

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

<b>Land description</b>	: Reserve 30495, Plantagenet Location 7153, Roberts Road, Robinson
<b>Proponents</b>	: Albany Motorcycle Club Inc.
<b>Owner</b>	: Crown
<b>Attachment(s)</b>	: Letter from Albany Motorcycle Club Inc. : Schedule of Submissions
<b>Councillor Workstation</b>	: Copies of letters of submission
<b>Responsible Officer</b>	: Executive 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.

**ITEM 1.9: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council GRANT the Albany Motorcycle Club Inc approval to hold two non-complying events under Regulation 18 of the *Environmental Protection (Noise) Regulations 1979* conditional on no further breaches of the Environmental Protection Notice previously served on the Albany Motorcycle Club Inc. Should further breaches occur this approval will be withdrawn.**

**ITEM 1.9: RESOLUTION (Responsible Officer Recommendation)**

**MOVED: MAYOR EVANS**

**SECONDED: COUNCILLOR SUTTON**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 10-0**

**CEO:**

**RESPONSIBLE OFFICER:**

## **BACKGROUND**

1. The Albany Motorcycle Club Inc 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.”*

## **DISCUSSION**

3. The Albany Motorcycle Club Inc has indicated that the two events form part of the “2011 South West Interclub Series” and each event is expected to attract approximately 150 – 200 riders.
4. Both events provide an opportunity for the Albany Motorcycle Club Inc to raise funds, while also contributing generally to economic development within Albany.

## **RECENT NON-COMPLIANCE WITH ENVIRONMENTAL PROTECTION NOTICE**

5. In 2008, the City served an Environmental Protection Notice (EPN) on the Albany Motorcycle Club requiring it to:

*“Ensure that no motor cycles use the motor cycle track at any time of the day.”*
6. Following an appeal to the Minister for Environment, and with Council approval, the Albany Motorcycle Club Inc has held ten events in both 2009 and 2010.
7. The Albany Motorcycle Club Inc has not used the motorcross track outside the approved events.
8. Unfortunately, during the consultation period a number of motorcycle riders breached the requirements of the EPN by riding motorcycles on the track. The City has ascertained that the use of the track was not sanctioned by Albany Motorcycle Club Inc officials.
9. However, while the use of the motorcross track was not sanctioned, the Albany Motorcycle Club Inc still has a responsibility to ensure that the requirements of the EPN are met.

10. It is therefore recommended that approval be granted for the two non-complying events conditional on no further breaches of the EPN occurring and should further breaches of the EPN occur, whether sanctioned or not, then approval for the two non-complying events should be revoked.

### **PUBLIC CONSULTATION / ENGAGEMENT**

11. 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 and property owners within a 1.5 km radius of the motorcross facility.
12. A total of 84 letters were sent to residents and property owners within a 1.5 kilometre radius of the motorcross facility. The submission period closed at 5.00 pm on 3 March 2011 and a total of eight written submissions were received - five were opposed to the proposal and three supported the proposal. A copy of the submissions is attached.
- 13.

### **STATUTORY IMPLICATIONS**

14. 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**

- 15. Regulation 18(6) of the *Environmental Protection (Noise) Regulations 1979* requires applications for approval to hold a non-complying event to be accompanied by an application fee of \$500. This fee may be waived or reduced, by the Chief Executive Officer, if the applicant is an organisation licensed under the *Charitable Collections Act 1946*.
  
- 16. Beyond staff time incurred there are no costs associated with this item unless Council requires the City's Environmental Health Officers to undertake noise monitoring.

**STRATEGIC IMPLICATIONS & ALIGNMENT TO CORPORATE PLAN**

17. This item relates to the following elements from the Albany Insight-Beyond 2020 Corporate Plan.

Priority Goals and Objectives

*Goal 2: Lifestyle and Environment...Albany will be Western Australia's regional City of first choice offering a diverse range of healthy and active lifestyle opportunities with energy efficient housing and development that respects our environment.*

*Objective 1.3. Recreation facilities provide a diverse range of sporting and exercise opportunities.*

City of Albany Mission Statement

*At the City of Albany we...respect community needs, foster community involvement in decision making and encourage our people to meet the community's service expectations.*

**POLICY IMPLICATIONS**

18. There are no policy implications associated with this item.

**ALTERNATE OPTIONS & LEGAL IMPLICATIONS**

19. Council has two options in relation to the request from Albany Motorcycle Club Inc to hold two non-complying events at Roberts Rd site. These are:
- a. Option One. **GRANT** the Albany Motorcycle Club Inc approval, with or without conditions, to hold two non-complying events during 2011 in accordance with Regulation 18 of the *Environmental Protection (Noise) Regulations 1997*.
  - b. Option Two. **REFUSE** the Albany Motorcycle Club Inc approval to hold two non-complying events during 2011.

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