

**1. Noise Impact Assessment Criteria.**

The Proponent shall ensure that the noise generated by the Project, including traffic noise generated on private access roads, does not exceed the noise impact assessment criteria in **Table 1**.

**Table 1 - Noise Impact Assessment Criteria dB(A)**

Location	Day	Evening	Night	
	LAeq, 15min	LAeq, 15min	LAeq, 15min	LA1, 1min
Residential dwellings that: <ul style="list-style-type: none"> <li>• exist at the date of this consent; and</li> <li>• are situated within a 3km radius of the project boundary.</li> </ul>	35	35	35	45
Future residential dwellings that: <ul style="list-style-type: none"> <li>• are approved under residential development rights that apply to existing allotments at the date of this consent; and</li> <li>• are situated within a 3km radius of the project boundary.</li> </ul>	35	35	35	45

**Note 1:** Daytime period is 7 am to 6 pm Monday to Saturday and 8 am to 6 pm Sundays and Public Holidays. Evening period is 6 pm to 10 pm. Night time period is 10 pm to 7 am Monday to Saturday and 10 pm to 8 am Sundays and Public Holidays.

**Note 2:** To determine compliance with the LAeq(15 minute) noise limit, noise from the Project is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling where the dwelling is more than 30 metres from the boundary. Where it can be demonstrated that direct measurement of noise from the Project is impractical, Oberon Council may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.

**Note 3:** To determine compliance with the LA1(1 minute) noise limits, noise from the Project is to be measured at 1 metre from the dwelling façade. Where it can be demonstrated that direct measurement of noise from the Project is impractical, Oberon Council may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy).

**Note 4:** The noise emission limits identified in the above table apply under meteorological conditions of:

- wind speeds of up to 3 m/s at 10 metres above ground level; or
- temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.

**Note 5:** The Noise Impact Assessment Criteria is not intended to apply to future residential subdivision that has not been approved prior to the date of this consent.

However, if the Proponent has a written negotiated noise agreement with any landowner of the land listed in **Table 1**, and a copy of this agreement has been forwarded to Oberon Council, then the Proponent may exceed the noise limits of LAeq(15 minute) 35 dB(A) in accordance with the negotiated noise agreement.

Reason: To ensure compliance with the Protection of the Environment Operations Act. 1997.

## **2. Monitoring.**

The Project is to be monitored quarterly over the first 12 month period during full operation of the site, to ensure the Recreational Motor Cross Facility is not exceeding the noise impact assessment criteria in **Table 1** or where relevant the noise criteria that forms part of a negotiated noise agreement. The Recreational Motor Cross Facility is to be monitored by the applicant.

Should the noise levels exceed that as listed in **Table 1** a suitably qualified, experienced and independent person, whose appointment has been approved by Oberon Council, is to be engaged to conduct noise monitoring on the land, to determine whether the Project is complying with the relevant noise impact assessment criteria, and identify the source(s) and scale of any impact on the land.

Reason: To ensure compliance with the Protection of the Environment Operations Act. 1997.

## **3. Additional Noise Mitigation Measures.**

Upon receiving a written request from the owner of any residence listed in **Table 1** where subsequent operational noise monitoring shows the noise generated by the Project is greater than, LAeq(15 minute) 37 dB(A) ), (except where a negotiated noise agreement is in place), as measured in accordance with the notes presented below **Table 1**, the Proponent shall implement additional noise mitigation measures.

Additional noise mitigation measures may include:

source controls such as the installation of noise bunds or the limiting of the number of bikes allowed to operate at any one time; or

receiver controls such as the installation of double glazing, insulation, and/or air conditioning at any residence on the land in consultation with the landowner.

These additional mitigation measures must be reasonable and feasible.

If within three months of receiving this request from the landowner, the Proponent and the landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to Oberon Council for resolution.

#### **4. Land Acquisition Criteria.**

Upon receiving a written request from the owner of any residence listed in **Table 1** where subsequent operational noise monitoring shows the noise generated by the Project is greater than LAeq(15 minute) 40 dB(A), (except where a negotiated noise agreement is in place), as measured in accordance with the notes presented below **Table 1**, the Proponent shall acquire the land in accordance with the procedures in condition 5.

#### **5. Land Acquisition.**

Within three months of receiving a written request from a landowner with acquisition rights, the Proponent shall make a binding written offer to the landowner based on:

(a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the Project (i.e. the subject of the project application), having regard to the:

existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and

presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of the 'additional noise mitigation measures' in condition 3;

(b) the reasonable costs associated with:

relocating within the Oberon local government area, or to any other local government area determined by Oberon Council;

obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and

(c) reasonable compensation for any disturbance caused by the land acquisition process.

However, if at the end of this period, the Proponent and landowner cannot agree on the acquisition price of the land, and/or the terms upon which the land is to be acquired, then either party may refer the matter to Oberon Council for resolution.

Upon receiving such a request, Oberon Council shall request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

Within 14 days of receiving the independent valuer's determination, the Proponent shall make a written offer to purchase the land at a price not less than the independent valuer's determination. If the landowner refuses to accept this offer

within 6 months of the date of the Proponent's offer, the Proponent's obligations to acquire the land shall cease, unless otherwise agreed by Oberon Council.

The Proponent shall bear the costs of any valuation or survey assessment requested by the independent valuer, or Oberon Council and the costs of determination referred above.

If the Proponent and landowner agree that only part of the land shall be acquired, then the Proponent shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of the plan at the Office of the Registrar-General.

#### **6. Public Announcement System**

The use of a Public Announcement system is to provide race commentary announcements only and playing music is not permitted. Amplified audio is to be limited to a portable loud-hailer to assist the motor cross track officials in the coordination of the use of the site.

Reason: So that the development does not reduce the amenity of the area

#### **7. Approved Plans**

The development is to be carried out in accordance with the approved stamped concept plan prepared by Abacus Planning, dated 17<sup>th</sup> September, 2010 and the associated Acoustic Report by Renzo Tonin and Associates dated 3<sup>rd</sup> March, 2011 for Stage One (1) Only, except as otherwise provided by the conditions of this determination (Note:- modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act).

The proposed development is subject to a Staged Consent and shall be carried out as follows:

- **Stage 1:** Concept approval – development consent to establish the proposed facility;
- **Subject to Stage 1 - Stage 2:** Seek Development and Construction Certificate consent as may be required by stage one consent for:
  - Land Shaping;
  - Preliminary earthworks (proposed track layout No.2);
  - Preliminary drainage and soil erosion control works;
  - Dynamic Noise evaluation/modelling;
  - Preliminary buffer plantings;
- **Subject to Stage 2 – Stage 3:** seek Development, Construction Certificate and Section 68 Approvals as may be required by stage 1 and Stage 2 consents for:
  - Access construction;
  - Signage
  - Facility construction;
  - Refined earthworks and track construction for proposed tack No's 1 and 3;

- Extended drainage and soil erosion control works;
- Extended buffer plantings;
- **Subject to Stage 3 – Sage 4:** Seek Development and Construction Certificate consent as may be required by stage 1 – 3 consents for:
  - Track Construction for proposed track No's 1, 3, 4 and beginner;
  - Extended drainage and soil erosion control works;
  - Extended buffer plantings.

Reason:-To confirm and clarify the terms of Council's approval.

#### **8. Provision of Buffer**

A Buffer Management Plan shall be submitted to Council for the proposed buffer area between the development shown on the site plan and the boundaries of the property. Approval of the Plan and its implementation is required prior to the commencement of works on site.

Reason:-To meet the design requirements of the concept plan and associated Acoustic Report which requires the provision of suitable buffers between the development and the adjoining property boundaries.

#### **9. Buffer Maintenance**

The vegetation buffers as required by Condition 2 of this consent are to be maintained to the satisfaction of Council.

Reason:-To ensure that the vegetation buffer is maintained in accordance with the Buffer Management Plan approved by Council.

#### **10. Bushfire**

Compliance with the requirements of the Rural Fire Service as detailed:

##### Asset protection Zones:

*The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, whilst supporting or evacuating occupants. To achieve this the following shall comply:*

- A 40 metre Asset Protection Zone (APZ) shall be provided and maintained for the proposed campsite and shall be managed as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection, 2006' and the NSW Rural Fire Services document "Standards for Asset Protection Zones".

##### Water Utilities:

*The intent of measures is to minimise the risk of bushfire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:*

- A 65mm Storz outlet with a ball or gate valve shall be provided to the proposed tanks.

Access:

*The intent of measures for property access is to provide safe operational access to/from the public road system for fire fighters providing property protection during a bushfire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:*

- Property Access Roads shall comply with section 4.1.3 (2) and 4.2.7 of 'Planning for Bush Fire Protection 2006' except that no alternative access is required.

Evacuation and Emergency Management:

*The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:*

- Arrangements for emergency evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Reason:-To ensure the relevant requirements of the Rural Fire Service are implemented.

**11. Restriction as to the Use of Land**

The provision of a public positive covenant / restriction as to user with Council as nominee in accordance with Section 88 of the Conveyancing Act placing restriction on user relative to proposed Lots 73, 50, 51, 66 and 67 in DP: 753027 and Lot 4 in DP: 1079460 that:

- No dwelling house, cottage, other erection or construction or otherwise for the purpose of or capable of use for habitation purposes shall be erected, maintained or allowed to remain upon the land hereby burdened, whist ever the Motocross Track and Camping Area is in operation and the consent (10.2009.225.1) surrendered.
- No person shall dwell or remain in any dwelling house, cottage, other erection or construction or otherwise for the purpose of or capable of use for habitation purposes upon the land hereby burdened, whist ever the Motocross Track and Camping Area is in operation and the consent (10.2009.225.1) surrendered.
- The independent disposal by way of sale, transfer or otherwise of the lands hereby burdened is expressly prohibited, whist ever the Motocross Track and Camping Area is in operation and the consent (10.2009.225.1) surrendered.

Reason:-To ensure that suitable notice is provided to indicate that no dwelling entitlement exists on the burdened land/s, whist the consent for the Motocross Track and Camping Area is in operational.

**12. Imported 'waste derived' fill material**

1. The only waste derived fill material that may be received at the development site is:
  - i. Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997),
  - ii. Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment

Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

- Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the materials compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

Reason:-To ensure that imported fill that is of an acceptable standard for environmental purposes.

### **13. A separate Local Government Act, 1993 "Activity Approval".**

A separate approval under the Local Government Act is required for the on-site sewage management system and the operation of the Primitive Camping Area

Reason:-The installation and operation of on-site sewage management system and a Primitive Camping Area is regulated under the Local Government Act 1993 and a separate approval is required by Section 68 of that Act.

### **14. Developer Contributions**

Prior to the release of the first Construction Certificate associated to the staged consent, payment of Section 94 contributions in accordance with the schedule below are applicable, as prescribed in Council's Annual Fees and Charges Schedule.

SERVICE	REQUIRED CONTRIBUTION in 2010/2011
Public Open Space	\$210.00
Community Facilities	\$210.00
Emergency Services	\$251.00
Rural Roads	\$4,092.00
<b>TOTAL</b>	<b>\$4,763.00</b>

Reason:-To advise that under Part B.11 of Council's Contributions Plan 2000 developer contributions are payable for the establishment of a new commercial activity. These contributions are charged at the rate when paid, set each year in Council's Management Plan. Part B.15 of Council's Development Contributions Plan 2000

### **15. Hours of operation**

The event including the conduct of any motor cross training, race practice, warm up laps and races is to commence no earlier than 8.30am – 4.30pm generally; and 8.30am – 5.30pm during daylight saving time as stated in the application documentation. The days of operation will be Weekends, Public Holidays and NSW School Holidays with occasional mid-week training and special on off events.

No night events or race events are permitted.

Reason:-To limit the operating hours of the development so as to reduce the likely nuisance on adjoining development.

### **16. No advertising approved**

Advertising structures or signs shall not be erected, affixed, painted or displayed without prior Council consent.

Reason:-To prevent the proliferation of signs which will result in a degradation of the visual quality of the area.

#### **17. Development not to interfere with amenity of the area**

The development is to be conducted in a manner that will not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, by causing interference to television or radio reception or otherwise.

Note: Motorcycles are confined to the approved tracks only.

Reason:-So that the development does not reduce the amenity of the area.

#### **18. Premises to be clean and tidy**

The premises are to be maintained in a clean and tidy condition at all times.

Reason:-So that the development does not reduce the amenity of the area.

#### **19. External lighting not to cause a nuisance**

All exterior lighting associated with the development shall be designed and installed so that no light will be cast onto any adjoining property.

Reason:-To prevent the proposed development having a detrimental effect on the developments existing on adjoining land.

#### **20. Site to be kept neat and tidy during the construction phase**

The site shall be kept clean and tidy during the construction period and all rubbish shall be removed from the site upon completion of the project to the satisfaction of Council.

Reason:-To ensure the site does not create a nuisance for the adjoining development during the construction phase.

#### **21. Sedimentation control**

The following measures are to be implemented on the site to assist with sedimentation control during the construction phase of the project (Note:- these measures are to be maintained for the duration of the construction period):

- A dish shaped diversion drain or similar structure will be constructed above the proposed building works to divert run-off to a stable discharge area such as dense ground cover. This diversion drain is to be lined with turf or otherwise stabilised.
- A sediment-trapping fence using a geotechnical fabric specifically designed for such purpose and installed to manufacturer's specifications is to be placed below the construction area.
- Vegetation and/or existing building structures will be cleared from the construction site only, other areas to remain undisturbed.



- Restricting vehicle access to one designated point and having these driveways adequately covered at all times with blue metal or the like.
- The installation of gutters, downpipes, and the connection of downpipes to the stormwater disposal system prior to the fixing of the roof cladding.

A compliance certificate attesting to the completion of each work is to be issued by the Principal Certifying Authority and submitted to Council.

Reason:-To minimise soil erosion and control sediment leaving the site during construction and to prevent a detrimental impact on the aquatic environment.

### **22. Toilet accommodation for people working at the site**

Closet accommodation is to be provided at the work site at all times at the rate of one closet for every 20 persons employed at the site. If temporary closet accommodation is proposed, each closet must comply with the following:

- it must be at least 1050 mm wide, 1350 mm long and 2100 mm high (measured internally).
- It must have a hinged door capable of being fastened from both inside and outside.
- It must have sufficient walls and a roof to ensure privacy, each constructed of material that is weatherproof.
- It must have a floor constructed of a material that is rigid and impervious.
- It must be provided with a suitable receptacle for, and an adequate supply of, deodorising or fly-repelling fluid.
- It must comply with any relevant requirements of the Building Code of Australia.

Reason:-To ensure adequate closet accommodation is provided for workers.

### **23. Mobile Food Vending Vehicle**

The proposed mobile food vending vehicle shall obtain relevant consents from council for its proposed fit out and use in accordance with the 'Mobile food vending vehicles operation, construction and food handling guidelines' by the NSW Food Authority. The business shall also be registered with the Food Authority prior to operation.

Reason:. To ensure compliance with the New South Wales Food Safety Standards and the requirements of the New South Wales Food Authority.

### **24. Access Construction**

Construction of a bitumen sealed access to the proposed development site, along the full length of Lot 4 in DP: 1079460 at full cost to the developer. Construction Certificate approval for these works is required under Section 81A of the Environmental Planning and Assessment Act 1979 prior to these works commencing.

Reason:-To ensure that an appropriate and safe standard of access from the road is provided and to provide protection for the carriageway verge due to the movement of

vehicles to and from the property and to comply with the Oberon Development Control Plan, 2001.

## **25. PRESCRIBED CONDITIONS OF CONSENT**

**The following conditions are known as “Prescribed Conditions” and are required by the Environmental Planning and Assessment Regulation 2000 to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council’s Development Department who will be happy to advise you as to whether or not the conditions are relevant to your consent.**

1. All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

*Reason:*-So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulation 2000.

2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

*Reason:*-So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulation 2000.

3. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of the Act,
  
  - in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

*Reason:*-So that the development complies with the requirements imposed under Clause 98B of the Environmental Planning and Assessment Regulation 2000.

4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- showing the name, address and telephone number of the principal certifying authority for the work, and
  - showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work is being carried out and must be removed when the work has been completed.

**NOTE:** This condition does not apply to building work that is carried out inside an existing building that does not affect the external walls of the building.

Reason:-So that the development complies with the requirements imposed under Clause 98A of the Environmental Planning and Assessment Regulation 2000.

5. Any development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- i. protect and support the adjoining premises from possible damage from the excavation, and
  - ii. where necessary, underpin the adjoining premises to prevent any such damage.

**NOTE:** The condition referred to in sub clause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Reason:-So that the development complies with the requirements imposed under Clause 98E of the Environmental Planning and Assessment Regulation 2000.

### **Notations**

*No buildings or structures including temporary buildings, carriages, shipping containers and the like are to be sited on any of the proposed allotments in the development, without first obtaining the appropriate approval of the Council (or another Principal Certifying Authority). Where appropriate, the applicant should provide a suitable restriction as to the use of the land indicating the above (on the plan / title) to the satisfaction of Council, prior to or with the application for the certification by Council of any stage thereof.*