

**1.9: ALBANY MOTORCYCLE CLUB INC – PROPOSAL TO OPERATE
TWO NON-COMPLYING EVENTS DURING 2011**

Land description	: Reserve 30495, Plantagenet Location 7153, Roberts Road, Robinson
Proponents	: Albany Motorcycle Club Inc.
Description of Organisation	: Not for profit sporting club.
Owner	: Crown
Appendices	: Letter from Albany Motorcycle Club Inc.
Responsible Officer	: E/Director Planning and Development Services (G Bride)

IN BRIEF

- Consider a request from the Albany Motorcycle Club Inc to operate two non-complying events at the Roberts Road motorcycle track during 2011.

BACKGROUND

ITEM 1.9: RESPONSIBLE OFFICER RECOMMENDATION

NB. OFFICER RECOMMENDATION AND REPORT AMENDMENT TO BE PROVIDED TO COUNCILLORS AFTER THE PUBLIC SUBMISSION PERIOD HAS CLOSED ON 4 MARCH 2011.

1. The Albany Motorcycle Club has written to Council requesting approval to hold two non-complying events under Regulation 18 of the *Environmental Protection (Noise) Regulations 1997*.
2. Council considered this request at its February 2011 meeting and resolved:
 - “1. *The Council note that in relation to the request by the Albany Motorcycle Club to hold two non-complying events on Reserve 30495, Roberts Road, community consultation will be undertaken with residents and property landowners within a radius of 1.5km;*
 2. *Where objections are received as a result of the community consultation the request shall be considered at the March Ordinary Council Meeting;*
 3. *Where no objections are received Council notes that the CEO will grant approval for two non-complying events in accordance with Regulation 18 of the Environmental Protection (Noise) Regulations 1997.”*

CEO:	RESPONSIBLE OFFICER:
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4. A letter inviting comment on the Albany Motorcycle Club Inc proposal was sent to residents and property owners within a 1.5km radius of the motorcross facility. At the time of writing this report an objection has been received, which requires the request from the Albany Motorcycle Club to be referred to Council as per Part 2 of the above resolution.

DISCUSSION

5. The close of submission period is Thursday 4 March 2011. A report amendment including a copy of any submissions received and responses thereto will be circulated prior to the Council meeting.

PUBLIC CONSULTATION / ENGAGEMENT

6. A letter inviting comment on the Albany Motorcycle Club Inc proposal to hold two non-complying events during 2011 has been sent to all residents/property owners within a 1.5 km radius of the motorcross facility. The submission period closes on Thursday 4 March 2011.

STATUTORY IMPLICATIONS

7. Regulation 18 of the *Environmental Protection (Noise) Regulations 1979* states:

“18. Venues used for sporting, entertainment purposes etc.

- (1) *In this regulation—*

approved non-complying event means an event approved under subregulation (3);

noise means noise associated directly with the approved non-complying event and does not include noise normally emitted from the venue (such as noise from plant, pumps and machinery) when it is not being used for the purposes of an approved non-complying event;

venue means any premises or public place.

- (2) *Despite any other regulation in this Part—*

- (a) an approval under subregulation (3) has effect according to its terms; and
- (b) except to the extent that the regulation is applied as a condition under subregulation (3), regulation 7 does not apply to noise resulting from an approved non-complying event.

- (3) *Where the Chief Executive Officer is satisfied that a proposed sporting, cultural or entertainment event that is to be open to the public —*

- (a) *is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7; and*

(b) *would lose its character or usefulness if it were required to comply with that standard,*

the Chief Executive Officer may approve the event, subject to such conditions as the Chief Executive Officer thinks fit, for the purposes of this regulation.

(4) *If a condition imposed on an approved non-complying event under subregulation (3) or (8) is breached—*

(a) *the event ceases to be an approved non-complying event; and*

(b) *regulation 7 has effect in relation to that event.*

(5) *An approval under subregulation (3) may extend to a practice or rehearsal or sound system test relating to an event even though the practice, rehearsal or sound system test is not open to the public.*

(6) *An application for approval under subregulation (3) is to be—*

(a) *made not later than 60 days before the event to which the application relates is proposed to commence; and*

(b) *accompanied by an application fee of \$500.*

(7) *Conditions imposed under subregulation (3) may —*

(a) *limit the duration of practice and rehearsal sessions, sound system tests and the event;*

(b) *specify starting and completion times for practice and rehearsal sessions, sound system tests and the event;*

(c) *specify times when facilities such as stages, temporary seating and lighting towers can be erected and dismantled; and*

(d) *specify any other requirements, including maximum allowable noise levels, considered necessary to maintain the impact of noise emissions on other premises at an acceptable level.*

(8) *It is a condition imposed on the conduct of every event approved under subregulation (3) that, if the Chief Executive Officer determines that noise received as a result of the event —*

(a) *at any noise sensitive premises is likely to exceed 65 dB $L_{A\ Slow}$ between 0700 hours and 1900 hours on any day or 60 dB $L_{A\ Slow}$ between 1900 hours on any day and 0700 hours on the following day; or*

(b) *at any other premises is likely to exceed 75 dB $L_{A\ Slow}$ at any time, the person to whom the approval is granted is to pay to the Chief Executive Officer, within the time specified by the Chief Executive Officer, a noise monitoring fee specified by the Chief Executive Officer.*

(9) *The Chief Executive Officer may amend any condition to which an approved non-complying event is subject, but must before doing so —*

- (a) *give to the person responsible for the conduct of the event at least 14 days' notice of the proposed amendment to enable the person to make written representations on the proposal; and*
 - (b) *where the condition was determined under subregulation (13), obtain the approval of the Minister.*
- (10) *A person to whom notice of a proposal is given under subregulation (9)(a) may by written agreement accept the proposal and waive the period of notice.*
- (11) *The Chief Executive Officer is not to approve the holding of more than 2 approved non-conforming events in or at a particular venue in any period of 12 consecutive months unless the Chief Executive Officer is satisfied that the majority of occupiers on whom the noise emissions will impact have no objection to the holding of the additional events.*
- (12) *An approval must not be granted unless the local government of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 agrees to the proposed conditions applicable to the approval.*
- (13) *Where an agreement cannot be reached under subregulation (12) the conditions are to be determined by the Minister after receiving the advice of the Chief Executive Officer.*
- (14) *The Chief Executive Officer may, if satisfied that the noise from approved non-conforming events held at any 2 or more venues affects generally the same noise-sensitive premises, determine that those venues are to be treated as a single venue for the purposes of subregulation (3) in which case subregulation (11) applies to those venues as if they were one venue.*
- (15) *Notwithstanding subregulation (6)(b), the Chief Executive Officer may, in his or her discretion and if satisfied that an application for approval is made by an organization licensed under the Charitable Collections Act 1946, and that money received from the event will be substantially applied for a charitable purpose within the meaning of that Act, waive or reduce the application fee payable under that subregulation.*

FINANCIAL IMPLICATIONS

- 8. Beyond staff time incurred there are no other costs associated with this item unless Council requires the City's Environmental Health Officers to undertake noise monitoring.

STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN

- 9. There are no strategic implications associated with this item.

POLICY IMPLICATIONS

- 10. There are no policy implications associated with this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

11. Council has three options in relation to the request from Albany Motorcycle club to hold two non-complying events at Roberts Rd site. These are:
- a. Option One. Note the objections but **GRANT** the Albany Motorcycle Club approval to hold two non-complying events during 2011 in accordance with Regulation 18 of the *Environmental Protection (Noise) Regulations 1997*.
 - b. Option Two. Accept the points raised in the objections and **REFUSE** the Albany Motorcycle Club approval to hold two non-complying events during 2011.

File Number (Name of Ward)	A174413; PH.NOT.3; PRO176 (West Ward)
Previous Reference	OCM 16/02/2010 Item 13.6.1 Recommendation 4 OCM 20/04/2010 Item 19.5 OCM 15/02/2011 Item 2.6