one side when approached by oncoming traffic. The conflict is major when

It is not 60 customers 6 days a week, writer has not read the application properly.

The roads are for anybody with a current drivers licence to use.

There should be no issue if all safety aspects ie pilot vehicles, flashing lights and signs are all in place when moving machinery down the road? Locals have been seen by other local's wheel spinning and ripping up Reeds road.

This happens at the entrance of our easement on days we haven't had riders. Black marks on bitumen were done before the park opened and reported to the police.

farm equipment is being moved.

Reeds Road is gravel and is utilised by some as a skid track with vehicles broad siding from side to side as evidenced on the road surface and especially after the weekends. While the operators of the Park are not directly responsible for what happens after their clients leave, arguably the nature of the activity and the kinds of clients it attracts generates this behaviour which is almost inevitable. The proposed plan has the potential to increase vehicle movements to the bike park by in excess of 450 extra vehicle movements a week. It is an accident waiting to happen. Council must consider how it is to manage this issue if approval is unwisely given. It should recognise that because of the location it is unlikely that traffic police can assist.

Amenity of Our Property

We chose and purchased our property seven years ago and took up residence because we wanted the peaceful enjoyment provided by the General Rural Zone within the Shire of Cuballing. We chose Popanyinning East Rd, not the highway, because it was a local road with local traffic. We expected the usual seasonal noise generated by farming activities (we generate a few of our own). Now we find that our peaceful enjoyment has been disrupted by the operations of the Park caused by the huge increase in traffic and the constant noise produced by the large numbers of high powered motorbikes that use the Park. Notwithstanding the current approval the noise from the bikes frequently starts well before the approved operating hours and occurs on days of the week when the park is not supposed to open. As evidence, the operators currently advertise on their Facebook page that they are open every day except Wednesday, and that their hours are 8am to 5pm.

DUCKS NUTS FACEBOOK PAGE 9/8/16.

PAGE INFO

- Address
Reeds Road, Popanyinning, Western Australia 6309
- Hours
Mon-Tue: 8:00 am - 5:00 pm
Thu-Sun: 8:00 am - 5:00 pm

Discretionary Approval

In exercising its discretionary powers under its Town Planning Scheme for a use like the Park, the Council is expected to be mindful of the objectives for the General Rural Zone and ensure

Bikes do not start before 8 am.

Neighbouring properties do have motorbike riding as well, not all motorbike noise comes from the park. They also have dogs as well.

The park is supervised at all times that there are riders.

that any approval does not compromise them. I believe that the Park use, especially at the scale at which it is operating is not compatible with the General Rural Zone

Noise Management

In the first approval for the Park the Council asked for noise monitoring to be undertaken but for some reason I find very hard to understand that condition was rescinded. It's obvious that an activity like the Park can generate unacceptable levels of noise that make it hard for neighbouring properties and that is what is happening. The operators of the park do not observe the current conditions and cause noise problems. If the Council can't control the previous conditions how does it expect to control the noise from a huge increase in numbers? What steps are being taken to make sure motorbikes and quads are fitted with standard exhausts and spark arresters? From what we can hear from our place many of them haven't. Has the operator a noise management plan and the will to enforce it? How is Council going to monitor the noise? How is it going to enforce conditions re hours and days of operation? The operators of the Park have shown they are not prepared to be self-regulating.

Camping

The advertising material for the Park on the internet proves our observation that the operators of the Park allow users to camp on site overnight. We do not think that allowing camping was part of the previous approval or is allowed by the Town Planning Scheme without proper application. I notice that the current application is silent on the matter of camping. Where are the sites located? What health and safety provisions have been made for campers?

Our belief is that allowing unsupervised campers on site overnight is contributing to the breach of the development conditions. The overnight campers are not prepared to wait for the approved starting times contributing to noise nuisance.

A number of those who visit the site and stay have dogs which are not always kept under control. We have anecdotal evidence of an increase in dog packs over the weekends representing a threat to livestock.

Council must address the issue of camping on site and ensure that the development application reflects what is happening on site properly.

Fire Management Plan

The Fire Management Plan provided in the application is a step in the right direction but much

more work needs to be done. For an operation of this size it should be prepared by a properly qualified consultant who understands risks and how they should be managed.

The fire risks on the site potentially come from,

- Bike motors under extremes of operation emitting sparks,
- The exhausts of overturned bikes or bikes that have run off the track igniting fires,
- Out of control camp fires (overnight winds!),
- Smokers,
- Cross boundary wild fires.
- Smokers

The plan indicates that no fires will be allowed in the fire season. Presumably they mean camp fires. How is this going to be enforced? Is the camping area (which is not included in the application) going to have overnight supervision? A properly planned camping area for a site like this usually has electric barbecues or similar so that campers are not tempted to light up.

The plan says that in the event of a fire an air horn will be sounded to alert users and call them back to the muster point. Sounds a good idea but is the air horn louder than a highly tuned motorbike going full bore around the tracks? Need to rethink this one.

The plan says that 'Raewyn' will make sure that everyone is accounted for. Hope she is not having a day off when there is a fire! How will she know who is accounted for? There is nothing in the Development Application which indicates that an attendance register will be kept.

The site plan attached to the application shows the location of a 'Fire Trailer'. What is going to pull the trailer. A Tractor? A four wheel drive? If so time will be lost accessing the trailer and hitching up - and trailed fire fighting units are less manoeuvrable. In my opinion the fire fighting unit for an operation on this scale needs a unit equivalent to a Fast Attack vehicle, self powered.

The issue of safe and effective evacuation remains, given that the easement runs through wooded country and has several 90 degree bends.

Has anyone associated with the Park, which has a higher than normal fire risk, undertaken fire control training? In an operation like this anyone would expect that the owner or a staff member would have completed some of the readily available fire training modules.

I believe that the Fire Management Plan is too dependent upon the services of volunteers, who are usually willing but may not be able to access the site with the necessary speed. An operation of the scale proposed with its associated risk levels should take more responsibility through its own staff and training, for fire control.

Safety of Users

The activities on site carry a high level of risk of personal injury either to riders or to spectators. A Development Application for this type of activity should include comprehensive details of safety measures that have been or will be undertaken. If Council approves this activity which results in an injury to a person through negligence or poor planning, then it may find itself part of any subsequent legal action. In my opinion Council must address all of the following with the operator. Any response from the operator should be properly documented and signed.

First Aid

- There is some superficial mention of first aid training and first aid kits in the application but no details.
- How many people will be in a supervisory capacity during the operation of the four tracks?
- How many of those people have received first aid training?
- Where is the evidence of the training they have received - documentation from St John's etc?
- What kind of first aid kits have been provided?
- Is there an Oxy Viva kit on site and someone trained in its use?
- Is there at least a stretcher or some other approved means of shifting an injured person?
- Is there a first aid room?
- What records/documentation exists for accidents that have already occurred on site?
- What procedures are in place for incident management and review?

Insurance

The application is silent on the matter of insurance for riders and spectators and any other members of the public. The Council must satisfy itself that proper provision has been made for insurance, especially public liability insurance.

In some of the earlier correspondence reference is made to insurance cover provided by the Motor Cycle organisation but where is the documentation?

Council must satisfy itself that proper insurance cover exists - a letter-certificate from the Motor

<p>Bike organisation or its insurer detailing level of cover and who and what is covered by any policy. It must do so to protect itself from any action. The applicant has stated elsewhere that those who ride on the tracks sign a waiver before being allowed to ride. As I understand the law, when you sign a waiver, you do not sign away your common law rights (can't be done). An injured party can still sue (operator or Council) if it can be shown that the operator has been negligent or that the Council has approved an activity that does not meet the necessary standards.</p> <p>Ablution Block The applicant says that he has purchased an ablution block and the site plan shows a location next to the creek (not sure that meets the requirements of the Health Act). The application is silent about the size and design of the ablution block. Any application should address the following issues.</p> <p>Is the ablution block of sufficient size to provide for the numbers of visitors to the site. (There are formulas for this)?</p> <ul style="list-style-type: none"> • What kind of effluent disposal system is proposed? (or has it already been installed?) • Does the ablution block meet the requirements of the Disability Services Act? It's not just wheelchair users who need the services provided by a disabled toilet). • Is the capacity of the water supply on site sufficient for the toilets and showers provided by the ablution block and the increased numbers of users? • Is there a sufficient supply of potable water on site? 	<p>The proposed ablution block is going through the appropriated channels. The Health Inspector has already been to have a look.</p>
<p>11 We would like to submit our comments on the expansion of the Ducks Nuts Motor Cycle Park.</p> <p>We have seen how well supported the park is and feel that there must be a need for such a facility for riders to use. It gives people who are interested in motor cycle riding a controlled area to ride.</p> <p>By the amount of people travelling from near and far to ride at this park only goes to show the need for such a facility.</p> <p>We are in complete agreeance for the extension of the park to accommodate more riders and do not know of any reason for the Council not to give their approval.</p>	
<p>12 We want to emphasise our objection to the application by the operators of the Ducks Nuts Motorcycle Park to amend their existing development approval for the following reasons especially.</p> <ul style="list-style-type: none"> • The levels of noise coming from the site are having an unacceptable impact on our 	

amenity.

- The increase in numbers from 10 a day to 60 a day on Friday to Monday and 15 a day on Wednesday and Thursday and the increase in the days and hours of operation are increases of a scale that go far beyond an amendment.
- The application does not supply the information that should be expected (neither did the original application) or required by the Planning Scheme.
- The application is unclear. By 'numbers' do the operators mean the numbers of riders allowed to use the tracks or do they mean the total number of people allowed on site at any one time? They need to be properly defined.
- The apparent breach of the current conditions of approval (including camping) do not give us confidence that the operators of the Motorcycle Park will do the right thing by any approval.
- The application does not make any attempt to deal with the issue of the noise that is causing great concern.
- There is no management plan which shows how the operators of the Park will manage such a significant increase in numbers or the provisions they have made for safety or insurances. 'She'll be right' assurances are not enough. Details and documents should be produced to protect the Shire and to protect users.
- The Fire Management Plan still needs lots of work.

Our request is for the Council refuse the current application and tell the operators of the Park that they must observe the conditions of their current approval.

We ask the Council to instruct its Environmental Health Officer to take the steps necessary to reduce the current noise from the Park.

If the Council refuses the application, we ask that the operators of the Park be informed that before Council considers any further Development Application, the applicants must prepare an application which provides all of the details required by the Planning Scheme. Preferably the report should be prepared by a proper planning consultant.

Should the Council believe that the Development Application can be considered as an amendment to the exiting approval we believe that the Council should withhold any approval until the applicants submit a properly documented application like it originally wanted to do. Council is perfectly entitled under the legislation to request that. It will be a chance to remedy those things that were missed last time.

To help us understand the issues better we asked a Town Planner to look at the application/s and the decisions of Council. His report (attached) makes interesting reading. He points to what the Shire of Nannup did when it found itself in a similar situation. We think the Nannup situation and

	reports show what can be done. We have attached the minutes from Nannup even though they would be available to you on the internet.	
13	<p>Thank you for the opportunity to provide comments on the proposed development at Lot 101 Reeds Road Popanyinning as above.</p> <p>I am not in favour of any Motor Cycle Park in the vicinity of the Pingelly/ Popanyinning areas as this is where I run my business. Having a motor cycle park provides little or no benefits to local people, and for much of the time, it is highly inconvenient, particularly for those who conduct productive agricultural activities; usually 7 days per week.</p> <p>Motorcycles create unwanted and unnecessary "noise, disturbing stock, wildlife and the lifestyle enjoyed by those who live here. It interferes with our way of life as the noise made by the motorcycles can be heard, on occasion, from at least 12kms away. Catering for FIFO workers is a poor excuse for longer opening hours as these people have very flexible working conditions.</p> <p>Coincidentally, since its opening, there has been an increase in hooning witnessed close to the Reeds Road entrance of the Motorcycle Park.</p> <p>This Motor cycle business runs on a property that has only one title; deeming the rates to be minimal, and yet demands more essential services, whether they be local or regional, than those who live and work in the area. These services include local Shire services such as road maintenance, Police and Royal Flying Doctor, as well as local volunteer services such as St John Ambulance, the SES and Fire Fighting services, all of which are in place to accommodate the people who live and work in the area.</p> <p>May I request that if this business is to continue, that it is closed on at least two weekends each month to allow us to continue to go about our own business, and not open until 10am at the earliest which would allow us to move stock on Reeds Road and/or enjoy the quiet.</p>	<p>Birds & animals are not affected by the noise as we have sheep that choose to stay by the tracks eating the grass even though they have other areas they are able to go to. The birds still sit in the trees and we have a lot of nesting birds on the property - no impact.</p> <p>Locals have been seen by other locals wheel spinning and ripping up Reeds road.</p> <p>This happens at the entrance of our easement on days we haven't had riders. Black marks on bitumen were done before the park opened and reported to the police.</p>
14	As the motor cycle park is an existing business operating at the same location, I have no objection to its expansion.	
15	Thanks for the opportunity to comment on the proposed changes requested in the Planning Application - Motor Cycle Park Expansion - Lot 101 Reeds Road.	<p>Camping is allowed for 3 nights without a permit.</p> <p>The Motorbike Park is our livelihood is was never</p>

I will preface my comments by declaring that developments which bring activity to the Shire and, in particular, to the town of Popanyinning are welcome from the point of view of wider public exposure and increased commercial activity.

On that basis, the proponents have not presented any research into the increase in actual or perceived benefits for the Popanyinning community. In fact, there is anecdotal evidence from the proprietor of the local store that motor cycle visitors do not frequent the store for purchase of either food or fuel.

I will also declare that I am not aware of any of the conditions placed on the proponents in granting approval for the initial application. However, as this is an application to upgrade, it automatically changes the form and function of the Motor Cycle operation and I would have anticipated a full risk assessment and risk management plan to accompany the application.

As a matter of course, the application for this proposal needs to be couched in terms of a risk management assessment. If I ask the question, "Have the proponents identified, assessed and provided mitigation strategies for the actual and perceived risks?" my answer would have to be; "No!" It would be interesting to compare the conditions imposed on the proponents of this application compared with those of the Cuballing Equestrian Centre. And while the park is currently operating under some kind of Shire sanctioned conditions, it is noted that this proposal has the potential to become a very financially viable operation and patrons will expect a very high level of safety and emergency response capability. The Motor Cycle Park (The Duck's Nuts) are already currently advertising the new operating hours as if the proposal have been accepted (http://all-opening-hours.com.au/0724654/The_Ducks_Nuts_Motorbike_Park)

Certainly, the fire risk has been addressed to some degree. However, the publication of a contact list does not meet the requirements of a risk assessment. It merely details some small part of a response strategy. Also, the only fire risk that has been identified is that of bush fire. There seems to be no provision in the fire plan for a fuel fire incident and no fuel handling area has been identified with fire suppression capabilities. This will become increasingly important as the number of riders and crews increase.

There are, also, a number of risks which have not even been identified. With increased participation of both riders and spectators there is a risk of accident and injury. There is no documentation identifying this risk and no stated provision in the proposal for the treatment and

to be just a hobby.

The fire plan was approved by the Fire Chief with the original application. All grass areas are kept down through stock grazing. The tracks serve as numerous firebreaks!

We are insured and that is private information.

It is not 60 customers 6 days a week; writer has not read the application properly.

The roads are for anybody with a current drivers licence to use.

There should be no issue if all safety aspects ie pilot vehicles, flashing lights and signs are all in place when moving machinery down the road? Locals have been seen by other local's wheel spinning and ripping up Reeds road.

This happens at the entrance of our easement on days we haven't had riders. Black marks on bitumen were done before the park opened and reported to the police.

Bikes do not start before 8 am.

Neighbouring properties do have motorbike riding as well, not all motorbike noise comes from the park. They also have dogs as well.

The park is supervised at all times that there are riders.

management of casualties. The proponents have not identified the availability of first aid or any on-site qualified first aid responders.

The fire risk did have a list of fire relevant contacts but contact details for Police, hospitals and ambulance and any other emergency responders required in an accident emergency are non-existent. An operation of this magnitude needs to have a fully comprehensive plan which is submitted to all identified responding agencies including maps showing ingress and egress to the site and detailing on-site capability.

The other risk is traffic management. East Popanyinning road is a major access route to surrounding farming operations. The road itself is not constructed as a major thoroughfare. Movement of extremely heavy and bulky machinery takes place at various times of the year. Many of the motor bike fraternity are sometimes reluctant to move their vehicles off the roads they may damage the cargo they are carrying. This is likely to increase the risk of motor vehicle accidents involving farm machinery and motor bike carriers. Also, the nature of the main access road into the park is gravel and will require constant maintenance attention by the Shire throughout the year.

The other risks which have not been identified are environmental. Two issues came to mind immediately. The first relates to the increased activity and the possibility of fuel and oil spills resulting from refueling and mechanical problems and the second relates to noise.

The fuel and oil spill risk may be minor but the operator will be irresponsible if these materials are allowed to be wasted in the environment. At present, no mention has been made of any strategy to combat this risk. This has the potential to build up over the length of time the operation is running. There is no clear indication of how this fuel spill risk will be monitored and mitigated.

However, I'm sure noise is quite a major risk considering the increased participation. Noise, along with prevailing winds, can transmit the sound of motor bikes over some considerable distance and disturbing the amenity of the area and the attractiveness of living in a rural setting afforded non-participating resident. The noise can also be exacerbated by the operating times. Once again, there seems to be no identification of this aspect of the operation or any proposals to even monitor this aspect of the operation let alone reduce the impact of noise pollution.

This leads me to a perceived risk to the LGA. Is the LGA aware of the operator's insurance provisions? If Cuballing Shire is granting permission for the proponent to operate this facility in its

The proposed ablation block is going through the appropriated channels. The Health Inspector has already been to have a look.

<p>proposed format without suitable risk management strategies are the Shire aware of the level of the operator's level of public liability insurance. Furthermore, is the Shire aware if the operator has adequate insurance? If the operator has insufficient public liability insurance any claimant may then transfer the risk to the Shire as the organization which approved the application.</p> <p>Once again, I draw attention to the process for approving the Equestrian Centre and suggest a similar process needs to undertaken here to protect local residents, enthusiasts and the Local Government. It may be an opportune time to suggest the LGA undertake a formal risk management assessment for those proposing new projects in the Shire. It may add more clarity for both the LGA and the proponent to gauge the implications and impacts of the project.</p>	
<p>16 We are writing in regards to the motorcycle park expansion. Thank you very much for this opportunity and extension given to respond, as this is our first of any correspondence received regarding the park.</p> <p>By way of background we are the closest residents to the park. We own the property at 67 Calcoran Rd. Our boundary is the eastside of the park where the location of the tracks are situated.</p> <p>Heading east in a direct line from tracks location and here is our residence approx 750m. Our workplace ie shearing shed and other sheds, is approx. 700m from the bike tracks location.</p> <p>There is no bush between our residence and the park. Since 2008 we are the landowners of block 103 Reeds Rd which is south side of the park. An easement runs through the middle of our farm that we share with the park and neighbours.</p> <p>We are farmers and at the present are running approx. 800 ewes/lambs and cropping. We aim to increase our number of livestock and plant more crop. We hope to have some cows and horses.</p> <p>We have looked at their proposal and oppose expansion. In the short period of time the park has been operating problematic issues have occurred.</p> <p>Our objections to the bike park application are:</p> <p>Noise and dust pollution..</p> <p>At present all bikes can be heard from our resident/workplace area, dust and riders are clearly</p>	<p>The motorbike Park was already operational before they purchased 67 Calcoran Road.</p> <p>The residence is 1km from the boundary fence with a dam and their shearing sheds in between.</p> <p>The noise and dust is determined by atmospheric and prevailing wind conditions. Their house is just as close to Reeds Road, what about that dust and also the unsanitary dust blowing from their</p>

<p>visible</p> <p>We have on numerous occasions counted more than 10 bikes going at the same time. Noise is very loud, annoying and constant even with minimal bike users, Every weekend we are woken by annoying bike noise, 6 hours of continuous noise exposure, is particularly taxing and a significant disturbance for the major part of the day 4 Consecutive days of constant, noise and dust exposure is a public nuisance in a rural zone. We cannot enjoy any outdoor activities as noise/dust has impacted on our peace and comfort, privacy, health, our way of life</p> <p>We fear water contamination from dust pollution as we are on rainwater</p> <p>Noise/dust pollution also has impacted on our livestock and our freedom to farm. We are limited to when and where we can move livestock Noise and movement from the bikes scare our sheep causing stress to pregnant ewes and lambs, which cannot graze in paddocks next to park, Noise and movement from the bikes has hindered us from farming other livestock, ie horses/cows</p> <p>Fire danger concerns:</p> <p>As our farm is split in half by the way of the shared easement, a major concern is increase of vehicles/bike riders, increases the potential of fire danger. Our paddocks bordering the park are pasture, the physical location of the bike tracks are approx 1-2m from our boundary. We believe the tracks are too close to boundary's putting crops in neighbouring paddocks in the high risk category. Non grazed bush blocks adjoining the bike park is an extreme fire hazard Sparks from high revving motors are a potential fire hazzard especially in the summer time when risk is at its highest peak, we feel the park should not be operating during the summer season We are very happy with the new mobile tower in pop as the park may now have coverage and able to receive fire ban notifications as this may not have been a reliable option in the past Winter time the easement can get very boggy due to rain and traffic</p> <p>Security issues:</p> <p>Trespassers/trespassing has impacted greatly on our security</p>	<p>woolsheds onto their house in certain conditions. The earliest motorbikes can start at 8am but most of the time it isn't until about 9am.</p> <p>. Neighbouring properties do have motorbike riding as well, not all motorbike noise comes from the park. They also have dogs as well. The park is supervised at all times that there are riders. Sheep are currently running at the park, they are not affected by the motorbikes</p> <p>Please see attached photo's 400 & 443 of his sheep grazing in the paddock beside the tracks where bikes are riding.</p> <p>The fire plan was approved by the Fire Chief with the original application. All grass areas are kept down through stock grazing. The tracks serve as numerous firebreaks!</p> <p>We have always been on the contact harvest/movement ban. We take this VERY seriously!</p> <p>Locals have been seen by other local's wheel spinning and ripping up Reeds road.</p> <p>This happens at the entrance of our easement on</p>
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We have bike users illegally riding around on our property and the public roads in vicinity Calcoran/Reeds Rd, park owner is aware of some instances, Because of the increase of these instances happening we have had to put up security surveillance on our farm, and padlock all farm gates along easement and Calcoran Rd. Reeds road and intersection of reed rd easement is continuously ripped up by reckless drivers. Neighbours as well as our own safety feared, from reckless driving/drivers On occasion usually after long weekends when campers and users of park are at a high attendance, roads/paddocks littered with rubbish beer cans

Environmental concerns:

Sewage/water

Where would the sewage from abulution block go with the creek being very close?
Where does water come from for use of abolution block?

With part of bike track partially crossing the creek it has restricted flow and has caused salt buildup leading to environmental degradation

At this stage we are oppose to the motorcycle parks application to expand

We believe the location of actual bike tracks are too close to our residence and neighbours, and too close to a agricultural and farming community.

It is a high fire risk to our livelihood residence, our neighbours, our agricultural and farming community,

It is a source of noise/dust pollution, destroying the simple pleasures of country living, and freedom of choice.

It has the potential to create/ aggravate health/safety issues

It attracts all kinds of people to our neighbourhood where personal security measures are enforced for the protection of private property.

It detracts from the landscape and the character of its surroundings in a rural zone

Expansion to park will enhance these problematic issues greatly, we believe closure of park will give back our freedom and liberty, and is the solution to all our issues present and future.

days we haven't had riders. Black marks on bitumen were done before the park opened and reported to the police.

We have never seen litter in his property from our park.

The proposed ablution block is going through the appropriated channels. The Health Inspector has already been to have a look.

Salinity problems have occurred for the past 40 years, the park has no effect on this.

We are an agricultural property, with crops being grown and running livestock. Two successful lambing seasons have be done on our property.

Attracts all kind of people, (the wording is very much insulting) are made up of people (families) from all over WA as well as local families. They are very nice law abiding citizens, many of who own their own businesses and enjoy motorbike riding. We have many families and the youth riders that ride here we find are very grateful for having such a facility and treated as such, many come with their parents and/or grandparents. The do support the local stores from Brookton through to Narrogin.

<p>17 Thankyou for your correspondence in relation to the above Planning Application of the Motor Cycle Club, “Duck’s Nuts”, of which I believe would like to extend their property in Popanyinning.</p> <p>Popanyinning is a small country town, with a small community, made up of retirees and small “hobby farmers”. It is here where these residents enjoy “living the dream” the peace and quiet of country living.</p> <p>At the moment, most residents, in the vicinity of the Motor Cycle Park are tolerant with what has been occurring with the Motor Cycle Club events, held over most weekends, and with the constant noise and the constant flow of traffic on the town boundary roads, it becomes a hum drum of motor bike noise.</p> <p>On speaking to a few other residents, of which I do hope they advise the Shire of their opinions, is that the extension is not welcomed and warranted to have in the Popanyinning community. These types of people, the users of the Motor Bike Park, are rather young and carefree who don’t really bring their families, which could support our local store, instead they bring the “riff raff” aspect of hooning and no respect to our roads, of which has been occurring.</p> <p>Then on the other hand, there are many other reasons, to do with this Corporation, if it is one, such a Fire Control, First Aid Post, Amenities, Camping areas, Public Liability – not just to have a Farm Insurance Policy, and I believe the owner has made an income out of this park, and has made and approx \$600,000.00 from the Admissions to use the Motor Bike Park.</p> <p>So on those few notes, I strongly disagree to having the Motor Cycle Park Expansion approved.</p> <p>What “Duck’s Nuts” have now, in my opinion, is quite sufficient.</p> <p>Thanking you for your consideration to my opinion.</p>	<p>This is an agricultural and business community</p> <p>We are a Motorbike <u>Park</u> not a club and are a business.</p> <p><u>These types of people</u>, (the wording is very much insulting) are made up of people (families) from all over WA as well as local families. They are very nice law abiding citizens, many of who own their own businesses and enjoy motorbike riding. We have many families and the youth riders that ride here we find are very grateful for having such a facility and treated as such, many come with their parents and/or grandparents. The do support the local stores from Brookton through to Narrogin. The approximate accusation of what we may earn is for one, very over exaggerated and none of anyone’s business and should have no bearing on this.</p>
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5. APPLICATIONS FOR LEAVE OF ABSENCE:

Cr Bradford requested Leave of Absence for the Ordinary Meeting of Council to be held on 17th November 2016.

COUNCIL DECISION:

That Cr Bradford be granted Leave of Absence for the Ordinary Meeting of Council to be held on 17th November 2016.

Moved: Cr Haslam

Seconded: Cr Dowling

Carried 5/0

6. CONFIRMATION OF MINUTES:

6.1.1 Ordinary Meeting of Council held on Thursday 15th September 2016

COUNCIL DECISION:

That the minutes of the Ordinary Meeting of Council held on Thursday 15th September 2016 be confirmed as a true record of proceedings.

Moved: Cr Newman

Seconded: Cr Dowling

Carried 5/0

7. PETITIONS/DEPUTATIONS/PRESENTATIONS/ SUBMISSIONS:

Nil

8. DISCLOSURE OF FINANCIAL INTEREST:

DISCLOSURE OF FINANCIAL INTEREST AND PROXIMITY INTEREST

Members must disclose the nature of their interest in matters to be discussed at the meeting.

Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting.

DISCLOSURE OF INTEREST AFFECTING IMPARTIALITY

Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the Member or employee has given or will give advice.

9. REPORTS OF OFFICERS AND COMMITTEES:

9.1 DEPUTY CHIEF EXECUTIVE OFFICER:

9.1.1	List of Accounts Submitted for Council Approval and Payment – September 2016
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File Ref. No: NA
Disclosure of Interest: Nil
Date: 2nd September 2016
Author: Nichole Gould
Attachments: 9.1.1A List of September 2016 Accounts

Summary

Council is to consider the September 2016 List of Accounts.

Background - Nil

Comment

Council is provided at Attachment 9.1.1A with a list of payments made from each of Council's bank accounts during the month of September 2016.

Strategic Implications - Nil

Statutory Environment – Nil

Policy Implications - Nil

Financial Implications - Nil

Economic Implication - Nil

Environmental Considerations - Nil

Consultation - Nil

Options

Council may resolve:

1. the Officer's Recommendation; or
2. to not note the list of accounts.

Voting Requirements – Simple Majority

COUNCIL DECISION:

That Council notes the Chief Executive Officer's List Of Accounts for September 2016 paid under Delegated Authority in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996 included at:

1. Attachment 9.1.1A payments from: the Trust Fund totalling \$18,323.65; and
2. Attachment 9.1.1B payments from the Municipal Fund totalling \$216,735.91.

Moved: Cr Newman

Seconded: Cr Bradford

Carried 5/0

**LIST OF TRUST FUND ACCOUNTS DUE AND SUBMITTED TO COUNCIL
SEPTEMBER 2016**

Chq/EFT	Name	Description	Amount
10916	Police Licensing	Licensing Payments	858.75
150916	Police Licensing	Licensing Payments	679.60
160916	Police Licensing	Licensing Payments	1,684.85
190916	Police Licensing	Licensing Payments	1,119.75
200916	Police Licensing	Licensing Payments	612.85
210916	Police Licensing	Licensing Payments	672.60
220916	Police Licensing	Licensing Payments	24.20
280916	Police Licensing	Licensing Payments	351.25
20916	Police Licensing	Licensing Payments	1,199.65
50916	Police Licensing	Licensing Payments	833.75
60916	Police Licensing	Licensing Payments	1,509.90
70916	Police Licensing	Licensing Payments	1,542.90
80916	Police Licensing	Licensing Payments	16.40
120916	Police Licensing	Licensing Payments	338.85
130916	Police Licensing	Licensing Payments	2,459.15
140916	Police Licensing	Licensing Payments	1,882.90
300916	Police Licensing	Licensing Payments	2,536.30
TOTAL			18,323.65

**LIST OF MUNICIPAL FUND ACCOUNTS DUE AND SUBMITTED TO COUNCIL
SEPTEMBER 2016**

Chq/EFT	Name	Description	Amount
70916	Loan Repayment No. 63	Loan Repayment No. 63 Graders	2,915.61
150916	Big Air Cloud Management	Big Air Cloud Management	116.49
190916	Rent On Forrest Street	Rent On Forrest Street	600.00
210916	Rent For Grader Driver House	Rent For Grader Driver House	360.00
210916	ATO Clearing Account BAS	ATO Clearing Account BAS	11,959.00
50916	Rent On Forrest Street	Rent On Forrest Street	600.00
70916	Rent For Grader Driver House	Rent For Grader Driver House	360.00
70916	Interest On Graders	Interest On Graders	798.67
EFT2389	Management Solutions (Qld) Pty Ltd	Sustainable Economic Growth for Regional Aust. 2 Day Conference - Eliza Dowling	1,359.75
EFT2390	Australian Super	Superannuation contributions	408.90
EFT2391	DJ Superannuation	Superannuation contributions	44.46
EFT2392	Hostplus Super	Superannuation contributions	209.84
EFT2393	Matrix Superannuation	Superannuation contributions	65.41
EFT2394	WA Local Government Super Plan	Superannuation contributions	4,702.41
EFT2395	Westscheme Superannuation	Superannuation contributions	598.90
EFT2396	Action Solution	8 x Cement Blocks for Equestrian Building	220.00
EFT2397	Air Liquide Pty Ltd	Cylinder Fee Size G & E	132.18
EFT2398	Allan's Bobcat & Truck Hire	Hire of Digger to Excavate Yornaning Dam Wall	220.00
EFT2399	Ampac Debt Recovery	Legal Fees - PSSO Fees A25	548.40
EFT2400	Avon Waste	14 x 7x4.5m3 Bulk Cardboard Bins - 3 & 31/08/216, 4 x 2x6.0m3 Bulk Cardboard Bins 12 & 26/08/16	3,180.98
EFT2401	Beaurepaires	1 x Tyre, Fitting, Repair Materials	608.46
EFT2402	Bill & Bens Hot Bread Shop	60 x Plain Scones	48.60
EFT2403	Bruce Brennan	50% Reimbursement - Synergy - B Brennan	157.50
EFT2404	Builders Registration Board Building Commission	August Building Forms	425.70
EFT2405	Butler Settineri	Interim Audit Fee for Year Ending June 2016	3,999.61
EFT2406	Child Support Agency	Payroll deductions	1,260.00
EFT2407	Cuby Roadhouse	Postage & Freight	1,792.01
EFT2408	Castledex	Admin Files	101.75
EFT2409	Dews Mini Excavations	Hire of Excavator to Install Culverts	968.00
EFT2410	Department Fire And Emergency Services	2016/17 ESL Levy	48,052.00
EFT2411	Derbahl	Pump Out 2 Tanks & Leach Drain at Popo Toilets	604.60
EFT2412	Dryandra Country Visitor Centre	Combined Funding 2016/17	5,000.00
EFT2413	E Fire And Safety	Service Fire Extinguishers	1,642.30
EFT2414	Edwards Motors Pty Ltd	Left Hand Heated Mirror	134.30
EFT2415	Earl Street Surgery	Pre-Employment Medical - Darrel J Marwick	264.00
EFT2416	Farmworks Ruralco	Roundup, Simanex, Ken-Met & Rapid Set	4,266.90
EFT2417	Great Southern Fuel Supplies	August Account - Bulk Diesel	17,232.11

Chq/EFT	Name	Description	Amount
EFT2418	Great Southern Waste Disposal	Rubbish Removal 9/08/16 to 23/08/16 - Recycling Service x 250	3,081.15
EFT2419	IT Vision	Remove Asset Disposal Transaction from System	242.00
EFT2420	JR & A Hersey P/L	Trousers, Shirts, Boots, Bomber Jackets - Tip Staff	4,906.13
EFT2421	Knightline Computers	2 x Brother Toner Cartridges	198.00
EFT2422	Komatsu Australia Pty Limited	4 x Rod Ends	229.15
EFT2423	Landgate	Rural UV's Chargeable Schedule: R2016/4	79.90
EFT2424	Local Government Managers Australia	Finance Professionals & Intergrated Planners Network PD Day - Member Full Day Inc. ATO Session	80.00
EFT2425	Makit Narrogin Hardware	PVC Glue, 90mm Grate, 90x90 PVC Elbows, 90mm Pipe 6m	112.00
EFT2426	MJB Industries Pty Ltd	3 x 1800mm Class 2 Concrete Pipes & 3 x Pipe Joiner	15,092.73
EFT2427	Market Creations	Synergy Backup in Cloud August 2016	472.96
EFT2428	Marketforce	Death Notice - Ian Watts	85.68
EFT2429	McDougall Weldments	2mts x 40x40x3mm Gal SHS Signs	29.26
EFT2430	Narrogin Auto Electrics	Remove Old Hydraulic Motor & Replace U/S D/C Motor, Refit & Test	648.00
EFT2431	Narrogin Bearing Services	4 x Air Fitting Tube	35.64
EFT2432	Narrogin Earthmoving And Concrete	Roller Hire	12,980.00
EFT2433	Narrogin Senior High School	Graduation Donation 2016 School Prize - Top Student	100.00
EFT2434	Neat (Narrogin Electrical Appliance Testing)	Portable Electrical Appliance Testing & Tagging as per Record Sheet	929.50
EFT2435	Narrogin Embroidery	Embroidery - Work Shirts - Logo 2 x O Sullivan & 2 x Tom Cook	40.00
EFT2436	Narrogin Hire Service And Reticulation	25mm Brass Tap & 20mm Brass Tap	29.00
EFT2437	Narrogin Packaging	Dog Waste Bags & Dispenser	176.50
EFT2438	Narrogin Pumps Solar And Spraying	Manifold for Two Way Sprayer	251.78
EFT2439	Narrogin Retravision	Volta Equipt Pet Plus Bagged Vacuum Cleaner	178.00
EFT2440	Old Macdonald's Travelling Farms	Walk In Farm Visit 28/09/16 3hrs	836.00
EFT2441	Ozlite Pty Ltd	10 x LED Fluro Light Tubes & Starters	285.95
EFT2442	Page Truck Hire	Loader Hire to Push Up Rubbish Popanyinning Tip 1, 8, 15, 22 & 29/08/2016	1,650.00
EFT2443	Quickfit Windscreens And Narrogin Glass	Fit New Windscreen	430.73
EFT2444	Raymond Aubrey Buffham	Reimbursement of ID Check for Vicki Philipoff Settlementments	78.00
EFT2445	Reinforced Concrete Pipes	10x Concrete Headwalls 450 & 375, 24 x Concrete Pipes 375 & 450, 24 x Rubber Rings 450 & 375	19,186.20
EFT2446	Road Signs Australia	Fit New Windscreen	2,413.40
EFT2447	Ray White Real Estate	Water Consumption - 1 Forrest St 14/06/16 to 15/08/16	42.48
EFT2448	SOS Office Equipment	Photocopier Meter Reading DCVC4475 28/07/16 to 26/08/16	860.81

Chq/EFT	Name	Description	Amount
EFT2449	South West Print Group (Dynamic Print)	1,000 x Business Cards - D Baxter	666.00
EFT2450	Southern Lock And Security	2 x Number 1 Key Padlocks & 2 x Number 4 Key Padlocks	299.12
EFT2451	Squiggles & Giggles Face Painting	Face Painting x 3 hrs Plus Travel	320.00
EFT2452	Staples Australia Pty Ltd	Targus Styles with Embedded Clip Blk	19.27
EFT2453	Toll Ipec (Courier Australia)	Freight Charges - Road Signs	212.08
EFT2454	Tonya Williams	50% Reimbursement Synergy - T Williams	62.65
EFT2455	WA College Of Agriculture	2016 Graduation Award Sponsorship	100.00
EFT2456	Exteria	1 x Mt Wrangle Universal Shelter with Inground Frame Gal with Slats & Roof	4,870.80
EFT2457	Australian Super	Superannuation contributions	408.90
EFT2458	DJ Superannuation	Superannuation contributions	180.68
EFT2459	Hostplus Super	Superannuation contributions	209.84
EFT2460	Matrix Superannuation	Superannuation contributions	65.41
EFT2461	WA Local Government Super Plan	Superannuation contributions	4,714.95
EFT2462	Westscheme Superannuation	Superannuation contributions	598.90
14848	Shire Of Cuballing	2016/17 Rates & Emergency Services Levy	2,731.00
14848	Australian Institute Of Building Surveyors	WA Chapter Conference 2016 - D Baxter 20 & 21 October 2016	1,549.00
14849	Building & Construction Industry Training Fund	BCITF Forms August 2016	199.25
14850	John Parry Medical Centre	Pre-Employment Medical - Owen Sullivan	126.00
14851	Neil Robertson	Replace Termite Damaged Floorboards in Kitchen of Hall	1,488.00
14852	Synergy	Electricity Charges - U 3 22 Campbell St Cuby	4,027.70
14853	Shire Of Cuballing	Building Services - August 16 - Labour 36.75 @ \$110.00 & Travel 260kms @ \$0.95	7,969.45
14854	Telstra	Services Charges - Shire Office	1,161.00
14855	Wren Oil	Waste Oil Removal Yornaning	16.50
14856	Water Corporation	Water Charges - Standpipe Ridley St Cuballing	1,082.67
260916	Commonwealth Bank	Bank Fees	9.99
260916	Commonwealth Bank	Adobe Licence Fee	27.46
260916	Commonwealth Bank	SEGRA Conference M Conley	1,090.86
260916	Commonwealth Bank	SEGRA Conference S Ballantyne	608.64
260916	Commonwealth Bank	Department of Environment Regulation – Clearing Permit RRG	200.00
TOTAL			216,735.91

9.1.2 Statement of Financial Activity

File Ref. No: ADM214
Disclosure of Interest: Nil
Date: 6th October 2016
Author: Tonya Williams, Deputy Chief Executive Officer
Attachments: 9.1.2A Statement of Financial Activity 9.1.2A

Summary

Council is to consider the Statement of Financial Activity for September 2016.

Background

As per the Financial Management Regulation 34 each Local Government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1) (d), for that month with the following detail:

- The annual budget estimates,
- The operating revenue, operating income, and all other income and expenses,
- Any significant variations between year to date income and expenditure and the relevant budget provisions to the end of the relevant reporting period,
- Identify any significant areas where activities are not in accordance with budget estimates for the relevant reporting period,
- Provide likely financial projections to 30 June for those highlighted significant variations and their effect on the end of year result,
- Include an operating statement, and
- Any other required supporting notes.

Comment

General Purpose Funding

Discount amount was higher than budgeted, this will result in a permanent difference to the amount of Rates available for funding projects in the year.

Governance

Asset Realisation account has a balance of \$17,815 due to the disposal of the Building Vehicle. This creates a timing difference as the disposal of the vehicle in the system does not occur until the 2015/16 Audit Report is approved.

Law, Order & Public Safety

Expenditure is lower than budgeted as no contract Ranger has been appointed as yet, creating a timing difference. Community Safety Wages are also lower than expected.

Housing

Salary Sacrifice for Grader Driver House not commenced until September, this has created a timing difference.

Community Amenities

Maintenance costs are lower than expected. Manning of tip stations has occurred slightly later than expected, resulting in a timing difference.

Transport

Final Storm Damage claim works expenditure delayed, no further income has been claimed as a result. Depreciation not yet calculated.

Economic Services

Building Surveyor costs are lower than budgeted. Loss on disposal here, but it is not an accurate reflection for the loss due to incomplete Asset journals that will be corrected when the Annuals for 2015/16 are signed off.

Other Property and Services

Building invoices for July and August were raised in September, creating a timing difference.

Capital Expenditure

Minor works ongoing for Capital projects. The changeover fee for the Building vehicle was higher than expected resulting in a lower total replacement cost for the vehicle.

Detailed breakdown of all variances provided in Note 2 of the Statement of Financial Activity.

Administration Allocations done to September 2016.

Depreciation expenses calculated to June 2016. Depreciation will not be calculated until the Audit Report for the 2015/16 Financial Year has been approved.

Strategic Implications - Nil

Statutory Environment – Nil

Policy Implications – Nil

Financial Implications – Nil

Economic Implication - Nil

Environmental Considerations - Nil

Consultation - Nil

Options

Council may resolve:

1. the Officer's Recommendation; or
2. not to receive the Statement of Financial Activity.

Voting Requirements – Simple Majority

COUNCIL DECISION:

That the Statement of Financial Activity, as included at Attachment 9.1.2A for the Shire of Cuballing for period ending 30th September 2016 be received.

Moved: Cr Dowling

Seconded: Cr Haslam

Carried 5/0

SHIRE OF CUBALLING

MONTHLY FINANCIAL REPORT
(Containing the Statement of Financial Activity)
For the Period Ended 30 September 2016

LOCAL GOVERNMENT ACT 1995
LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

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**Shire of Cuballing
Information Summary
For the Period Ended 30 September 2016**

Key Information

Report Purpose

This report is prepared to meet the requirements of *Local Government (Financial Management) Regulations 1996, Regulation 34*.

Overview

Summary reports and graphical progressive graphs are provided on pages 2 - 3.

Statement of Financial Activity by reporting program

Is presented on page 6 and shows a surplus as at 30 September 2016 of \$1,078,531.

Items of Significance

The material variance adopted by the Shire of Cuballing for the 2016/17 year is \$5,000 or 10% whichever is the greater. The following selected items have been highlighted due to the amount of the variance to the budget or due to the nature of the revenue/expenditure. A full listing and explanation of all items considered of material variance is disclosed in Note 2.

Capital Expenditure

Land and Buildings	-\$	33,602	Minor completion works
Infrastructure - Roads	-\$	246,719	Initial works started in
Plant and Equipment	▲ \$	74,730	Mower and Machinery Float

Capital Revenue

Grants, Subsidies and Contributions	\$3,337	No material variance - Roads
Proceeds from Disposal of Assets	(\$782)	Changeover of Building Vehicle was higher than

	Collected / Complete	Annual Budget	YTD Budget	YTD Actual
Significant Projects				
DREC Weather Shelter	0%	\$ 96,869	\$ -	\$ -
Popanyinning Transfer Station	6%	\$ 148,451	-\$ 24,740	\$ 8,862
RRG - Wandering Narrogin Road	4%	\$ 496,800	-\$ 82,767	\$ 21,026
Grants, Subsidies and Contributions				
Operating Grants, Subsidies and Contributions	32%	\$ 1,052,784	\$ 727,702	\$ 341,057
Non-operating Grants, Subsidies and Contributions:	13%	\$ 1,017,793	\$ 914,799	\$ 135,817
	23%	\$ 2,070,577	\$ 1,642,501	\$ 476,874
Rates Levied	99%	\$ 1,039,987	\$ 1,039,986	\$ 1,031,469

% Compares current ytd actuals to annual budget

Financial Position		Prior Year 31 July 2015	Current Year 31 July 2016
Adjusted Net Current Assets	76%	\$ 1,414,933	\$ 1,078,531
Cash and Equivalent - Unrestricted	73%	\$ 1,293,790	\$ 940,988
Cash and Equivalent - Restricted	104%	\$ 1,261,825	\$ 1,313,854
Receivables - Rates	#DIV/0!	\$ -	\$ 200,119
Receivables - Other	7%	\$ 184,821	\$ 12,590
Payables	93%	\$ 104,083	\$ 96,974

% Compares current ytd actuals to prior year actuals at the same time

Note: The Statements and accompanying notes are prepared based on all transactions recorded at the time of preparation and may vary due to transactions being processed for the reporting period after the date of

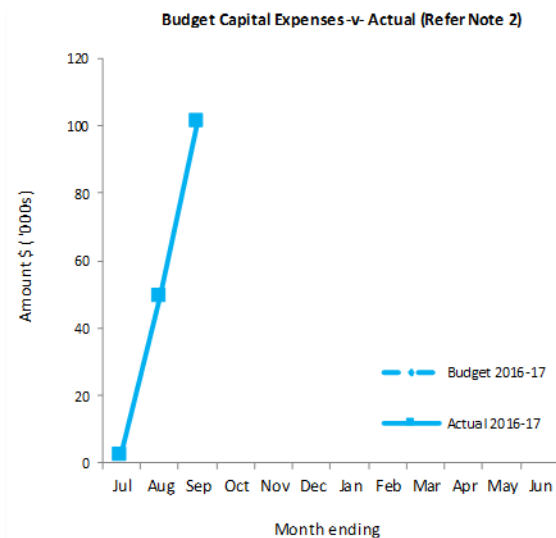
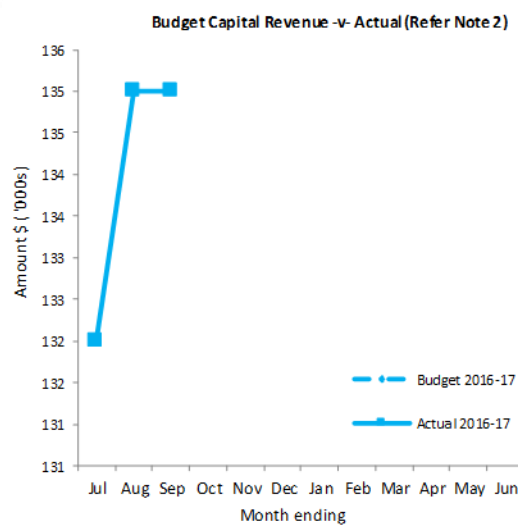
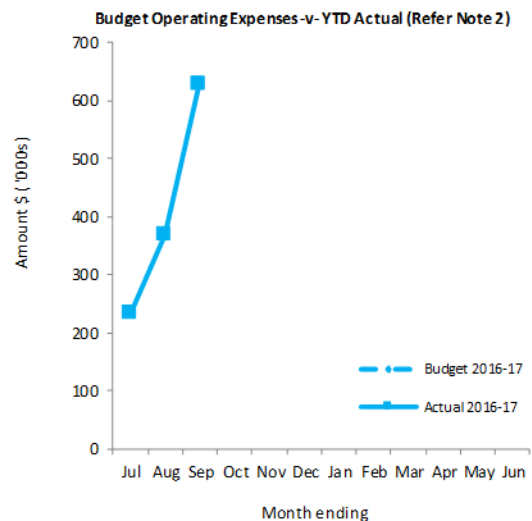
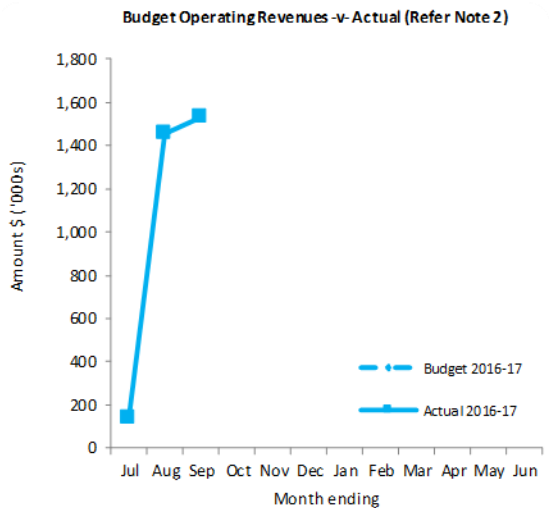
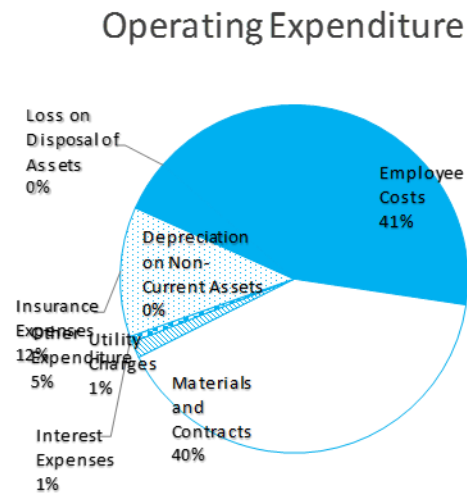
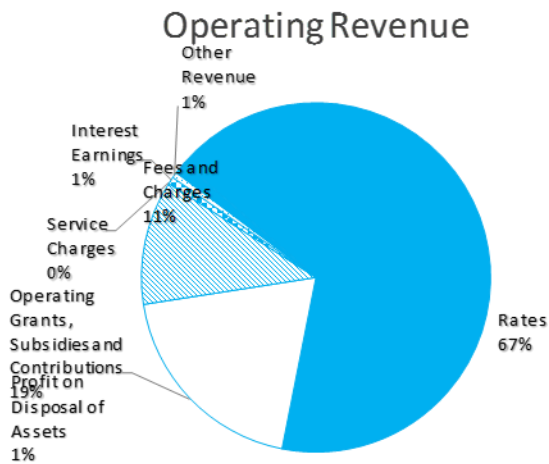
Preparation

Prepared by: Tonya Williams, DCEO

Reviewed by: Gary Sherry, CEO

Date prepared: 6th October 2016

Shire of Cuballing
Information Summary
For the Period Ended 30 September 2016



This information is to be read in conjunction with the accompanying Financial Statements and Notes

SHIRE OF CUBALLING
STATEMENT OF FINANCIAL ACTIVITY
(Statutory Reporting Program)
For the Period Ended 30 September 2016

	Note	Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
		\$	\$	\$	\$	%	
Opening Funding Surplus(Deficit)	3	169,358	169,029	169,029	0	0%	
Revenue from operating activities							
Governance		3,150	123	18,904	18,781	15269%	▲
General Purpose Funding	9	1,639,907	1,190,961	1,184,347	(6,614)	(1%)	
Law, Order and Public Safety		26,400	0	100	100		
Health		1,500	571	1,204	633	111%	
Education and Welfare		0	0	0	0		
Housing		4,680	1,170	0	(1,170)	(100%)	
Community Amenities		58,350	57,451	61,690	4,239	7%	
Recreation and Culture		9,795	7,621	7,805	184	2%	
Transport		477,157	233,727	203,538	(30,189)	(13%)	▼
Economic Services		65,000	12,031	25,208	13,177	110%	▲
Other Property and Services		258,000	62,947	25,260	(37,687)	(60%)	▼
		2,543,939	1,566,602	1,528,057			
Expenditure from operating activities							
Governance		(126,635)	(68,820)	(50,494)	18,326	27%	▲
General Purpose Funding		(59,356)	(13,510)	(11,189)	2,321	17%	▲
Law, Order and Public Safety		(131,070)	(35,675)	(23,193)	12,482	35%	▲
Health		(40,339)	(9,837)	(8,801)	1,036	11%	▲
Education and Welfare		(54,439)	(3,082)	(2,760)	322	10%	▲
Housing		(51,022)	(12,329)	(10,633)	1,696	14%	▲
Community Amenities		(369,431)	(87,130)	(55,292)	31,838	37%	▲
Recreation and Culture		(283,284)	(79,333)	(52,177)	27,156	34%	▲
Transport		(2,043,332)	(541,004)	(344,118)	196,886	36%	▲
Economic Services		(145,495)	(31,684)	(35,154)	(3,470)	(11%)	
Other Property and Services		(224,687)	(96,174)	(35,711)	60,463	63%	▲
		(3,529,090)	(978,578)	(629,522)			
Operating activities excluded from budget							
Add back Depreciation		1,274,700	318,654	0	(318,654)	(100%)	▼
Adjust (Profit)/Loss on Asset Disposal	8	1,541	1,541	(17,815)	(19,356)	(1256%)	▼
Adjust Provisions and Accruals		0	0	0	0		
Amount attributable to operating activities		291,090	908,220	880,720			
Investing Activities							
Non-operating Grants, Subsidies and Contributions	11	940,255	132,480	135,817	3,337	3%	
Proceeds from Disposal of Assets	8	18,597	18,597	17,815	(782)	(4%)	
Land Held for Resale		0	0	0	0		
Land and Buildings	13	(291,390)	24,740	(8,862)	(33,602)	136%	
Infrastructure Assets	13	(1,092,512)	192,764	(53,955)	(246,719)	128%	
Plant and Equipment	13	(113,000)	(113,000)	(38,270)	74,730	66%	▲
Furniture and Equipment	13	0	0	0	0		
Amount attributable to investing activities		(538,050)	255,581	52,546			
Financing Activities							
Proceeds from New Debentures		0	0	0	0		
Proceeds from Advances		0	0	0	0		
Self-Supporting Loan Principal		0	0	0	0		
Transfer from Reserves	7	250,470	0	0	0		
Advances to Community Groups		0	0	0	0		
Repayment of Debentures	10	(67,368)	(16,499)	(16,499)	0	0%	
Transfer to Reserves	7	(105,500)	(7,264)	(7,264)	0	0%	
Amount attributable to financing activities		77,602	(23,763)	(23,763)			
Closing Funding Surplus(Deficit)	3	0	1,309,066	1,078,531			

Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold.
Refer to Note 2 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

SHIRE OF CUBALLING
STATEMENT OF FINANCIAL ACTIVITY
(By Nature or Type)
For the Period Ended 30 September 2016

	Note	Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
		\$	\$	\$	\$	%	
Opening Funding Surplus (Deficit)	3	169,358	169,029	169,029	0	0%	
Revenue from operating activities							
Rates	9	1,039,987	1,039,986	1,031,469	(8,517)	(1%)	
Operating Grants, Subsidies and Contributions	11	1,066,508	375,077	300,178	(74,899)	(20%)	▼
Fees and Charges		383,945	138,615	177,868	39,253	28%	▲
Service Charges		0	0	0	0		
Interest Earnings		34,500	8,968	10,289	1,321	15%	
Other Revenue		19,000	5,497	8,253	2,756	50%	
Profit on Disposal of Assets	8	0	0	17,815			
		2,543,940	1,568,143	1,545,872			
Expenditure from operating activities							
Employee Costs		(823,752)	(193,163)	(265,349)	(72,186)	(37%)	▼
Materials and Contracts		(1,183,409)	(342,275)	(260,200)	82,075	24%	▲
Utility Charges		(44,470)	(8,723)	(9,764)	(1,041)	(12%)	
Depreciation on Non-Current Assets		(1,274,700)	(318,654)	0	318,654	100%	▲
Interest Expenses		(12,746)	(3,424)	(3,529)	(105)	(3%)	
Insurance Expenses		(125,274)	(81,563)	(78,151)	3,412	4%	
Other Expenditure		(63,200)	(30,776)	(30,343)	433	1%	
Loss on Disposal of Assets	8	(1,541)	(1,541)	0			
		(3,529,091)	(980,119)	(647,337)			
Operating activities excluded from budget							
Add back Depreciation		1,274,700	318,654	0	(318,654)	(100%)	▼
Adjust (Profit)/Loss on Asset Disposal	8	1,541	1,541	(17,815)	(19,356)	(1256%)	▼
Amount attributable to operating activities		291,090	908,220	880,720			
Investing activities							
Grants, Subsidies and Contributions	11	940,255	132,480	135,817	3,337	3%	
Proceeds from Disposal of Assets	8	18,597	18,597	17,815	(782)	(4%)	
Land Held for Resale		0	0	0	0		
Land and Buildings	13	(291,390)	24,740	(8,862)	(33,602)	136%	
Infrastructure Assets	13	(1,092,512)	192,764	(53,955)	(246,719)	128%	
Plant and Equipment	13	(113,000)	(113,000)	(38,270)	74,730	66%	▲
Furniture and Equipment	13	0	0	0	0		
Amount attributable to investing activities		(538,050)	255,581	52,546			
Financing Activities							
Proceeds from New Debentures		0	0	0	0		
Proceeds from Advances		0	0	0	0		
Self-Supporting Loan Principal		0	0	0	0		
Transfer from Reserves	7	250,470	0	0	0		
Advances to Community Groups		0	0	0	0		
Repayment of Debentures	10	(67,368)	(16,499)	(16,499)	0	0%	
Transfer to Reserves	7	(105,500)	(7,264)	(7,264)	0	0%	
Amount attributable to financing activities		77,602	(23,763)	(23,763)			
Closing Funding Surplus (Deficit)	3	0	1,309,066	1,078,531	(230,535)	(18%)	▼

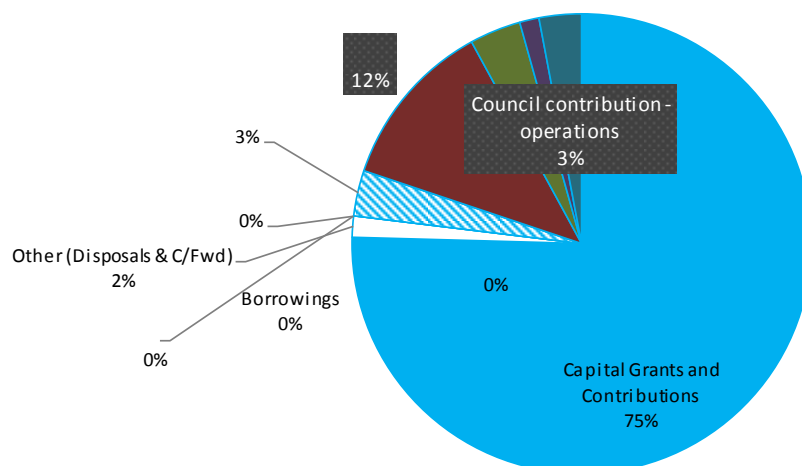
Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold.
Refer to Note 2 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

SHIRE OF CUBALLING
STATEMENT OF CAPITAL ACQUISITIONS AND CAPITAL FUNDING
For the Period Ended 30 September 2016

Capital Acquisitions

	Note	YTD Actual New /Upgrade (a)	YTD Actual (Renewal Expenditure) (b)	YTD Budget (d)	Annual Budget	YTD Actual Total (c) = (a)+(b)	Variance (d) - (c)
		\$	\$	\$	\$	\$	\$
Land and Buildings	13	0	0	(24,740)	291,390	8,862	33,602
Infrastructure Assets	13	0	0	(192,764)	1,092,512	53,955	246,719
Plant and Equipment	13	0	0	113,000	113,000	38,270	(74,730)
Capital Expenditure Totals		0	0	(104,504)	1,496,902	101,086	205,590
Capital acquisitions funded by:							
Capital Grants and Contributions				914,799	940,255	135,817	
Borrowings				0	0	0	
Other (Disposals & C/Fwd)				18,597	18,597	17,815	
Council contribution - Cash Backed Reserves				0	250,470	0	
Plant and Equipment Reserve				0	0	0	
Administration Building and Office Equipment Reserve				0	0	0	
Housing Reserve				0	40,000	0	
Recreation and Community Facility Reserve				0	0	0	
Refuse Site Reserve				0	148,451	0	
Grain Freight Reserve				0	45,019	0	
Equestrian Reserve				0	17,000	0	
Council contribution - operations				(1,037,899)	37,110	(52,546)	
Capital Funding Total				(104,504)	1,246,432	101,086	

Budgeted Capital Acquisitions Funding

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 1: Significant Accounting Policies**(a) Basis of Accounting**

This statement comprises a special purpose financial report which has been prepared in accordance with Australian Accounting Standards (as they apply to local governments and not-for-profit entities), Australian Accounting Interpretations, other authoritative pronouncements of the Australian Accounting Standards Board, the Local Government Act 1995 and accompanying regulations. Material accounting policies which have been adopted in the preparation of this statement are presented below and have been consistently applied unless stated otherwise. Except for cash flow and rate setting information, the report has also been prepared on the accrual basis and is based on historical costs, modified, where applicable, by the measurement at fair value of selected

Critical Accounting Estimates

The preparation of a financial report in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that effect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances; the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

(b) The Local Government Reporting Entity

All Funds through which the Council controls resources to carry on its functions have been included in this statement. In the process of reporting on the local government as a single unit, all transactions and balances between those funds (for example, loans and transfers between Funds) have been eliminated. All monies held in the Trust Fund are excluded from the statement, but a separate statement of those monies appears at Note 12.

(c) Rounding Off Figures

All figures shown in this statement are rounded to the nearest dollar.

(d) Rates, Grants, Donations and Other Contributions

Rates, grants, donations and other contributions are recognised as revenues when the local government obtains control over the assets comprising the contributions. Control over assets acquired from rates is obtained at the commencement of the rating period or, where earlier, upon receipt of the rates.

(e) Goods and Services Tax

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO). Receivables and payables are stated inclusive of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with receivables or payables in the statement of financial position. Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are

(f) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, cash at bank, deposits available on demand with banks and other short term highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value and bank overdrafts. Bank overdrafts are reported as short term borrowings in current liabilities in the statement of financial position.

(g) Trade and Other Receivables

Trade and other receivables include amounts due from ratepayers for unpaid rates and service charges and other amounts due from third parties for goods sold and services performed in the ordinary course of business.

Receivables expected to be collected within 12 months of the end of the reporting period are classified as current assets. All other receivables are classified as non-current assets. Collectability of trade and other receivables is reviewed on an ongoing basis. Debts that are known to be uncollectible are written off when identified. An allowance for doubtful debts is raised when there is objective evidence that they will not be collectible.

(h) Inventories**General**

Inventories are measured at the lower of cost and net realisable value. Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs

Land Held for Resale

Land held for development and sale is valued at the lower of cost and net realisable value. Cost includes the cost of acquisition, development, borrowing costs and holding costs until completion of development. Finance costs and holding charges incurred after development is completed are expensed. Gains and losses are recognised in profit or loss at the time of signing an unconditional contract of sale if significant risks and rewards, and effective control over the land, are passed on to the buyer at this point. Land held for sale is classified as current except where it is held as non-current based on Council's intentions to release for sale.

(i) Fixed Assets

All assets are initially recognised at cost. Cost is determined as the fair value of the assets given as consideration plus costs incidental to the acquisition. For assets acquired at no cost or for nominal consideration, cost is determined as fair value at the date of acquisition. The cost of non-current assets constructed by the local government includes the cost of all materials used in the construction, direct labour on the project and an appropriate proportion of variable and fixed overhead. Certain asset classes may be revalued on a regular basis such that the carrying values are not materially different from fair value. Assets carried at fair value are to be revalued with sufficient regularity to ensure the carrying amount does not differ materially from that determined

(j) Depreciation of Non-Current Assets

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of the future economic benefits embodied in those assets

Depreciation is recognised on a straight-line basis, using rates which are reviewed each reporting period. Major depreciation rates and periods are:

Asset	Years
Buildings	30 to 50 years
Furniture and Equipment	4 to 10 years
Plant and Equipment	5 to 15 years
Sealed roads and streets	
formation	not depreciated
pavement	50 years
seal	
bituminous seals	20 years
asphalt surfaces	25 years
Gravel Roads	
formation	not depreciated
pavement	50 years
gravel sheet	12 years
Formed roads	
formation	not depreciated
pavement	50 years
Footpaths - slab	20 years

(k) Trade and Other Payables

Trade and other payables represent liabilities for goods and services provided to the Council prior to the end of the financial year that are unpaid and arise when the Council becomes obliged to make future payments in respect of the purchase of these goods and services. The amounts are unsecured, are recognised as a current liability and are normally paid within 30 days of recognition.

(l) Employee Benefits

The provisions for employee benefits relates to amounts expected to be paid for long service leave, annual leave, wages and salaries and are calculated as follows:

(i) Wages, Salaries, Annual Leave and Long Service Leave (Short-term Benefits)

The provision for employees' benefits to wages, salaries, annual leave and long service leave expected to be settled within 12 months represents the amount the Shire has a present obligation to pay resulting from employees services provided to balance date. The provision has been calculated at nominal amounts based on remuneration rates the Shire expects to pay and includes related on-costs.

(ii) Annual Leave and Long Service Leave (Long-term Benefits)

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date using the project unit credit method. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match as closely as possible, the estimated future cash outflows. Where the Shire does not have the unconditional right to defer settlement beyond 12 months, the liability is recognised as a current liability.

(m) Interest-bearing Loans and Borrowings

All loans and borrowings are initially recognised at the fair value of the consideration received less directly attributable transaction costs. After initial recognition, interest-bearing loans and borrowings are subsequently measured at amortised cost using the effective interest method. Fees paid on the establishment of loan facilities that are yield related are included as part of the carrying amount of the loans and borrowings.

Borrowings are classified as current liabilities unless the Council has an unconditional right to defer settlement of the liability for at least 12 months after the balance sheet date.

Borrowing Costs

Borrowing costs are recognised as an expense when incurred except where they are directly attributable to the acquisition, construction or production of a qualifying asset. Where this is the case, they are capitalised as part of the cost of the particular asset.

(n) Provisions

Provisions are recognised when: The council has a present legal or constructive obligation as a result of past events; it is more likely than not that an outflow of resources will be required to settle the obligation; and the amount has been reliably estimated. Provisions are not recognised for future operating losses. Where there are a number of similar obligations, the likelihood that an outflow will be required in settlement is determined by considering the class of obligations as a whole. A provision is recognised even if the likelihood of an outflow with respect to any one of item included in the same class of obligations may be small.

(o) Current and Non-Current Classification

In the determination of whether an asset or liability is current or non-current, consideration is given to the time when each asset or liability is expected to be settled. The asset or liability is classified as current if it is expected to be settled within the next 12 months, being the Council's operational cycle. In the case of liabilities where Council does not have the unconditional right to defer settlement beyond 12 months, such as vested long service leave, the liability is classified as current even if not expected to be settled within the next 12 months. Inventories held for trading are classified as current even if not expected to be realised in the next 12 months except for land held for

(p) Nature or Type Classifications**Rates**

All rates levied under the Local Government Act 1995. Includes general, differential, specific area rates, minimum rates, interim rates, back rates, ex-gratia rates, less discounts offered. Exclude administration fees, interest on

Operating Grants, Subsidies and Contributions

Refer to all amounts received as grants, subsidies and contributions that are not non-operating grants.

Non-Operating Grants, Subsidies and Contributions

Amounts received specifically for the acquisition, construction of new or the upgrading of non-current assets paid to a local government, irrespective of whether these amounts are received as capital grants, subsidies,

Profit on Asset Disposal

Profit on the disposal of assets including gains on the disposal of long term investments. Losses are disclosed under

Fees and Charges

Revenues (other than service charges) from the use of facilities and charges made for local government services, sewerage rates, rentals, hire charges, fee for service, photocopying charges, licences, sale of goods or information, fines, penalties and administration fees. Local governments may wish to disclose more detail such as rubbish collection fees, rental of property, fines and penalties, other fees and charges.

Service Charges

Service charges imposed under Division 6 of Part 6 of the Local Government Act 1995. Regulation 54 of the Local Government (Financial Management) Regulations 1996 identifies these as television and radio broadcasting, underground electricity and neighbourhood surveillance services. Exclude rubbish removal charges. Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest

Interest Earnings

Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

Other Revenue / Income

Other revenue, which can not be classified under the above headings, includes dividends, discounts, rebates etc.

Employee Costs

All costs associate with the employment of person such as salaries, wages, allowances, benefits such as vehicle and housing, superannuation, employment expenses, removal expenses, relocation expenses, worker's compensation insurance, training costs, conferences, safety expenses, medical examinations, fringe benefit tax,

Materials and Contracts

All expenditures on materials, supplies and contracts not classified under other headings. These include supply of goods and materials, legal expenses, consultancy, maintenance agreements, communication expenses, advertising expenses, membership, periodicals, publications, hire expenses, rental, leases, postage and freight etc. Local governments may wish to disclose more detail such as contract services, consultancy, information

Utilities (Gas, Electricity, Water, etc.)

Expenditures made to the respective agencies for the provision of power, gas or water. Exclude expenditures incurred for the reinstatement of roadwork on behalf of these agencies.

Insurance

All insurance other than worker's compensation and health benefit insurance included as a cost of employment.

Loss on asset disposal

Loss on the disposal of fixed assets.

Depreciation on non-current assets

Depreciation expense raised on all classes of assets.

Interest expenses

Interest and other costs of finance paid, including costs of finance for loan debentures, overdraft accommodation and refinancing expenses.

Other expenditure

Statutory fees, taxes, provision for bad debts, member's fees or State taxes. Donations and subsidies made to community groups.

(r) Program Classifications (Function/Activity)

City/Town/Shire operations as disclosed in these financial statements encompass the following service orientated activities/programs.

GOVERNANCE**Objective:**

To provide a decision making process for the efficient allocation of scarce resources.

Activities:

Includes the activities of members of council and the administrative support available to the council for the provision of governance of the district. Other costs relate to the task of assisting elected members and ratepayers on matters which do not concern specific council services.

GENERAL PURPOSE FUNDING**Objective:**

To collect revenue to allow for the provision of services.

Activities:

Rates, general purpose government grants and interest revenue.

LAW, ORDER, PUBLIC SAFETY**Objective:**

To provide services to help ensure a safer and environmentally conscious community.

Activities:

Supervision and enforcement of various local laws relating to fire prevention, animal control and other aspects of public safety including emergency services.

HEALTH**Objective:**

To provide an operational framework for environmental and community health.

Activities:

Inspection of food outlets and their control, provision of meat inspection services, noise control and waste disposal

EDUCATION AND WELFARE**Objective:**

To provide services to disadvantaged persons, the elderly, children and youth.

Activities:

Maintenance of child minding centre, playgroup centre, senior citizen centre and aged care centre. Provision and maintenance of home and community care programs and youth services.

HOUSING**Objective:**

To provide and maintain elderly residents housing.

Activities:

Provision and maintenance of elderly residents housing.

COMMUNITY AMENITIES**Objective:**

To provide services required by the community.

Activities:

Rubbish collection services, operation of rubbish disposal sites, litter control, construction and maintenance of urban storm water drains, protection of the environment and administration of town planning schemes, cemetery

RECREATION AND CULTURE**Objective:**

To establish and effectively manage infrastructure and resource which will help the social well being of the

Activities:

Maintenance of public halls, civic centres, aquatic centre, beaches, recreation centres and various sporting facilities. Provision and maintenance of parks, gardens and playgrounds. Operation of library, museum and other

TRANSPORT**Objective:**

To provide safe, effective and efficient transport services to the community.

Activities:

Construction and maintenance of roads, streets, footpaths, depots, cycle ways, parking facilities and traffic control. Cleaning of streets and maintenance of street trees, street lighting etc.

ECONOMIC SERVICES**Objective:**

To help promote the shire and its economic wellbeing.

Activities:

Tourism and area promotion including the maintenance and operation of a caravan park. Provision of rural services including weed control, vermin control and standpipes. Building Control.

OTHER PROPERTY AND SERVICES**Objective:**

To monitor and control City/Town/Shire overheads operating accounts.

Activities:

Private works operation, plant repair and operation costs and engineering operation costs.

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 2: Explanation of Material Variances

The material variance thresholds are adopted annually by Council as an indicator of whether the actual expenditure or revenue varies from the year to date budget materially.

The material variance adopted by Council for the 2016/17 year is \$5,000 or 10% whichever is the greater.

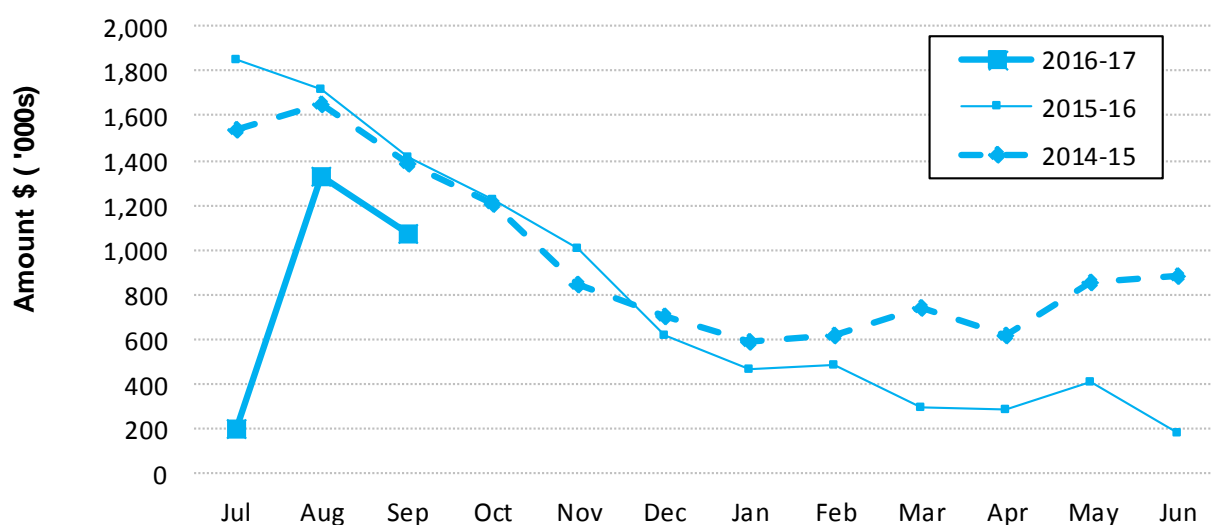
Reporting Program	Var. \$	Var. %	V	Timing/ Permanent	Explanation of Variance
Operating Revenues					
General Purpose Funding	\$ (6,614)	(1%)		Permanent	Discount amount higher than budgeted Asset Realisation account has a balance of \$17,815 due to the disposal of the Building Vehicle. This creates a timing difference as the disposal of the vehicle in the system does not occur until the 2015/16 Audit Report is approved.
Governance	18,781	15269%	▲	Timing	Salary sacrifice for Grader Driver House under Budgeted, as no employee payroll till Sept. Invoice to be paid.
Housing	(1,170)	(100%)		Timing	Additional Planning Application fees received
Community Amenities	4,239	7%		Timing	No material variance
Recreation and Culture	184	2%		Timing	Budgeted to have completed Storm Damage Works in Q1, has not occurred. Expected to have claimed some Blackspot Funding, not completed.
Transport	(30,189)	(13%)	▼		
Economic Services	13,177	110%	▲	Timing	Additional Building Licence fees received
Other Property and Services	(37,687)	(60%)	▼	Timing	Private Works income under budget, some works completed and invoices not yet raised for September. Workers Compensation not paid. Loss on disposal here, but it is not an accurate reflection for the loss due to incomplete Asset journals that will be corrected when the Annuals for 2015/16 are signed off.
Operating Expense					
General Purpose Funding	2,321	17%	▲	Timing	Legal fees to be moved onto the Assessment for recovery, journal not yet completed.
Governance	18,326	27%	▲	Timing	Administration Overheads is less than budgeted, as depreciation has not been run for 2016/17 (Audit Report sign off). Bills not received for Council Refreshments. Ranger costs lower than expected (no contract Ranger engaged yet). Community Safety Wages lower than budgeted.
Law, Order and Public Safety	12,482	35%	▲	Timing	Employee costs lower than expected.
Health	1,036	11%	▲	Timing	Depreciation not yet run for 2016/17
Housing	1,696	14%	▲	Timing	Tip maintenance costs lower than expected as manning of tip stations started later than budgeted.
Community Amenities	31,838	37%	▲	Timing	Depreciation not yet run for 2016/17. Maintenance costs lower than expected
Recreation and Culture	27,156	34%	▲	Timing	Expenditure on final storm damage works delayed, depreciation not yet calculated
Transport	196,886	36%	▲	Timing	Shire of Cuballing Building Services cost less than budgeted. Community Functions payments are below budget, further invoices expected for events in September.
Economic Services	(3,470)	(11%)		Timing	Private works expenditure less than expected. Loss on disposal here, but it is not an accurate reflection for the loss due to incomplete Asset journals that will be corrected when the Annuals for 2015/16 are signed off.
Other Property and Services	60,463	63%	▲	Permanent	
Capital Revenues					
Grants, Subsidies and Contributions	3,337	3%			No material variance - Roads to Recovery Quarter 4 2015/16 remainder payment made
Proceeds from Disposal of Assets	(782)	(4%)		Timing	Changeover of Building Vehicle was higher than budgeted
Capital Expenses					
Land and Buildings	(33,602)	136%		Timing	Minor completion works undertaken at the Cuballing Transfer Station. Construction of Popanyinning Transfer Station began earlier than budgeted.
Infrastructure - Roads	(246,719)	128%		Timing	Initial works started in preparation for the Capital Works program over Summer
Plant and Equipment	74,730	66%	▲	Timing	Mower and Machinery Float expenditure expected in September, will occur later in the year.
Furniture and Equipment	0				No material variance
Financing					
Loan Principal	0	0%			No material variance

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 3: Net Current Funding Position

Positive=Surplus (Negative=Deficit)

		Last Years Closing	This Time Last Year	Current
	Note	30 June 2016	30 Sep 2015	30 Sep 2016
		\$	\$	\$
Current Assets				
Cash Unrestricted	4	129,820	1,276,856	939,025
Cash Restricted	11	0	16,934	0
Cash Reserves	4	1,303,650	1,261,825	1,313,854
Receivables - Rates	6	41,871	0	200,119
Receivables - Other	6	97,802	184,821	12,590
Interest / ATO Receivable/Trust		0	0	20,153
Inventories		3,619	7,197	3,619
		1,576,762	2,747,633	2,489,360
Less: Current Liabilities				
Payables and Provisions		(104,083)	(53,941)	(96,974)
		(104,083)	(53,941)	(96,974)
Less: Cash Reserves	7	(1,303,650)	(1,278,759)	(1,313,854)
Net Current Funding Position		169,029	1,414,933	1,078,531

Note 3 - Liquidity Over the Year**Comments - Net Current Funding Position**

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 4: Cash and Investments

	Unrestricted	Restricted	Trust	Total Amount	Institution	Interest Rate	Maturity Date
	\$	\$	\$	\$			
(a) Cash Deposits							
Municipal Bank Account	40,455			40,455	CBA	0.00%	At Call
Investment Account	899,833			899,833	CBA	1.75%	At Call
Trust Bank Account			23,937	23,937	CBA	0.00%	At Call
Cash On Hand	700			700	N/A	Nil	On Hand
Reserves Account		2,904		2,904	CBA	0.00%	At Call
(b) Term Deposits							
Reserves Term Deposit 1		432,672		432,672	CBA	2.34%	05-Dec-16
Reserves Term Deposit 2		448,586		448,586	CBA	2.48%	04-Nov-16
Reserves Term Deposit 3		429,692		429,692	CBA	2.58%	11-Oct-16
Total	940,988	1,313,854	23,937	2,278,778			

Comments/Notes - Investments

Reserve Funds are on a rolling maturity schedule to maximise interest, linked to a Reserve transaction account.

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 5: Budget Amendments

Amendments to original budget since budget adoption. Surplus/(Deficit)

GL Code	Description	Council Resolution	Classification	Non Cash Adjustment	Increase in Available Cash	Decrease in Available Cash	Amended Budget Running Balance
				\$	\$	\$	\$
	Budget Adoption						0
	Permanent Changes						0
							0
	Changes Due to Timing						0
							0
							0
				0	0	0	

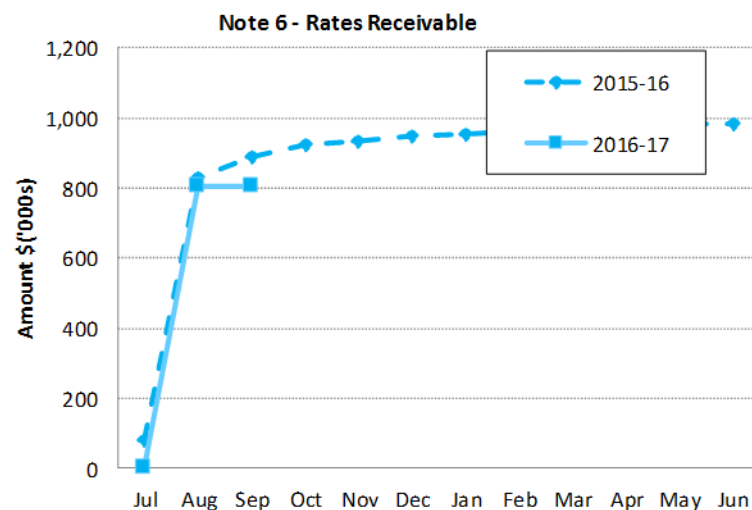
SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 6: Receivables

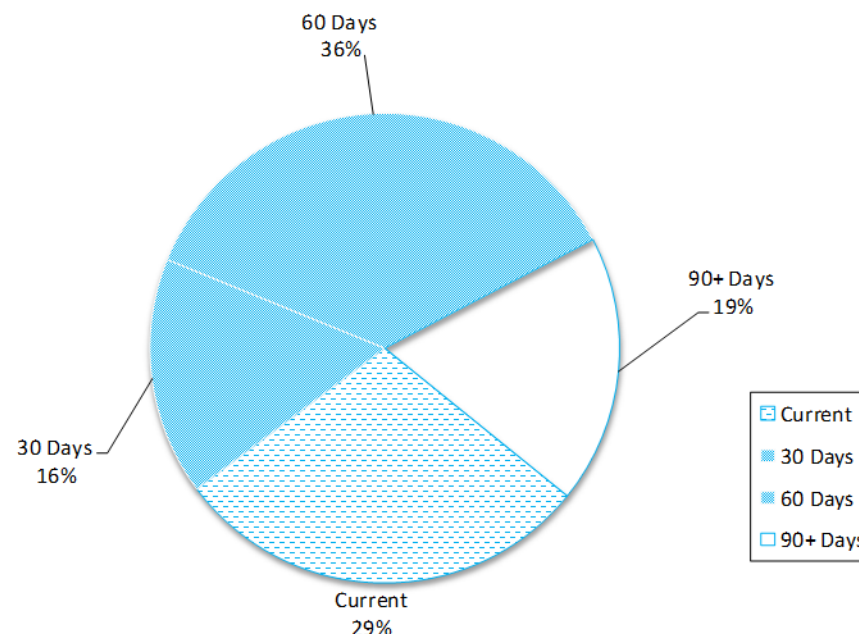
Receivables - Rates Receivable	30 Sep 2016	30 June 2016
	\$	\$
Opening Arrears Previous Years	47,139	39,377
Levied this year	1,031,469	996,640
Less Collections to date	(913,731)	(988,878)
Equals Current Outstanding	164,877	47,139
Net Rates Collectable	164,877	47,139
% Collected	84.71%	95.45%

Receivables - General	Current	30 Days	60 Days	90+ Days	Total
	\$	\$	\$	\$	\$
Receivables - General	3,643	2,063	4,557	2,327	12,590
Balance per Trial Balance					
Sundry Debtors					12,590
Receivables - Other					20,153
Total Receivables General Outstanding					32,743

Amounts shown above include GST (where applicable)



Note 6 - Accounts Receivable (non-rates)



Comments/Notes - Receivables Rates

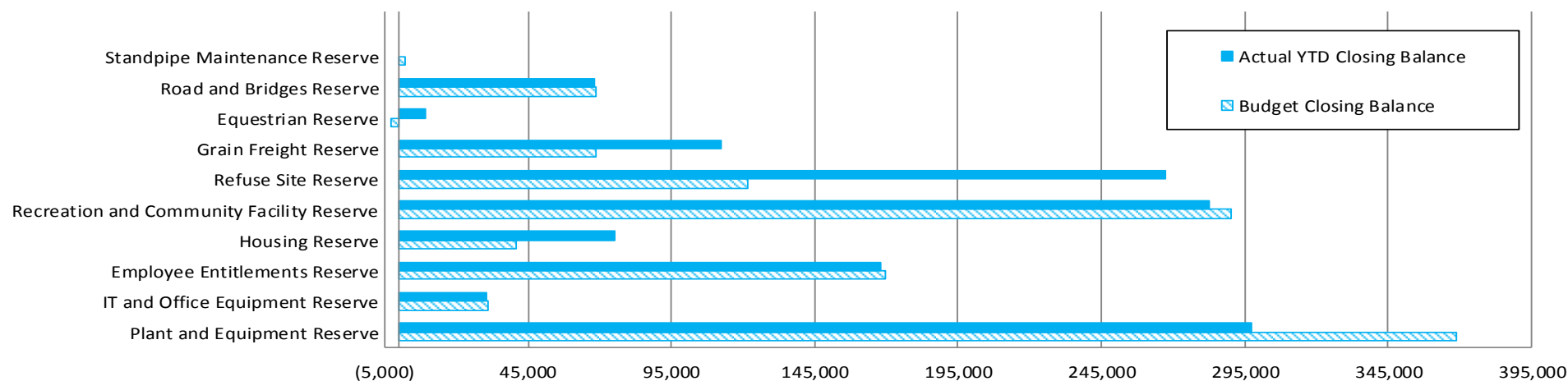
Rates Issue Date - 5th August 2016
 Discount Period Ends - 26 August 2016
 Rates Due - 9 September 2016

81 on Instalment Option

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 7: Cash Backed Reserve

Name	Opening Balance	Budget Interest Earned	Actual Interest Earned	Budget Transfers In (+)	Actual Transfers In (+)	Budget Transfers Out (-)	Transfers Out (-)	Budget Closing Balance	Actual YTD Closing Balance
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Plant and Equipment Reserve	295,806	4,538	1,648	68,500	0	0	0	368,844	297,454
IT and Office Equipment Reserve	30,555	469	170	0	0	0	0	31,024	30,725
Employee Entitlements Reserve	166,928	2,561	930	0	0	0	0	169,489	167,858
Housing Reserve	74,799	1,148	417	5,000	0	(40,000)	0	40,947	75,216
Recreation and Community Facility Reserve	281,087	4,312	1,566	5,000	0	0	0	290,399	282,654
Refuse Site Reserve	265,878	4,079	1,482	0	0	(148,451)	0	121,506	267,359
Grain Freight Reserve	111,783	1,715	623	0	0	(45,019)	0	68,479	112,406
Equestrian Reserve	9,288	142	52	5,000	0	(17,000)	0	(2,570)	9,339
Road and Bridges Reserve	67,527	1,036	376	0	0	0	0	68,563	67,903
Standpipe Maintenance Reserve	0	0	0	2,000	0	0	0	2,000	0
	1,303,650	20,000	7,264	85,500	0	(250,470)	0	1,158,680	1,310,914

Note 7 - Year To Date Reserve Balance to End of Year Estimate

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 8: Disposal of Assets

Asset Number	Asset Description	YTD Actual				Amended Budget			
		Net Book Value	Proceeds	Profit (Loss)	Net Book Value	Proceeds	Profit (Loss)		
		\$	\$	\$	\$	\$	\$	\$	
	Plant and Equipment								
3	CN027 Mitsubishi Triton (Building)	20,137	17,815	(2,322)	20,137	18,597	0	(1,541)	
		20,137	17,815	0	20,137	18,597	0	(1,541)	

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 9: Rating Information

RATE TYPE	Rate in	Number of Properties	Rateable Value	YTD Actual			Amended Budget				
				Rate Revenue	Interim Rates	Back Rates	Total Revenue	Rate Revenue	Interim Rate	Back Rate	Total Revenue
	\$		\$	\$	\$	\$	\$	\$	\$	\$	\$
Differential General Rate											
GRV	6.9560	166	2,122,347	147,630	208	0	147,839	147,630	0	0	147,630
UV	0.7078	216	103,735,000	734,236	(1,291)	0	732,945	734,236	0	0	734,236
Sub-Totals		382	105,857,347	881,867	(1,083)	0	880,785	881,866	0	0	881,867
Minimum Payment	\$										
GRV	660.00	162	768,488	106,920	0	0	106,920	106,920	0	0	106,920
UV	840.00	130	11,239,152	109,200	0	0	109,200	109,200	0	0	109,200
Sub-Totals		292	12,007,640	216,120	0	0	216,120	216,120	0	0	216,120
		674	117,864,987	1,097,987	(1,083)	0	1,096,905	1,097,986	0	0	1,097,987
Discount							(65,425)				(58,000)
Write Off							(11)				
Amount from General Rates							1,031,469				1,039,987
Ex-Gratia Rates							0				0
Specified Area Rates							0				0
Totals							1,031,469				1,039,987

Comments - Rating Information

All land except exempt land in the Shire of Cuballing is rated according to its Gross Rental Value (GRV) in townsites or Unimproved Value (UV) in the remainder of the Shire.

The general rates detailed above for the 2016/17 financial year have been determined by Council on the basis of raising the revenue required to meet the deficiency between the total estimated expenditure proposed in the budget and the estimated revenue to be received from all sources other than rates and also bearing considering the extent of any increase in rating over the level adopted in the previous year.

The minimum rates have been determined by Council on the basis that all ratepayers must make a reasonable contribution to the cost of the Local Government services/facilities.

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

Note 10: Information on Borrowings

(a) Debenture Repayments

Particulars	Loan Date	Years	Principal at 1/07/2016	New Loans	Principal Repayments		Principal Outstanding		Interest Repayments	
					Actual	Amended Budget	Actual	Amended Budget	Actual	Amended Budget
					\$	\$	\$	\$	\$	\$
Transport										
Loan 62 - Loader	11/08/2008	10	66,034		7,784	31,925	58,250	34,109	1,101	3,617
Loan 63 - Graders	7/02/2014	8	223,124		8,715	35,442	214,409	187,682	2,428	9,129
			289,158	0	16,499	67,368	272,659	221,790	3,529	12,746

All debenture repayments were financed by general purpose revenue.

(b) New Debentures

No new debentures were raised during the reporting period.

Note 11: Grants and Contributions

	Grant Provider	Type	Opening Balance (a)	Budget		YTD Budget	Annual Budget (d)	Post Variations (e)	Expected (d)+(e)	YTD Actual Revenue
				Operating	Capital					
				\$	\$	\$				
General Purpose Funding										
Grants Commission - General	WALGGC	Operating	0	562,527	0	375,018	562,527		562,527	140,251
Grants Commission - Roads	WALGGC	Operating	0	313,774	0	209,183	313,774		313,774	78,530
Law, Order and Public Safety										
DFES Grant - Operating Bush Fire Brigade	Dept. of Fire & Emergency Serv.	Operating	0	21,900	0	14,600	21,900		21,900	0
Recreation and Culture										
Grants - Kidsport	Dept. of Communities	Operating	0	1,000	0	667	1,000		1,000	0
DREC Weather Shelter	R4R, Lotterywest, Contributions	Non-operating	0	0	76,369	50,913	76,369		76,369	0
Transport										
Direct Grant - Main Roads	Main Roads WA	Operating	0	75,045	0	50,030	75,045		75,045	75,045
Roads To Recovery Grant - Cap	Roads to Recovery	Non-operating	0	0	500,820	500,820	500,820		500,820	3,337
RRG Grants - Capital Projects	Regional Road Group	Non-operating	0	0	331,200	331,200	331,200		331,200	132,480
Blackspot Grant Funding	Main Roads WA	Non-operating	0	0	31,866	31,866	31,866		31,866	0
WANDRRA Storm Damage Funding	Main Roads WA	Operating	0	77,538	77,538	77,538	77,538		77,538	47,231
Economic Services										
Youth Day Grant	Dept. of Communities	Operating	0	1,000	0	667	1,000		1,000	0
Volunteer Day Grant	Dept. of Communities	Operating	0	1,000	0	667	1,000		1,000	0
TOTALS			0	1,053,784	1,017,793	1,643,167	1,994,039	0	1,994,039	476,874
SUMMARY										
Operating	Operating Grants, Subsidies and Contributions		0	1,052,784	77,538	727,702	1,052,784	0	1,052,784	341,057
Operating - Tied	Tied - Operating Grants, Subsidies and Contributions		0	0	0	0	0	0	0	0
Non-operating	Non-operating Grants, Subsidies and Contributions		0	0	940,255	914,799	940,255	0	940,255	135,817
TOTALS			0	1,052,784	1,017,793	1,642,501	1,993,039	0	1,993,039	476,874

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 30 September 2016

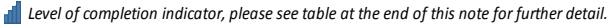
Note 12: Trust Fund

Funds held at balance date over which the Shire has no control and which are not included in this statement are as follows:

Description	Opening Balance 01 Jul 2016	Amount Received	Amount Paid	Closing Balance 30 Sep 2016
	\$	\$	\$	\$
Bonds - Building	14,389	0	0	14,389
Bonds - Hall Hire	1,050	200	(200)	1,050
Commodine Tennis Club	3,090	0	0	3,090
Cuballing Country Festival	1,099	0	0	1,099
Cuballing Cricket Club	200	0	0	200
Popo Plates	0	0	0	0
Cuballing Football Association	566	0	0	566
Environment and Townscape Trust Fund	5,713	0	0	5,713
Police Licensing	5,148	58,746	(57,467)	6,427
Swipe Cards	1,545	0	0	1,545
Reimbursements	0	0	0	0
	32,800	58,946	(57,667)	34,079

SHIRE OF CUBALLING
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY
For the Period Ended 31 July 2016

Note 13: Capital Acquisitions

Assets	Account	YTD Actual			Budget			Strategic Reference / Comment
		New/Upgrade	Renewal	Total YTD	Annual Budget	YTD Budget	YTD Variance	
		\$	\$	\$	\$	\$	\$	
								
Land & Buildings								
Governance								
	Shire Office Upgrade	04261	0	0	0	(21,250)	0	0
Governance Total			0	0	0	(21,250)	0	0
Recreation And Culture								
	Skate Park Toilet Upgrade	11315	0	0	0	(24,820)	0	0
	DREC Weather Shelter	11310	0	0	0	(96,869)	0	0
Recreation And Culture Total			0	0	0	(121,689)	0	0
Community Amenities								
	Popanyinning Transfer Station	10742	0	0	(8,862)	(148,451)	24,740	(33,602)
Community Amenities Total			0	0	(8,862)	(148,451)	24,740	(33,602)
	Land & Buildings Total		0	0	(8,862)	(291,390)	24,740	(33,602)
Plant , Equip. & Vehicles								
Economic Services								
	Building Vehicle	13600	0	0	(38,270)	(43,000)	43,000	(81,270) Budget - trade July
Recreation And Culture Total			0	0	(38,270)	(43,000)	43,000	(81,270)
Transport								
	Mower	12420	0	0	0	(20,000)	20,000	(20,000) Budget - purchase Sept
	Machinery Float	12422	0	0	0	(50,000)	50,000	(50,000) Budget - purchase Sept
Transport Total			0	0	0	(70,000)	70,000	(70,000)
	Plant , Equip. & Vehicles Total		0	0	(38,270)	(113,000)	113,000	(151,270)
Roads								
Transport								
	RRG - Wandering Narrogin Road	12115	0	0	(21,026)	(496,800)	82,767	(103,793) J600
	R2R - Yornaning West Cement Stabilisation	12120	0	0	(1,980)	(71,895)	11,979	(13,959) R005
	R2R - Victoria Road Sealing	12120	0	0	(1,176)	(68,720)	11,448	(12,624) R122
	R2R - Popanyinning West Cement Stabilisation	12120	0	0	(1,980)	(68,021)	11,332	(13,312) R002A
	R2R - Popanyinning West Road Realignment	12120	0	0	(17,888)	(244,096)	40,667	(58,555) R002B
	R2R - Popanyinning West Reseals	12120	0	0	0	(54,013)	8,998	(8,998) R002C
	R2R - Yornaning West Reseal	12120	0	0	0	(7,366)	11,979	(11,979) R005A
	GFR - Cuballing East Cement Stabilisation	12115	0	0	0	(45,019)	7,500	(7,500) J149 - Grain Freight Reserve
	BS - Stratherence Road/ Kerruish Road	12125	0	0	(9,905)	(14,149)	2,355	(12,260) B064
	BS - Yornaning West Road	12125	0	0	0	(22,433)	3,739	(3,739) B005
Transport Total			0	0	(53,955)	(1,092,512)	192,764	(246,719)
	Roads Total		0	0	(53,955)	(1,092,512)	192,764	(246,719)
	Capital Expenditure Total		0	0	(101,086)	(1,496,902)	330,504	(431,590)
Level of Completion Indicators								
	0%							
	20%							
	40%							
	60%							
	80%							
	100%							
	Over 100%							
		Percentage YTD Actual to Annual Budget Expenditure over budget highlighted in red.						

9.1.3 Annual Report 2015/2016

File Ref. No:	ADM106
Disclosure of Interest:	Nil
Date:	11 th August 2016
Author:	Tonya Williams, Deputy CEO
	9.1.1A 2015/2016 Management Report
Attachments:	9.1.1B 2015/2016 Audit Report
	9.1.1C 2015/2016 Annual Report – Included separately

Summary

The 2015/2016 Annual Report for the financial year ending 30th June 2016 is presented for Council consideration.

Background

The Audit has been conducted in accordance with the Australian Audit Standards to ensure that during the reporting period the Shire of Cuballing complied with all statutory requirements, including the Local Government Act 1995 and associated Regulations.

Councillors auditors, Butler Settineri, completed their final Audit of Council's functions and operations for the 2015/2016 Financial Year in October 2016.

Comment

The Annual Report has been compiled and is provided for adoption by Council.

Strategic Implications - Nil

Statutory Environment

Local Government Act 1995

5.27 Electors' general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.

5.29 Convening electors' meetings

- (1) The CEO is to convene an electors' meeting by giving —
 - (a) at least 14 days' local public notice; and
 - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

5.53 Annual reports

- (1) The local government is to prepare an annual report for each financial year.
- (2) The annual report is to contain —
 - (a) a report from the mayor or president;
 - (b) a report from the CEO;
 - [(c), (d) deleted]*
 - (e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;
 - (f) the financial report for the financial year;
 - (g) such information as may be prescribed in relation to the payments made to employees;
 - (h) the auditor's report for the financial year;
 - (h(a)) a matter on which a report must be made under section 29(2) of the *Disability Services Act 1993*;
 - (h(b)) details of entries made under section 5.121 during the financial year in the register of complaints, including —
 - (i) the number of complaints recorded in the register of complaints;
 - (ii) how the recorded complaints were dealt with; and
 - (iii) any other details that the regulations may require; and
 - (i) such other information as may be prescribed.

5.54 Acceptance of annual reports

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.

* Absolute majority required.

- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

[Section 5.54 amended by No. 49 of 2004 s. 49.]

5.55 Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

Policy Implications - Nil

Financial Implications - Nil

Economic Implication - Nil

Environmental Considerations - Nil

Consultation - Nil

Options

At this time, it is anticipated that the Audit Committee will adopt the Officer's Recommendation. Any changes in this recommendation will be provided to Council.

The Officer Recommendation to the Audit Committee allows for Council to:

1. Accept the 2015/2016 Management Report
2. Accept the 2015/2016 Audit Report;
3. Accept the 2015/2016 Annual Report;
4. Hold the Annual Electors Meeting on Thursday 17th November 2016 at 6.30pm in the Shire of Cuballing Council Chambers.

Voting Requirements – Absolute Majority

COUNCIL DECISION:

That Council:

- 1. Accept the Management Report for the financial year ended 30th June 2016 included at Attachment 9.1.3A;**
- 2. Accept the Audit Report for the financial year ended 30th June 2016 included at Attachment 9.1.3B;**
- 3. Accept the Annual Report for the financial year ended 30th June 2016 included as a separate attachment; and**
- 4. Hold the Annual Electors Meeting on Thursday 17th November 2016 at 6.30pm in the Shire of Cuballing Council Chambers.**

Moved: Cr Newman

Seconded: Cr Dowling

Carried 5/0



MVDM : STC
CUBA01

13 October 2016

Mr. G Sherry
Chief Executive Officer
Shire of Cuballing
PO Box 13
CUBALLING WA 6311

Dear Gary

SHIRE OF CUBALLING

We wish to advise that we have recently completed the audit of the above mentioned Council for the year ended 30 June 2016.

The Australian Auditing and Assurance Standards Board encourages auditors to issue a management letter on completion of each audit as a means of advising the Council of any matters noted during the course of the audit.

Our audit involves the review of only those systems and controls adopted by the Council upon which we wish to rely for the purposes of determining our audit procedures. Furthermore, our audit should not be relied upon to disclose defalcations or other similar irregularities, although their disclosure, if they exist, may well result from the procedures we undertake. While we have considered the control environment in accordance with Australian Auditing Standards, we have not tested controls and hence do not comment on whether systems and controls are operating effectively.

We advise that we have not encountered any other matters during the course of our audit that we believe should be brought to your attention other than the following:

Financial ratios

Note 18 of the financial report sets out various financial ratios, we note that the debt service cover ratio and operating surplus ratio do not meet the benchmarks set by the Department of Local Government.

We are required by the Regulations to report this to the Department of Local Government and our report has been modified as such.



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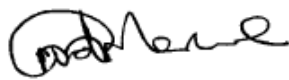
Segregation of duties

We appreciate that due to the nature and size of the entity, management oversees all the functions within the entity, however there is an inherent risk of lack of segregation of duties within the general financial administrative process and we recommend that this should be continually considered by management in designing compensating controls.

We wish to thank the Shire of Cuballing staff for their assistance during the audit.

Should you have any questions please do not hesitate to contact me.

Yours sincerely
BUTLER SETTINERI (AUDIT) PTY LTD



MARIUS VAN DER MERWE CA
Director



INDEPENDENT AUDITOR'S REPORT TO THE SHIRE OF CUBALLING

Report on the Financial Report

We have audited the accompanying financial report of Shire of Cuballing, which comprises the statement of financial position as at 30 June 2016 and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information and the statement by chief executive officer.

Council's Responsibility for the Financial Report

Council is responsible for the preparation of the financial report which gives a true and fair view in accordance with Australian Accounting Standards (including Australia Accounting Interpretations), the Local Government Act 1995 (as amended), the Local Government (Financial Management) Regulations 1996 (as amended) and for such internal control as the Council determines is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. Those Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Shire's preparation of the financial report which gives a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Shire's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Council, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

Auditor's Opinion

In our opinion, the financial report of Shire of Cuballing is in accordance with the underlying records of the Council, including:

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Butler Settineri (Audit) Pty Ltd
RCA No. 269109 AEN 01 112 942 373
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Proactive • Quality • Supportive

- a) giving a true and fair view of the Shire's financial position as at 30 June 2016 and of its performance for the year ended on that date; and
- b) complying with Australian Accounting Standards (including Australia Accounting Interpretations), the Local Government Act 1995 (as amended) and the Local Government (Financial Management) Regulations 1996 (as amended).

Emphasis of Matter

Without modifying our opinion, we draw attention to page 59 of the financial report "Financial Ratios", which describes certain ratio information relating to the financial report. Management's calculation of the asset consumption ratio and asset renewal funding ratio does not form part of the audited financial report. As a result, we do not express an opinion on management's calculation of these ratios.

Other Matters

We did not, during the course of our audit, become aware of any instances where the Shire did not comply with the statutory requirements of the Local Government Act (1995) (as amended) and the Local Government (Financial Management) Regulations 1996 (as amended).

In accordance with the Local Government (audit) Regulations 1996, we also report that:

- a) Apart from the debt service cover ratio and operating surplus ratio that do not meet the minimum benchmark, there are no material matters that in our opinion indicate significant adverse trends in the financial position or the financial management practices of the Shire.
- b) The Shire substantially complied with Part 6 of the Local Government Act 1995 (as amended) and the Local Government (Financial Management) Regulations 1996 (as amended).
- c) In relation to the Supplementary Ratio Information presented on page 59 of this report we have reviewed the calculations as presented and nothing has come to our attention to suggest that they are not reasonably calculated and based on verifiable information.
- d) All information and explanations required were obtained by us.
- e) All audit procedures were satisfactorily completed in conducting our audit.

BUTLER SETTINERI (AUDIT) PTY LTD



MARIUS VAN DER MERWE CA
Director
Perth
Date: 12 October 2016

9.1.4 Sale of Property – Outstanding Rates

Applicant: N/A
File Ref. No: ADM132
Disclosure of Interest: Nil
Date: 29th September 2016
Author: Tonya Williams, Deputy Chief Executive Officer
Attachments: Nil

Summary

Council is to consider the sale of property to recover the costs for unpaid Rates and recovery fees that have been outstanding for more than three years.

Background

Every year the Shire has issued the Rate Notice, Overdue Notice, Final Notice, a Notice of Intent Letter (Demand Letter) from the rates department to the last known address, countless telephone calls, messages, emails and several Summons. Some notices and letters have been returned to the Shire Office.

The listed address for the owner for Loc 4424 Reeds Road, East Popanyinning (Vacant Land) is in Queensland and legal processes available to reclaim unpaid Rates on this property have been exhausted. Further avenues for locating an alternative address for the owner have also been exhausted with no further results achieved.

The Rates have not been paid in full on this vacant block of Land since July 2013.

Total outstanding as at 30 September 2016 is \$4,928.58. This amount is made up of:

Rates 2016/17	\$840.00
Rates Previous Years	\$2,260.00
ESL Current	\$71.00
ESL Arrears	\$239.90
Penalty Interest	\$650.93
Legal Fees	\$866.75

Comment

The sale of any property to recover unpaid rates and service charges is a course of action that the Shire normally wishes not to pursue; however, other legal proceedings haven't been successful in this case.

Ample opportunity will exist for the ratepayer to pay outstanding in full or offered a suitable payment plan to stop the sale of land.

The Shire's Rates Department will be handling all matters in relation to the sale of the properties in conjunction with the CEO. Costs to sell the properties will be incurred and recoverable under section 6.56 of LGA. These funds will be received when the sale of the property has occurred, but is expected to be an additional \$3,000 per property.

Shire staff estimate that the sale of this property will recover the outstanding debt on the property. There is no water or power connected to this block.

Strategic Implications - Nil

Statutory Environment

Local Government Act 1995

Section 6.55 - Recovery of rates and service charges

- (1) Subject to subsection (2) and the Rates and Charges (Rebates and Deferments) Act 1992 rates and service charges on land are recoverable by a local government from —
 - (i) the owner at the time of the compilation of the rate record; or
 - (ii) a person who whilst the rates or service charges are unpaid becomes the owner of the land.
- (2) A person who, by virtue of an Act relating to bankruptcy or insolvency or to the winding up of companies, has become the owner of land in the capacity of a trustee or liquidator, is not on that account personally liable to pay, out of the person's own money, rates or service charges which are already due on, or become due on that land while that person is the owner in that capacity.

* Absolute majority required.

Section 6.56 – Rates or service charges recoverable in court

- (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.
- (2) Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.

Section 6.64 – Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

* Absolute majority required.

Section 6.68 – Exercise of power to sell land

- (1) Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the power of sale) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.
- (2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government —
 - (a) has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land; or

- (b) having made reasonable efforts to locate the owner of the property is unable to do so.
- (3A) A local government is to ensure that a decision to exercise a power of sale without having, within the period of 3 years prior to the exercise of the power of sale, attempted under section 6.56 to recover the money due to it and the reasons for the decision are recorded in the minutes of the meeting at which the decision was made.
- (3) Schedule 6.3 has effect in relation to the exercise of the power of sale.

Section 6.69 – Right to pay rates, service charges and costs, and stay proceedings

- (1) Up to 7 days prior to the time of the actual sale of any land for non payment of rates or service charges a person having an estate or interest in the land may pay the rates or service charges and the costs and expenses incurred to that time in proceedings relating to the proposed sale.
- (2) At any time after the 7 days referred to in subsection (1) but prior to the time of the actual sale of any land the local government may, upon such terms and conditions as are agreed between the parties, accept payment of the outstanding rates or service charges.
- (3) On payment being made under subsection (1) or (2) the proceedings relating to the proposed sale are stayed and the local government is required to make such notifications and take such measures as are prescribed in relation to the payment and the cancellation of the proposed sale.

Policy Implications – Nil

Financial Implications

The successful sale of this property would settle bad debts for money owed to the Shire for outstanding Rates and recovery processes. Any costs incurred as a result of this process can be claimed back through the land sale, if applicable.

Economic Implication - Nil

Environmental Considerations - Nil

Consultation

Leanne Shields, Rates Officer
AMPAC Debt Recovery

Options

Council may resolve:

- 1. the Officer's Recommendation;
- 2. to seize the land and lease it to recover outstanding Rates; or
- 3. to not accept the Officer's Recommendation and seek further information.

Voting Requirements – Absolute Majority

COUNCIL DECISION:

That Council:

- 1. exercise the power of sale under section 6.64(1)(b) of the Local Government Act 1995 to proceed to a public auction for the property located at Loc 4424 Reeds Road, East Popanyinning;**
- 2. should the public auction be unsuccessful, move to sell the property via private treaty;**
- 3. should the sale amount be insufficient as to cover the total outstanding rates arrears and legal costs, write off the amount in excess of the rates arrears and legal costs; and**
- 4. delegate Council's authority to the Chief Executive Officer to finalise this transaction.**

Moved: Cr Newman

Seconded: Cr Dowling

Carried 5/0

9.1.5 Sale of Property – Outstanding Rates

Applicant: N/A
File Ref. No: ADM132
Disclosure of Interest: Nil
Date: 29th September 2016
Author: Tonya Williams, Deputy Chief Executive Officer
Attachments:

Summary

Council is to consider the sale of property to recover the costs for unpaid Rates and recovery fees that have been outstanding for more than three years.

Background

Rates assessments A188, A189 & A915 have remained unpaid since September 2011 and there has been no attempt made to pay this debt since the properties were purchased.

Each year the Shire has issued the Rate Notices, Overdue Notices, Final Notices, a Notice of Intent Letter (demand letter) to the last known address, countless telephone calls and messages and several Summons. Some notices and letters have been returned to the Shire Office, as the owner resides in a nursing home in New South Wales.

Staff have made contact and had several conversations with the owner's son, who does not want anything to do with the property. The owner has been traced to a nursing home and provided a physical address for his son.

All other legal processes available to reclaim unpaid Rates on this property have been exhausted.

The property has been on the market for several years with Ray White Narrogin with a price reduction this year but still remains for sale.

The total amounts outstanding on the three properties includes:

1. Lot 199 High Street, Popanyinning – Vacant Land
Total outstanding as at 30 September 2016 - \$5,145.22 (A188) being made up of:

Rates 2016/17	\$660.00
Rates Previous Years	\$2,644.92
ESL Current	\$71.00
ESL Arrears	\$318.38
Penalty Interest	\$963.56
Legal Fees	\$487.36

2. Lot 198 High Street, Popanyinning – Vacant Land
Total outstanding as at 31 August 2016 - \$5,145.20 (A189) being made up of:

Rates 2016/17	\$660.00
Rates Previous Years	\$2,644.92
ESL Current	\$71.00
ESL Arrears	\$318.38
Penalty Interest	\$963.54
Legal Fees	\$487.36

Lot 197 High Street, Popanyinning – Vacant Land

Total outstanding as at 31 August 2016 - \$5,142.07 (A915) being made up of:

Rates 2016/17	\$660.00
Rates Previous Years	\$2,642.90
ESL Current	\$71.00
ESL Arrears	\$318.38
Penalty Interest	\$962.43
Legal Fees	\$487.36

From all 3 Assessments the total amount of outstanding rates, charges and penalty interest is \$15,432.49

Comment

The sale of any property to recover unpaid rates and service charges is a course of action that the Shire normally wishes not to pursue; however, other legal proceedings haven't been successful in this case.

Ample opportunity will exist for the ratepayer to pay outstanding in full or offered a suitable payment plan to stop the sale of land.

The Shire's Rates Department will be handling all matters in relation to the sale of the properties in conjunction with the CEO. Costs to sell the properties will be incurred and recoverable under section 6.56 of LGA. These funds will be received when the sale of the property has occurred, but is expected to be an additional \$3,000 per property.

Shire staff do not expect that the sale of this property will recover the outstanding debt on the property. The three blocks do not have power or water connected, boundaries fences or clear road access. Other properties with power and water connected on the highway have sold for \$15,000.

However, if Council do not seize the property and assess other options for at least recovering some of the debt it will continue to accrue further debt.

Strategic Implications - Nil

Statutory Environment

Local Government Act 1995

Section 6.55 - Recovery of rates and service charges

- (1) Subject to subsection (2) and the Rates and Charges (Rebates and Deferments) Act 1992 rates and service charges on land are recoverable by a local government from —
 - (i) the owner at the time of the compilation of the rate record; or
 - (ii) a person who whilst the rates or service charges are unpaid becomes the owner of the land.
- (2) A person who, by virtue of an Act relating to bankruptcy or insolvency or to the winding up of companies, has become the owner of land in the capacity of a trustee or liquidator, is not on that account personally liable to pay, out of the person's own money, rates or service charges which are already due on, or become due on that land while that person is the owner in that capacity.

* Absolute majority required.

Section 6.56 – Rates or service charges recoverable in court

- (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.
- (2) Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.

Section 6.64 – Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

* Absolute majority required.

Section 6.68 – Exercise of power to sell land

- (1) Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the power of sale) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.
- (2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government —
 - (a) has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land; or
 - (b) having made reasonable efforts to locate the owner of the property is unable to do so.
- (3A) A local government is to ensure that a decision to exercise a power of sale without having, within the period of 3 years prior to the exercise of the power of sale, attempted under section 6.56 to recover the money due to it and the reasons for the decision are recorded in the minutes of the meeting at which the decision was made.
- (3) Schedule 6.3 has effect in relation to the exercise of the power of sale.

Section 6.69 – Right to pay rates, service charges and costs, and stay proceedings

- (1) Up to 7 days prior to the time of the actual sale of any land for non payment of rates or service charges a person having an estate or interest in the land may pay the rates or service charges and the costs and expenses incurred to that time in proceedings relating to the proposed sale.
- (2) At any time after the 7 days referred to in subsection (1) but prior to the time of the actual sale of any land the local government may, upon such terms and conditions as are agreed between the parties, accept payment of the outstanding rates or service charges.

- (3) On payment being made under subsection (1) or (2) the proceedings relating to the proposed sale are stayed and the local government is required to make such notifications and take such measures as are prescribed in relation to the payment and the cancellation of the proposed sale.

Policy Implications – Nil

Financial Implications

The successful sale of this property would settle bad debts for money owed to the Shire for outstanding Rates and recovery processes. Any costs incurred as a result of this process can be claimed back through the land sale, if applicable.

Economic Implication - Nil

Environmental Considerations - Nil

Consultation

Leanne Shields, Rates Officer
AMPAC Debt Recovery

Options

Council may resolve:

1. the Officer's Recommendation;
2. to seize the land and lease it to recover outstanding Rates;
3. to apply to return the land to the Crown;
4. to transfer the land to the Shire; or
5. to not accept the Officer's Recommendation and seek further information.

Voting Requirements – Absolute Majority

COUNCIL DECISION:

That Council:

1. **exercise the power of sale under section 6.64(1)(b) of the Local Government Act 1995 to proceed to a public auction for the property located at Loc 4424 Reeds Road, East Popanyinning;**
2. **should the public auction be unsuccessful, move to sell the property via private treaty;**
3. **should the sale amount be insufficient as to cover the total outstanding rates arrears and legal costs, write off the amount in excess of the rates arrears and legal costs; and**
4. **delegate Council's authority to the Chief Executive Officer to finalise this transaction.**

Moved: Cr Newman

Seconded: Cr Dowling

Carried 5/0

9.1.6 Sale of Property – Outstanding Rates

Applicant: N/A
File Ref. No: ADM132
Disclosure of Interest: Nil
Date: 29th September 2016
Author: Tonya Williams, Deputy Chief Executive Officer
Attachments: Nil

Summary

Council is to consider the sale of property to recover the costs for unpaid Rates and recovery fees that have been outstanding for more than three years.

Background

Rates for A944 have remained unpaid since September 2010.

Payments of \$488.62 in September 2011 and \$500 in August 2015 are the only payments made since the property was purchased.

Every year the Shire has issued the Rate Notice, Overdue Notice, Final Notice, a Notice of Intent Letter (demand letter) from the rates department to the last known address, countless telephone calls and messages, Summons and Court Judgement. The notices and letters haven't been returned to the Shire Office.

The listed owner of Lot 38 Carton Street, Cuballing (Vacant Land) has been located residing in Waroona. Through contact with AMPAC Debt Collection the owner has claimed financial hardship as he has lost his FIFO job and is unemployed. The owner has recently made contact with the Shire and offered to give the block of land to the Shire in order to clear the total debt outstanding. Further investigation and costs would be incurred to find out if the land was worth the debt against it.

The property has been on the market for several years with Ray White Narrogin. The adjoining front block with residence was sold off separately in January 2012.

Total outstanding as at 30 September 2016 is \$5,630.79. This amount is made up of:

Rates 2016/17	\$660.00
Rates Previous Years	\$2,536.35
ESL Current	\$71.00
ESL Arrears	\$96.71
Penalty Interest	\$1,021.25
Legal Fees	\$1,245.48

Comment

The sale of any property to recover unpaid rates and service charges is a course of action that the Shire normally wishes not to pursue; however, other legal proceedings haven't been successful in this case.

Ample opportunity will exist for the ratepayer to pay outstanding in full or offered a suitable payment plan to stop the sale of land.

The Shire's Rates Department will be handling all matters in relation to the sale of the properties in conjunction with the CEO. Costs to sell the properties will be incurred and recoverable under section 6.56 of LGA. These funds will be received when the sale of the property has occurred, but is expected to be an additional \$3,000 per property.

Shire staff do not believe that the sale of this property will recover all the outstanding debt on the property. However, if Council does not seize the property and assess other options for at least recovering some of the debt it will continue to accrue further debt.

Strategic Implications - Nil

Statutory Environment

Local Government Act 1995

Section 6.55 - Recovery of rates and service charges

- (1) Subject to subsection (2) and the Rates and Charges (Rebates and Deferments) Act 1992 rates and service charges on land are recoverable by a local government from —
 - (i) the owner at the time of the compilation of the rate record; or
 - (ii) a person who whilst the rates or service charges are unpaid becomes the owner of the land.
- (2) A person who, by virtue of an Act relating to bankruptcy or insolvency or to the winding up of companies, has become the owner of land in the capacity of a trustee or liquidator, is not on that account personally liable to pay, out of the person's own money, rates or service charges which are already due on, or become due on that land while that person is the owner in that capacity.

* Absolute majority required.

Section 6.56 – Rates or service charges recoverable in court

- (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.
- (2) Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.

Section 6.64 – Actions to be taken

- (1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —
 - (a) from time to time lease the land; or
 - (b) sell the land; or
 - (c) cause the land to be transferred to the Crown; or
 - (d) cause the land to be transferred to itself.
- (2) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- (3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

* Absolute majority required.

Section 6.68 – Exercise of power to sell land

- (1) Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the power of sale) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.
- (2) A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government —
 - (a) has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land; or
 - (b) having made reasonable efforts to locate the owner of the property is unable to do so.
- (3A) A local government is to ensure that a decision to exercise a power of sale without having, within the period of 3 years prior to the exercise of the power of sale, attempted under section 6.56 to recover the money due to it and the reasons for the decision are recorded in the minutes of the meeting at which the decision was made.
- (3) Schedule 6.3 has effect in relation to the exercise of the power of sale.

Section 6.69 – Right to pay rates, service charges and costs, and stay proceedings

- (1) Up to 7 days prior to the time of the actual sale of any land for non payment of rates or service charges a person having an estate or interest in the land may pay the rates or service charges and the costs and expenses incurred to that time in proceedings relating to the proposed sale.
- (2) At any time after the 7 days referred to in subsection (1) but prior to the time of the actual sale of any land the local government may, upon such terms and conditions as are agreed between the parties, accept payment of the outstanding rates or service charges.
- (3) On payment being made under subsection (1) or (2) the proceedings relating to the proposed sale are stayed and the local government is required to make such notifications and take such measures as are prescribed in relation to the payment and the cancellation of the proposed sale.

Policy Implications – Nil

Financial Implications

The successful sale of this property would settle debts owed to the Shire for outstanding Rates and recovery processes. Any costs incurred as a result of this process can be claimed back through the land sale, if applicable.

Economic Implication - Nil

Environmental Considerations - Nil

Consultation

Leanne Shields, Rates Officer
AMPAC Debt Recovery

Options

Council may resolve:

1. the Officer's Recommendation;
2. to accept the owners offer to transfer the land into the Shire's name to clear the outstanding debt;
3. to seize the land and lease it to recover outstanding Rates;

4. to apply to return the land to the Crown;
5. to transfer the land to the Shire; or
6. to not accept the Officer's Recommendation and seek further information

Voting Requirements – Absolute Majority

COUNCIL DECISION:

That Council:

1. exercise the power of sale under section 6.64(1)(b) of the Local Government Act 1995 to proceed to a public auction for the property located at Lot 38 Carton Street, Cuballing;
2. should the public auction be unsuccessful then move to sell the property via private treaty;
3. in the case that the sale amount is insufficient to cover the rates arrears and legal costs that the amount in excess of the rates arrears and legal costs be written off; and
4. delegate Council authority to the Chief Executive Officer to finalise this transaction.

Moved: Cr Bradford

Seconded: Cr Haslam

Carried 5/0

9.2 CHIEF EXECUTIVE OFFICER:

9.2.1 Tree Pruning/Removal – Ridley Street Cuballing

Applicant:	N/A
File Ref. No:	RDM143
Disclosure of Interest:	Nil
Date:	12 th October 2016
Author:	Gary Sherry
Attachments:	9.2.1A Photographs of Identified Trees on Ridley Street Cuballing 9.2.1B Public Submission

Summary

Council is to consider advising Main Roads WA on vegetation control inside the Cuballing townsite.

Background

Ridley Street in Cuballing forms part of the Northam Cranbrook Road, colloquially known as the Great Southern Highway, through the town of Cuballing.

In most townsites the local government is responsible for all the roadside assets, including footpaths, parking lanes, street trees and drainage. This is the case in Francis Street running through Popanyinning. However in Cuballing, Main Roads WA is the responsible land manager for the entire Ridley Street Road reserve.

In Cuballing, Shire staff do assist Main Roads WA by doing minor works that generally improve the streetscape, such as mowing, spraying weeds or raking sticks and leaves. However for any significant improvement, such as installing the recent town entry statement, permission is required from Main Roads WA.

In the recent past a local Cuballing townsite resident who has a residential property adjacent to the Cuballing railway reserve, has had issues with limbs and leaf matter from two large sugar gums falling into their property and damaging their fence. These two substantial trees are also very close to the road and are expected to have white ants in the trees. Site photographs of the trees are included at attachment 9.2.1A.

As the responsible land manager, Main Roads WA have the responsibility to manage the impact of the roadside vegetation. The local Roadside Management Officer - Wheatbelt Region has advised Council that Main Road WA are considering two courses of action being:

Option 1.

Give the tree a general prune to tidy it up. Prune the limbs which are hanging out over the residents fence from the tree at a growth point, prune off the dead wood hanging above the road to prevent it falling onto the road.

The Main Roads WA vegetation control crew to carry out the required works will be accompanied by an arborist. The crew can be requested to make the necessary cuts to reduce the amount of timber being carried above the road and fence to reduce some of the risk of falling limbs.

Main Roads WA do not believe the termites that have inhabited the tree will cause the tree to become unstable in the foreseeable future.

Option 2.

Remove the tree completely and grind the stump to below ground level, preventing any further damage to the fence below due to falling limbs.

The nature of Sugar Gums is to drop limbs over time, known as self pruning. Self pruning will be an ongoing issue for the fence below, it may happen again next week, next year, or not for 10 years.

Main Roads WA don't believe that the Sugar Gum on the south side requires removal but it can be pruned while the EWP is set up and the site is under traffic control.

Comment

Council sought public comment in this matter by:

1. Correspondence to five nearby owners and operators of businesses;
2. Signage on public notice boards; and
3. Advertising in the Cuby News newsletter.

Council received six comments, with five in favour of pruning and one in favour of removal. The comments received are included at Attachment 9.2.1B.

The comment in favour of removal cited safety concerns from limbs falling as the overriding concern, although retention of trees would normally be the greater priority.

The five comments in favour of retention over pruning cited various reasons for adopting this point of view. These included:

- The historical opinion that the trees were over 100 years old;
- The aesthetic value that trees provided when driving into/through Cuballing;
- The impact on wildlife using the trees;
- That the trees are safe for road users in a 70kmh zone;
- The cost of removal of the trees would be greater than the cost of ongoing maintenance. This removal cost included the cost of ongoing reinstatement of the damage of roots rotting and causing failures in the road surface over time;
- the removal of the trees would allow far more wind impact on the smaller sugar gums on the eastern side of Ridley Street. This would cause a greater number of branches from these trees to fall on a more sensitive area, with increased risk of injury and higher damage costs.
- The trees have not been pruned in the last 30 years and have not created any issues up to now.

The Shire administration favours removal of the trees.

This opinion is reached because of the opinion that because:

1. Cost to the Shire of Cuballing

While Main Roads WA is currently the responsible agency, it is expected that this responsibility for roadsides in the town of Cuballing, including the drainage, roadside vegetation and all other features will occur at some future time. Maintenance costs for these trees will be a significant cost to Council over the longer term.

Because of the trees are so close to Ridley Street, the area around them cannot be used safely by the public and therefore provide only aesthetic value to the streetscape

The funds required for providing the ongoing maintenance required could probably be spent on other activities/features that provide more value.

2. Public Safety

The trees are currently located less than 3 metres from the running surface of the road. This is closer than most power poles and other non-frangible road features. I don't believe that Main Roads WA would permit on safety grounds the planting of these trees in the same or similar position if permission was sought.

Road Maintenance

The two trees are planted between the road surface and the roadside drainage. This makes maintenance of the roadside drainage very difficult to complete and the amounts of leaf and bark litter increase the requirement for maintenance. If this drainage needs to work effectively to ensure that water drains to the east side of Ridley Street. Failure to do so will at least increase the number of mosquitos in the retained water.

Strategic Implications - Nil

Statutory Environment

Main Roads WA is responsible for the entire road reserve through the Cuballing townsite.

Policy Implications

Council's Community Engagement Plan, advises that Council would advise affected local residents, community groups and the like of the intention to remove significant trees. While these trees are not on Council property and this situation does not directly require this level of consultation, this level of action was followed.

Financial Implications

As the current land manager, Main Roads WA is responsible for the expense of managing the roadside vegetation in Cuballing townsite.

In the past, Main Roads WA have looked to the Shire to fix the issues created by these trees (remove fallen limbs, repair damaged fences, etc), because Main Roads have been unwilling or unable to adequately provide these types of services at short notice into Cuballing.

If the land management was to shift from Main Roads WA to the Shire of Cuballing, Council will be responsible for the ongoing management expenses. It should be anticipated by Council that at some time in the future the management responsibility of the roadside in Cuballing will return to Council.

The cost of future maintenance of these trees will be significantly more than other trees because

- of their size;
- location so close to a major road making the requirement for maintenance a higher priority than more remotely located trees; and
- of the requirement to close at least a portion of Great Southern to complete any maintenance.

Economic Implications – Nil

Social Implications

While these trees have little direct social value in that because of their position so close to a busy road, Cuballing residents cannot use their shade or recreate around them. However the trees have been located in in a prominent position in the local streetscape for a considerable time.

Environmental Considerations

The two trees are sugar gums and are not native to the region.

Consultation

Council sought public comment in this matter by:

1. Correspondence to five nearby owners and operators of businesses;
2. Signage on public notice boards; and
3. Advertising in the Cuby News newsletter.

Council received six comments, with five in favour of pruning an one in favour of removal. The comment received are included at Attachment 9.2.1B.

Options

The Council can resolve:

1. the Officer's Recommendation;
2. an amended Officer's Recommendation;
3. to advise Main Roads WA that Council's preference is to retain the trees on Ridley Street identified in Attachment 9.2.1A and have Main Roads WA complete ongoing pruning of the trees and maintenance of the impact of the trees on the surrounding property in line with Main Roads WA requirements.

Voting Requirements – Simple Majority

OFFICER RECOMMENDATION:

That Council advise Main Roads WA that Council's preference is to remove the trees on Ridley Street identified in Attachment 9.2.1A completely and grind the stump to below ground level.

COUNCIL DECISION:

That Council advise Main Roads WA that Council's preference is to retain the trees on Ridley Street identified in Attachment 9.2.1A and have Main Roads WA complete ongoing pruning of the trees and maintenance of the impact of the trees on the surrounding property in line with Main Roads WA requirements

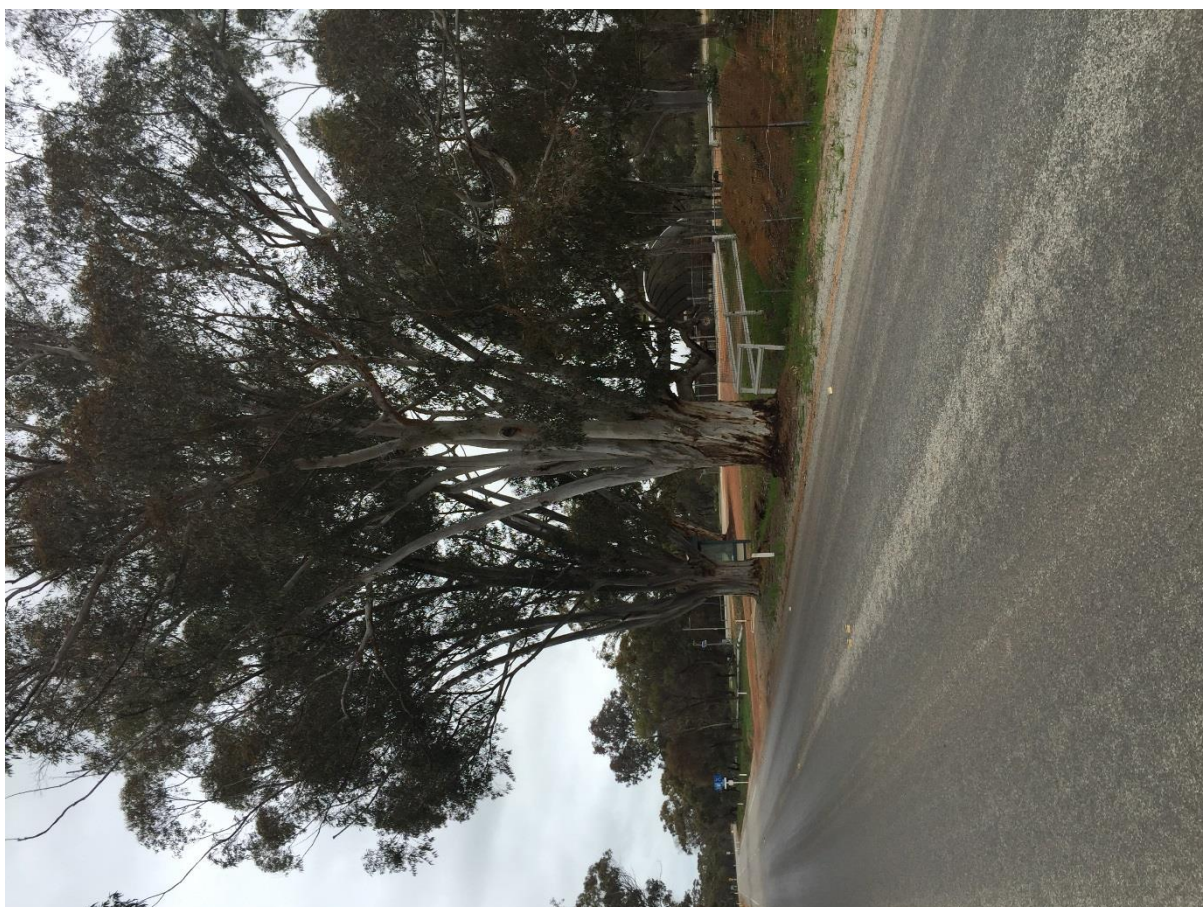
Moved: Cr Dowling

Seconded: Cr Newman

Carried 5/0

Council did not resolve the Officer's Recommendation as Council considered the response from the public submissions and the potential loss to street amenity if the trees were to be removed.





11 OCT 2016

M. Hoesele
P.O. Box 119
CUBALLING
WA 6311

Dear Sir

11/10/16

I wish to make
a submission about
the gum trees on
the bus stop.

They really scare
me. I have seen
the branches come
down over the years

I say remove them
I love trees but not
those
Yours faithfully
M Hoesele

Michelle Atwell

From: Libby <libby@lintonparkfarms.com>
Sent: Sunday, 9 October 2016 11:57 AM
To: Shire of Cuballing Enquiries
Subject: Cuballing Street Trees

Dear Gary

We are writing regarding the future of the two large Sugar Gums located on the Brookton Hwy in Cuballing. We believe these trees are at least 100 years old and should be retained as part of the history of Cuballing.

They are a wonderful trees; offering shade, greenery and aesthetic appeal to Cuballing. New trees would take years to establish and would not have the same appeal as these old Sugar gums which are also located in other areas of the shire, including the driveway leading to Rosedale Farm now owned by the Breytenbachs.

We would recommend the shire recommend option 1 to Main Roads WA; to prune the trees, particularly the limbs.

We would also recommend the shire seek further public comment on this matter before removing these historical monuments.

kind regards

Libby, Roger, Rebecca, Alex and Victoria Newman

Michelle Atwell

From: Telstra <kevinandronda68@bigpond.com>
Sent: Monday, 10 October 2016 12:21 PM
To: Shire of Cuballing Enquiries
Subject: Cuballing trees

We suggest option 1 as they are great looking trees and due to some of the current problems on this earth, more than enough trees have been removed when there have been cases where many could have been saved. Regular pruning as you suggest is a small price to pay.

Thanking you
Kevin and Rhonda Aldridge
Popanyinning

Sent from my iPhone

Michelle Atwell

From: Peter Denton <judeandpetedenton@gmail.com>
Sent: Thursday, 6 October 2016 12:33 PM
To: Shire of Cuballing Enquiries
Subject: Re Consideration of Tree Removal Ridley St

Att; Gary Sherry
Chief Executive Officer
Cuballing Council.

Hi Garry;
Many thanks for providing ourselves and other citizens the opportunity to comment on the above.

Firstly we do not consider any tree removal as the best option.
When Main Roads redesigned the intersection, the two trees in question were left, as they were within a 70kph zone, deemed safe and the decision was not to remove them.

We suggest that the trees be pruned by a third;
*Method being to remove all offending overhangs that may damage fences and other infrastructure.
*Any dead branches
*Prune the whole of the trees down by a third leaving smaller growth within.

White ants, if any would not be a problem, all gum trees have them but the trees will live on regardless.

The main reasons for our suggestion of pruning the trees and retaining them are

- With complete removal there will be far more wind impact on the sugar gums on the playground side which could result in any branches falling on to an area of more importance. Damage to the fence, and any vehicles parking under them could well result.
- With removal, grinding of the stumps would not be the solution, they would have to be completely removed as well as offending larger roots, as when they rot will cause failures within the constructed road and shoulder profile. The pavement would have to be revamped with compaction. Whether Council or Main Roads cover the cost, ultimately the taxpayer would have to foot the bill. The money could be better spent on the roads.
- To my knowledge, the trees have been pruned once within the last 30years and have not created any real issues. All gum and other trees self prune, as that is their nature.

The cost of pruning and removal of debris would be far less compared to complete and stump removal; with the associated costs of traffic control and reconstruction of pavement, shoulders and drains.

Regards
Peter and Judy Denton.

Michelle Atwell

From: Mike & Susan Hesford <hesfords@westnet.com.au>
Sent: Sunday, 9 October 2016 6:32 PM
To: Shire of Cuballing Enquiries
Subject: submission Sugar Gums Cuballing

Hi there at Cuballing Council,
You have called for opinions on the Sugar Gums in the centre of Cubie on Great Southern Highway. We both would prefer to see them regularly pruned rather than either or both being removed.

Kind Regards

Susan & Michael (I-Pad)
MD & SL HESFORD

File Ref RDM 143.

Paddy Williams

P.O. Box 172

Cuballing W.A. 6311

6 October 2016.

07 OCT 2016

Dear MR Sherry,

Thank you for the letter re-two large
Sugar Gums on Ridley Street Cuballing.
We have thought long and hard with regards to the
predicament of said trees. If these Sugar Gums
can be pruned on a regular basis to reduce the risk
of dropping limbs, it seems to us that it would be
detrimental to the wildlife, in particular the Galah's
and ~~keokaburras~~ that call these trees home, to remove them.
So we choose option one, keep the trees, make them
safe, for us the wildlife, and future generations to enjoy.

Yours faithfully,

Yvonne Williams

(owner of block directly affected by the Sugar Gums).

9.2.3 Mobile Telephone Base Station - Popanyinning

Applicant: Daly International
File Ref. No: ADM 33
Disclosure of Interest: Nil
Date: 12th October 2016
Author: Gary Sherry
Attachments: Nil

Summary

Council is to consider comment to be provided to Daly International for the proposed installation of an Optus mobile telephone base station at the existing NBNCo fixed wireless site at 47 Spragg Street Popanyinning.

Background

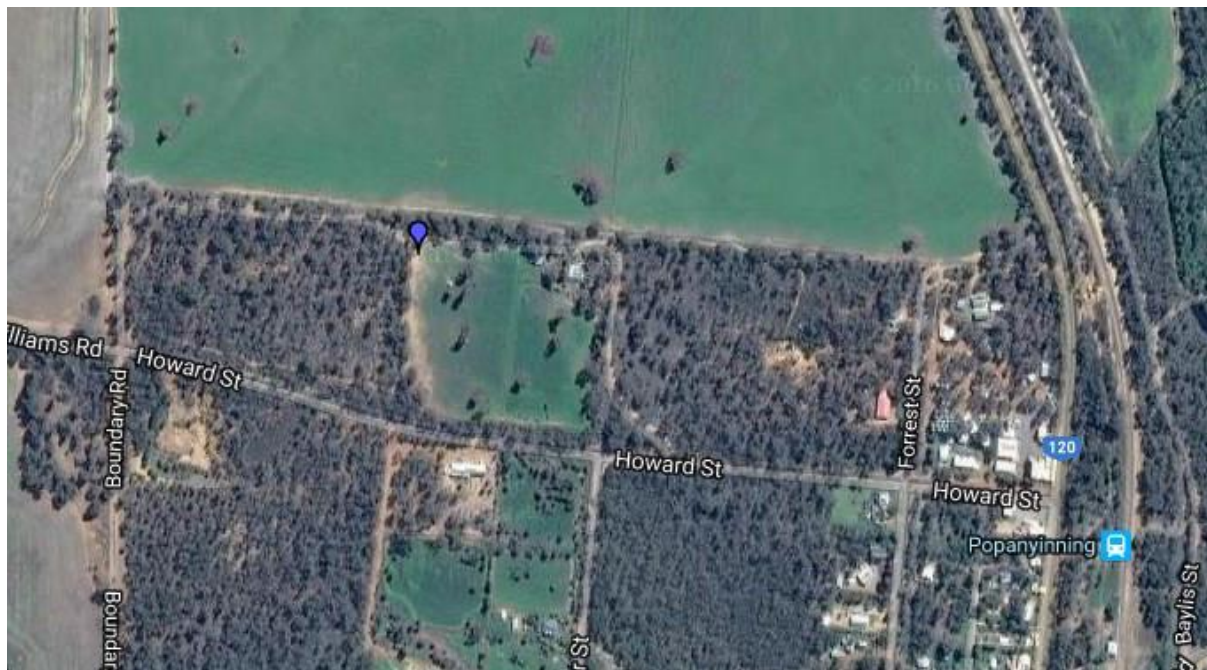
In July 2013 Council approved an application from NBN Co Limited to install a fixed wireless NBN (telecommunications) Facility at 47 (lot 72) Spragg Street, Popanyinning.

The telecommunication facility constructed in 2015 comprises of a 40 metre high monopole along with ancillary components and forms part of the National Broadband Network of fixed wireless infrastructure.

Council provided conditional approval of a development application of a Telstra mobile telephone base station at Lot 23 (No. 90) Francis Street, Popanyinning in April 2016.

Comment

Optus is proposing to install new mobile phone base station equipment on the existing 40m NBN Co. monopole located 47 Spragg Street, Popanyinning WA 6309 ("the Proposed Facility")



Optus has identified a need to provide access to improved mobiles services for our customers in the Popanyinning area. The Proposed Facility is required to:

- meet the increased demand placed on the Optus network;
- cater for growth in the Optus customer base; and
- improve user access to enhanced mobile services, such as internet browsing, news, finance, weather and traffic updates, via the Optus network

The Proposed Facility consists of:

- six (6) panel antennas installed on the existing 40m NBN Co. Monopole;
- one (1) equipment shelter located at the base of the monopole; and
- ancillary equipment associated with the facility.

Details about the proposed facility and its emissions can be found on the website www.rfnsa.com.au/6309002.

All contact details are provided on the attached sheet.

As part of Optus consultation process, Council has been invited to provide feedback about this proposal. Comments on the proposal will be accepted until 5pm 25th of October 2016.

Depending on the outcome of the consultation process, it is Optus's intention to begin construction of the telecommunications facility from June 2017.

Strategic Implications

Shire of Cuballing Strategic Community Plan - Communications

Objective 1: For Cuballing residents and businesses to have fast internet access and mobile phone coverage

- Council will accelerate building approvals for proposed NBN towers along the Great Southern Highway.
- Council will lobby mobile phone service providers (Telstra, Optus) to expedite infrastructure in the shire and use towers for transceivers.

Statutory Environment

Telecommunications carriers, including Telstra, Optus or NBNSCo, have the power to install low-impact facilities without seeking state, territory or local government planning approval.

Low impact facilities are specified in the Telecommunications (Low-impact Facilities) Determination 1997, and include small radiocommunications antennae and dishes that are erected on existing towers and buildings.

Because the proposed Optus mobile base station will be constructed on an existing NBNSCo facility, the proposed works are deemed to be Low-Impact in accordance with the Telecommunications (Low-impact Facilities) Determination 1997 and as such do not require a Development Approval from Council.

Facilities such as freestanding mobile phone towers are not classified as low-impact facilities and their installation requires local council approval. An extension of up to five metres on an existing tower as low impact, provided the tower has not previously been extended.

Policy Implications – Nil

Financial Implications – Nil

Economic Implications

The potential for additional mobile telephone providers in the Shire of Cuballing should have downward pressure on mobile phone charges.

Social Implications

An additional mobile telephone service provider in the Shire of Cuballing will increase the ability for

Environmental Considerations

The proposed facility will be in compliance with the Australian Communications and Media Authority's electro-magnetic emissions regulatory arrangements.

Consultation - Nil

Options

The Council can resolve:

1. the Officer's Recommendation;
2. an amended Officer's Recommendation, providing additional comment in support of the proposal for a mobile telephone base station at the existing telecommunications infrastructure at 47 Spragg Street Popanyinning;
3. to not support the proposal for a mobile telephone base station at the existing telecommunications infrastructure at 47 Spragg Street Popanyinning.

Voting Requirements – Simple Majority

COUNCIL DECISION:

That Council advise Daly International that Council supports the proposal for Optus to Optus mobile telephone base station at the existing NBNetCo fixed wireless infrastructure at 47 Spragg Street Popanyinning.

Moved: Cr Haslam

Seconded: Cr Dowling

Carried 5/0

9.3 WORKS MANAGER:

Nil

9.4 ENVIRONMENTAL HEALTH OFFICER:

Nil

9.5 BUILDING OFFICER:

Nil

10. ELECTED MEMBERS' MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:

Nil

11. URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:

11.1.1 Urgent Business – Low Loader Ancillary Items Purchase

Disclosure of Interest: Nil
Date: 19th October 2016
Author: Gary Sherry
Attachments: Nil

Summary

Council is to consider reviewing urgent business relating to out of budget expenditure for ancillary items on a low loader purchase.

Background - Nil

Comment

Staff are attempting to have the Agenda prepared at least a week before each Council Meeting. In completing this schedule, business of an urgent nature will arise from time to time in particular where commercial activities within the district would be delayed by Council not considering the item.

Statutory Environment

Shire of Cuballing – Standing Orders Local Law 1999

3.10 Urgent Business Approved By the Person Presiding or by Decision

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

Strategic Implications - Nil

Policy Implications - Nil

Financial Implications - Nil

Economic Implication - Nil

Environmental Considerations - Nil

Consultation - Nil

Options

Council may resolve:

1. the Officer's Recommendation;
2. to not consider the urgent business.

Voting Requirements – Simple Majority

COUNCIL DECISION:

That Council consider the urgent business relating to out of budget expenditure for ancillary items on a low loader purchase.

Moved: Cr Newman

Seconded: Cr Dowling

Carried 5/0

11.1.2 Purchase of Ancillary Items – Low Loader/Plant Trailer

Applicant: N/A
File Ref. No: ADM052
Disclosure of Interest: Nil
Date: 19th October 2016
Author: Gary Sherry
Attachments: 11.1.2A Photos of Low Loader Plant Trailer

Summary

Council is to consider out of budget expenditure for the purchase of ancillary items with a low loader/plant trailer.

Background

Council has allocated \$50,000 for the purchase of a second hand low loader/plant trailer and staff have been actively looking for suitable trailers to purchase.

Staff have previously advised that they were reviewing the purchase of a suitable second hand trailer through an online disposal auction. This trailer was purchased by another bidder for \$74,000. Although Council was registered as a bidder, staff did not lodge a bid.

Council have now reviewed a trailer offered by the owner under private sale conditions. The Shire of Cuballing was referred to the owner by the manufacturer of his new trailer as being interested in the purchase of his existing trailer. Photos of the trailer are included at Attachment 11.1.2A.

Council has been offered the SFM manufactured trailer with a build date of 2007 for \$50,000. The trailer has air bag suspension and comes with rear loading ramps. On inspection the trailer looks to be off good quality, in a good state of repair and value for money.

Shire staff will exercise their delegated Council authority and will purchase this trailer for \$50,000.

Comment

The owner of the second hand low loader/plant trailer has been using the trailer as part of his limestone business. For this purpose he has added to the trailer;

1. a large winch to pull equipment onto the trailer; and
2. removable steel mesh gates to the sides of the trailer. These sides are built in many pieces and can be easily put on the trailer and removed. Each gate folds down for easy access. These gates give compliance for the cartage of materials such as bricks or headwalls under new load restraint legislation.

The current owner is seeking an additional \$6,000 for each of the extras. He will remove them from the trailer if the Shire does not purchase them with the trailer.

In reviewing this purchase staff believe that:

1. for full Shire operations the trailer will require a winch. This will be used to pull disabled Shire vehicles or abandoned vehicles onto the trailer for carting.

The offered winch has an 8.1 tonne capacity and is three months old. The owner advises that the winch cost \$6,300 to purchase.

Shire staff recommend the purchase of this winch with the current trailer.

2. the gates to the sides of the trailer will add to the utility of the trailer.

While the gates would allow for Shire to collect loads from supplier outside the Shire, they will be required for staff to cart smaller road making materials (headwalls, pipes, etc) from the Shire depot to worksites in the Shire.

Council's current method of carting these loads in earthmoving trucks/trailers that have solid sides is legal. However this activity was not what the tipping trailers were designed for and there are difficulties and risks in this use.

The owner advises that the gates cost \$8,000/\$10,000 to make. The offered gates are of good quality and design and Council will pay a similar amount for a very similar design to replace them if purchased in the future.

Strategic Implications - Nil

Statutory Environment

Local Government Act (1996)

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
 - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
 - (b) is authorised in advance by resolution*; or
 - (c) is authorised in advance by the mayor or president in an emergency.

* Absolute majority required.

- (1a) In subsection (1) —
additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.
- (2) Where expenditure has been incurred by a local government —
 - (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
 - (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

Policy Implications – Nil

Financial Implications

Council has allocated \$50,000 to the purchase of a second hand low loader/plant trailer. Council has made no allocation for the offered ancillary products.

The offered ancillary items are relatively new, in good repair and appear to be good value for money if purchased.

Council has budgeted to transfer \$73,308 to Council's Plant Reserve in 2016/17. Although not optimal, Council could approve a transfer from this Reserve to meet any shortfall at the end of the financial year.

Economic Implications - Nil
Social Implications - Nil
Environmental Considerations – Nil

Consultation - Nil

Options

The Council can resolve:

1. the Officer's Recommendation;
2. an amended Officer's Recommendation that does not include either point 1 or point 2 and reduces the amounts in point 3 and 4 to \$6,000. Council could then separately budget for the purchase of side gates, should they be required, in a future year; or
3. to not purchase either the winch or side gates. Council could then consider the purchase of similar items in a future Council budget.

Voting Requirements – Simple Majority

OFFICER RECOMMENDATION:

That Council:

1. purchase the winch currently fitted to the second hand low loader/plant trailer with the purchase of the second hand low loader/plant trailer for an additional \$6,000;
2. purchase the side gates currently fitted to the second hand low loader/plant trailer with the purchase of the second hand low loader/plant trailer for an additional \$6,000;
3. note that these purchases are in excess of Council's budget allocation by \$12,000 in total; and
4. approve the reduction of transfer to Council's Plant Reserve by \$12,000 at a time nearer to the end of the 2016/17 financial year if required.

COUNCIL DECISION:

That Council:

1. **purchase the winch currently fitted to the second hand low loader/plant trailer with the purchase of the second hand low loader/plant trailer for an additional \$6,000;**
2. **note that these purchases are in excess of Council's budget allocation by \$6,000 in total; and**
3. **approve the reduction of transfer to Council's Plant Reserve by \$6,000 at a time nearer to the end of the 2016/17 financial year if required.**

Moved: Cr Newman

Seconded: Cr Bradford

Carried 5/0

Council did not resolve the Officer's Recommendation because the side gates currently fitted to the trailer are not a necessary requirement.







12. CONFIDENTIAL ITEMS:

13. NEXT MEETING

3pm, Thursday 17th November 2016 at the Shire of Cuballing Council Chambers, Campbell Street, Cuballing.

14. CLOSURE OF MEETING:

There being no further business, the Shire President, Cr Conley, closed the meeting at 5.06pm.