

Delegate Report

Application No: 2017/280

Application Type: Use Only

Received: 2 October 2017

The Applicant:

Name: D Van Den Borne

Address: 260 Sheens Road
Mirboo North VIC 3871

The Proposal:

Proposal: Use land for a motor racing track (events)

The Land:

Land Address: 945 Koonwarra-Inverloch Road, Leongatha South, VIC 3953, &
85 Merricks Track, Leongatha South, VIC 3953.

Land Description: L1 LP113627 Parish of Drumdlemara, L2 LP220696V Parish of
Drumdlemara, L2 LP113627 Parish of Drumdlemara

Assessment:

By: Tim Berger

Planning Scheme and/or Planning and Environment Act Definition

Land Use

Motor racing track - Land used to race, rally, scramble, or test, vehicles, including go-karts, motor boats, and motorcycles, and includes other competitive motor sports.

Development

N/A

Zones and Overlays?

Farming Zone (FZ)

Bushfire Management Overlay (BMO)

Environmental Significance Overlay – Schedule 5 (ES05)

Why is a Permit Required?Zone

Clause 35.07-1 - A permit is required to use the land for a motor racing track as the proposed use is a Section 2 use in the Farming Zone.

Overlays

N/A – However, it should be noted that any vegetation to be removed in an area covered by the ESO5 would require a permit under clause 42.01-2.

Particular Provisions

N/A

Particular Provisions that do not trigger a permit but are relevantClause 52.06 – Car parking

Clause 52.06-2 provides that before a new use commences, the parking required under Clause 52.06-5 must be provided on the land or a permit granted to reduce the requirement (including to zero). There is no specific parking requirement for leisure and recreation (motor racing track). Pursuant to Clause 52.06-6, where a use of land is not specified in Table 1 (to Clause 52.06-5), car parking must be provided to the satisfaction of the responsible authority.

The application shows two car parking areas. One area is located to the north west of the track, with dimensions of 250 x 250 metres. This would be an unsealed parking area. The other car parking will be co-located with the pit area and start/finish of the track. The application states that 50 cars will be accommodated here, however this area has not been dimensioned, nor has a functional layout plan been submitted to Council.

Detailed parking configuration has not been shown for either car parking area, as required by Clause 52.06-8. Should a permit be issued for this application, a condition requiring a car parking plan would be required. Such a condition should require that the plan contain the following detail:

- All car parking spaces to be provided;
- Access lanes and associated works;
- Any allocation of car parking spaces to different uses; and
- Any other relevant information.

Clause 52.17 – Native Vegetation

The application does not include the removal of native vegetation. Should any native vegetation removal be required, a permit will need to be obtained pursuant to Clause 52.17.

Proposal

The key details of the proposal are:

Event set-up and timetable:

- The track will be used for one 2 day event to be conducted from the site annually (September/October), as part of the Yamaha Victorian Off-Road Championship Series (Yamaha Series).
 - This event will require the marking of the race track with timber stakes, flagging tape (bunting) and arrows prior to the event day.
 - The event will follow a track of approximately 12km through the existing vegetation at 85 Merricks Track, with a small portion of track to extend onto the neighbouring lot at 945 Koonwarra-Inverloch Road.
 - Each day of racing will run for approximately 8 hours (8am – 4pm), to be conducted during daylight hours.
 - Equipment, markings etc to be removed at the end of the event, with the land to be rehabilitated by smudging and reseeding of paddock areas.

- One weekend 'club day' to be conducted annually (date unknown – Saturday or Sunday). Riding will occur on the day between 8am – 4pm.

It is noted that the submitted event management plan identifies that the event would run during winter. A condition requiring dates and times to be submitted to Council for approval prior to the event should be placed on any permit that may issue.

Patron numbers:

- Yamaha Series – The submitted event management plan states that approximately 450 people, inclusive of riders, support crews, officials and volunteers are expected¹.

It is noted that 1.6 of the Event Management Plan states that this event will consist of 250 riders, in addition to 300 people in the form of support crews, enthusiasts/spectators and family and friends. This would result in a total of 550 people on site.

- Club day – No specific patron number has been provided. The application states that approximately 40 riders would be in attendance. It is likely that this event will be less populous than the Yamaha Series

¹ 1.1 – Event Management Plan

Car parking:

- Both events show 2 locations for car parking. No specific car parking calculation or functional layout plan has been provided with the application, however the car park areas can be seen in image 2 below.



Image 1: Proposed layout of site. Source – Application documents.



Image 2: Close-up of car parking and staging areas. Source – Application documents.

Noise:

A noise assessment conducted by Watson Moss Growcott Acoustics was submitted to Council on 18 April 2018. This report states:

- A maximum of 50 motorcycles will be on the track at any one time.
- Motorcycle speed will be an average of 24km/h around the track.
- The marshalling area will be located on the land to the west of the site (Black portion of track in image 1).
- 2 and 4 stroke enduro style motorcycles will be used at the track, primarily of KTM (EXC) and Yamaha (WR) model bikes.
- Noise testing has been undertaken with 7 motorcycles.

Environmental:

The application proposes to use existing tracks on the site as the course for the motorcycle track. No buildings or works have been proposed as part of this application. No environmental assessment has been supplied by the applicant. The application does not propose the removal of native vegetation.

Site and surrounding area

The subject lots are identified respectively as:

- Lot 2 PS113627 Parish of Drumdlemara – 85 Merricks Track, Leongatha South; and
- Lot 1 PS113627 Parish of Drumdlemara and Lot 2 LP220696V Parish of Drumdlemara – known collectively as part of 945 Koonwarra-Inverloch Road, Leongatha South.

85 Merricks Track is a 64.71ha lot. The site is almost exclusively covered in native vegetation, save for two cleared patches to the north and west of the site and for the existing tracks proposed to be used for the motor racing track. The lot has a frontage of approximately 142 metres to Merricks Track and access is gained via that road. The balance of the lot is bordered by surrounding lots. No dwellings or structures are sited on the land.

945 Koonwarra-Inverloch Road is a large tenement of approximately 419.3ha, consisting of 8 lots. An existing dwelling and outbuildings are sited on one of the lots on the western portion of the tenement, with access obtained from Millars Road. A dairy and associated infrastructure are sited to the east of the tenement, on the western portion of Lot 2 LP220696V, with access from Merricks Track. The site has been largely cleared of vegetation in the past for the purpose of planting pasture, with scattered shelter belts found around and in between paddocks on the site or in small patches.

The broader local area is characterised by a mixture of farming and lifestyle properties.

In the immediate vicinity of the subject lots is:

North 150 Holgates Road – An irregular shaped lot of 22.97ha, containing a dwelling, outbuildings and vineyard. The dwelling on site is located approximately 385 metres from the closest point of the race track.

Lot 2 LP139657 – A trapezium of approximately 10.45ha. It is part of Leongatha Golf Club and contain a large dam. It is not used as part of the recreation facility (actual playing of golf occurs further to the north on other lots within that tenement).

122 Holgates Road – A predominately square block of 10.95ha, separated from the subject site by the Leongatha Golf Club retarding basin (discussed above). An existing dwelling and outbuilding are sited to the north of the site, approximately 810 metres from the closest point of the race track.

166 Holgates Road – Also a trapezium of approximately 4ha containing an existing dwelling and outbuildings.

South 155 Stewarts Road, Pound Creek – 96.52ha comprised of two lots separated by an unmade road reserve. The lots appear to be vacant, save for an isolated outbuilding to the south-west of the site.

90 Lyons Court, Pound Creek – 17.1ha containing an existing dwelling and outbuilding. The existing dwelling would be approximately 430 metres from the closest point of the proposed track.

110 Lyons Court, Pound Creek – 16.2ha lot, consisting of a dwelling and outbuildings. This lot is part of a number of irregular shaped lifestyle lots to the south east of the subject site. The existing dwelling would be sited approximately 430 metres from the closest point of the race track.

East 135 and 143 Wintles Road – consisting of 3 lots with an area of approximately 148.98ha largely rectangular save for an excised portion to the east. The site contains an existing dwelling to the north east of 135 Wintles, approximately 1060 metres from the race track.

93 Wintles Road – 70.6ha lot, largely square save for an excised portion to the north east. The site contains an existing dwelling and outbuilding. The dwelling is sited approximately 370 metres from the closest point of the race track.

95 Wintles Road – A trapezium lot of approximately 3.28ha containing an existing dwelling and outbuildings.

West 945 Koonwarra-Inverloch Road – These lots form part of the application area; however it bounds the lot at 85 Merricks Track on the western boundary. The dwelling on site is approximately 2.2km from the track.

995 Koonwarra-Inverloch Road – An irregular shaped lot of 38.47ha to the north west of the application area. The site contains a dwelling and a number of scattered outbuildings to the north of the lot.

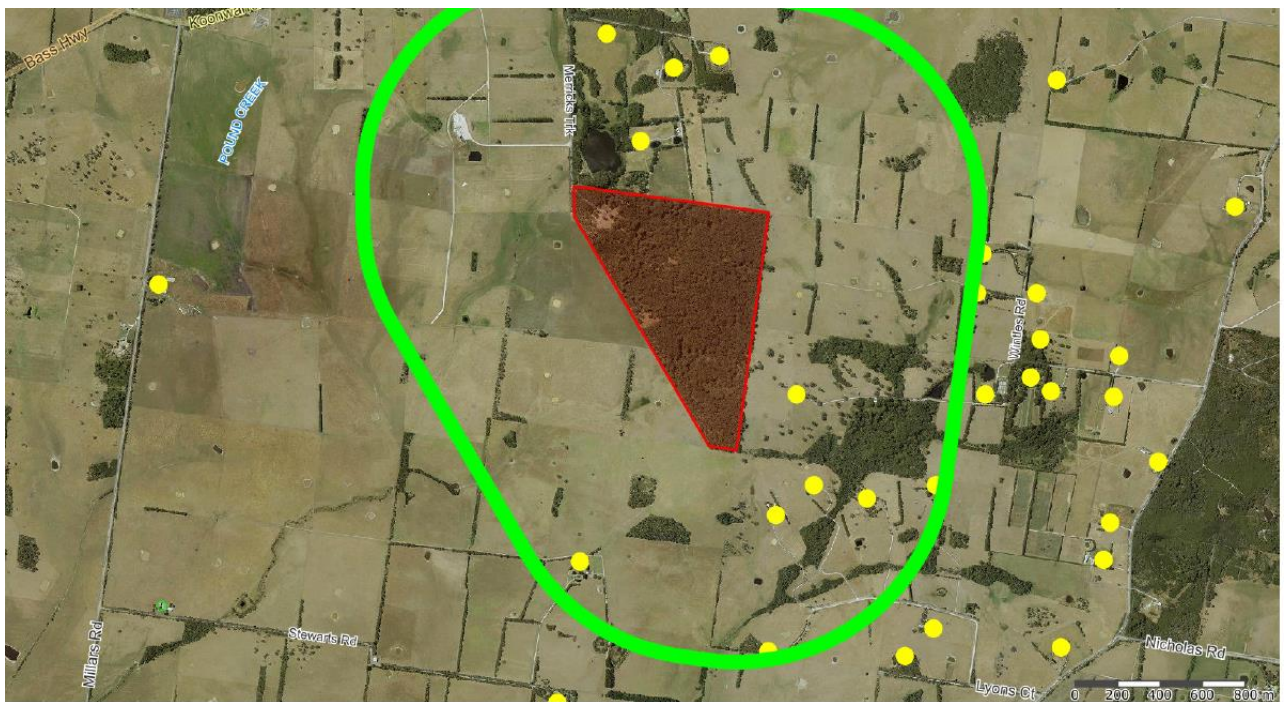


Image 3: Proximity of existing dwellings (in yellow) to subject site. 1km buffer area (in green).
Source: GIS 2018 Aerial Photos.

Relevant History and Background

Past permits:

Application No.	Proposal	Decision	Date
1998/4898	Use of land for non-competitive motorcycle riding on three Sundays per year	Withdrawn	March 1999 (Approximate)

Enforcement:

A number of complaints were lodged with Council after a similar event was held on the

subject land on or around 18 June 2016. An investigation by Council's Regulatory Services department had substantiated these complaints, with appropriate action taken in accordance with Council's Policy. Advice was provided at this time that a future event would require a planning permit, which this application now seeks to obtain.

Is there a registered restrictive covenant or a Section 173 Agreement on the title? If so, does the proposal comply with the restriction or Section 173 Agreement?

Yes, Lot 2 PS220696V is affected by registered restriction P756176Y. This restriction prohibits the further subdivision of the lot. The proposed use would not cause a breach of the restriction.

Does the land abut a Road Zone Category 1 or a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 road?

No.

Is there a designated waterway on the land?

Yes, a tributary of Pound Creek runs through the south east corner of Lot 2 PS220696V. The applicant's plans show a proposed car parking area over the waterway. However, this would not be supported because there is ample area on the rest of the site for this purpose and it would avoid potential impacts on the waterway. If a permit were to be granted, it should contain a condition requiring amendment of the plan and to exclude parking within 30m of the waterway.

Is the land within a Special Water Supply Catchment Area listed in Schedule 5 of the Catchment and Land Protection Act 1994?

No.

Does the application require car parking / bicycle facilities?

Car parking facilities are required, as discussed above. Bicycle facilities are not required.

Is an Aboriginal Cultural Heritage Management Plan required?

The site is not located within an area of Aboriginal cultural significance, and as such a CHMP is not required.

Was notice of the application given under Section 52(1), 52(1AA), 52(3) or 57B?

Public notification of the application was required, as it was considered that the application may result in material detriment. Public notification was provided as a minimum to adjoining property owners and occupiers, a sign on site and notices in the South Gippsland Sentinel Times and Great Southern Star newspapers. The statutory declaration from the applicant was received by Council on 30 April 2018.

Were there any objections received?

A total of 41 objections have been lodged with Council, including 2 petitions. The concerns of objectors are broadly summarised as:

- Adverse environmental impacts (28 objections)
- Event resulting in distressed wildlife (11 objections)
- Noise and amenity impacts (22 objections)
- Fire risk (16 objections)
- Site safety and access restrictions (16 objections)
- Future intensification of the use & potential unauthorised use (10 objections)
- Previous illegal event and clearing (8 objections)
- Lack of information provided with the application (4 objections)
- Farming Zone land use conflicts and repurposing of the land (3 objections)
- Health and Wellbeing impacts (3 objections)
- Better existing alternative locations (3 objections)
- Business impacts on Leongatha Golf Club (3 objections)
- Doubts regarding purported community benefits (2 objections)
- Doubts regarding the stated number of people on site (2 objections)
- Rehabilitation of the land (2 objections)
- Damage to infrastructure such as fencing (1 objection)
- Land contamination (1 objection)
- Inadequate public notification (1 objection)
- Business impacts on Bed and Breakfasts (1 objection)
- Rubbish and waste management (1 objection)
- Emergency management (1 objection)
- Issues with application form (1 objection)
- 'Common Sense' decision (1 objection)

In addition, 2 petitions have been received regarding the application. These have been received from:

- 1) Concerned Neighbours of Norton's Bush (38 distinct signatures on a number of individual petition sheets). The concerns raised in this petition are:
 - Environmental and vegetation impacts;
 - Noise and amenity impacts; and
 - Risk of fire.
- 2) Members and Staff of Leongatha Golf Club (32 signatures). The concerns raised in this petition are:
 - Noise and amenity impacts;
 - Potential for events to clash with motorcycle events;
 - Safety and access issues, including generation of dust;

- Times/dates of events to be held; and
- Potential intensification of the use.

These concerns are discussed further in the report.

Was the application referred under Section 55 or 57C?

No.

Were there any non-statutory or internal referrals?

The following external referrals were undertaken:

Referral Authority		Type of Referral	Advice/ Comments/ Conditions
Country Authority	Fire	Section referral	52
			<p>Consent with the following conditions.</p> <p>1. Should the proposed event occur within the declared Fire Danger Period, a copy of the Emergency Management Plan to be implemented must be submitted to the Operations Manager at CFA District 09 South East Region greater than six (6) weeks prior to the commencement of the proposed event. This will give the CFA Operations Manager opportunity to provide comment to the Responsible Authority on emergency management arrangements.</p> <p>2. The local CFA Fire Brigade must be notified of the proposed event, no less than two (2) weeks prior to the commencement of the proposed event.</p> <p>3. Food vendors, display stalls, market stalls and other providers are not to have their stalls/tents/vans or other temporary or permanent structures located within six (6) metres of each other or may have a lesser distance where the event organiser has demonstrated to the satisfaction of the Responsible Authority that fire spread between stalls will not occur.</p>

		<p>4. Access and egress routes are to be clearly marked to a width of not less than six (6) metres and are to meet the following requirements:</p> <ul style="list-style-type: none"> • Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width. • The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. • Dips must have no more than 1 in 8 (12%) (7.1 degrees) entry and exit angle. <p>5. An area of defensible space for a distance of 10m around the proposed car parking area, food vendors and emergency assembly area are to be maintained to the following vegetation management requirements to the satisfaction of the Responsible Authority:</p> <ul style="list-style-type: none"> • Grass must be no more than 100mm in height • Leaf litter must be less than 10mm deep • There must be no elevated fuel on at least 50% of the area. On the remaining 50% the elevated fuel must be at most sparse, with very little dead material.
Officer Comment	Should a permit issue for the proposed use, it is recommended that these conditions be placed on such permit.	

Referral Authority	Type of Referral	Advice/ Comments/ Conditions
Environment Protection Authority	Section 52 referral	General comments regarding matters for consideration by Council were provided. No conditions were received.
Officer Comment	The comments received are not particularly useful to carry out any meaningful assessment of the potential noise impacts. Little weight has been given to these generic comments in assessing the	

	application because it would appear that Council officers have assessed the potential noise impacts more rigorously than the EPA.
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The following internal referrals were undertaken:

Department	Advice/ Comments/ Conditions
SGSC Engineering	Consent, no conditions.
SGSC Emergency Management	An emergency management plan should be completed each time an event is held. This plan should be submitted to Council at least 4 weeks prior to each event to allow time for Council's Municipal Emergency Management Planning Committee to review.
Officer Comment	Should a permit issue for the proposed use, it is recommended that a condition requiring an emergency management plan to be submitted to Council for approval as proposed by the Emergency Management team. The time should allow for consideration by the planning department and the Municipal Emergency Management Planning Committee.

Planning Scheme Requirements and policies: State Planning Policy Framework

The following State policies have been considered with respect to this application:

- 10.01 Integrated decision making
- 11.01 Victoria
 - 11.01-1 Settlement networks
 - 11.01-2 Victoria Settlement Framework
- 11.04 Open space
 - 11.04-1 Open space planning
 - 11.04-2 Open space management
- 11.07 Regional Victoria
 - 11.07-1 Regional planning
- 11.10 Gippsland
 - 11.10-1 A diversified economy
 - 11.10-2 Planning for growth
 - 11.10-3 Sustainable communities
 - 11.10-4 Infrastructure
 - 11.10-5 Gippsland Regional Growth Plan
- 12.01 Biodiversity
 - 12.01-1 Protection of biodiversity
 - 12.01-2 Native vegetation management
- 12.04 Significant environments and landscapes
 - 12.04-1 Environmentally sensitive areas
 - 12.04-2 Landscapes

- 13.03 Soil Degradation
 - 13.03-2 Erosion and landslip
- 13.04 Noise and air
 - 13.04-1 Noise abatement
 - 13.04-2 Air quality
- 13.05 Bushfire
 - 13.05-1 Bushfire planning strategies and principles
- 14.01 Agriculture
 - 14.01-1 Protection of agricultural land
 - 14.01-2 Sustainable agricultural land use
- 17.01 Commercial
 - 17.01-1 Business
- 17.03 Tourism
 - 17.03-1 Facilitating tourism

Local Planning Policy Framework

Municipal Strategic Statement

The MSS is a statement of the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving those objectives. The key provisions of the MSS as it relates to this application include:

- 21.02 Municipal profile
 - 21.02-4 Environment
 - 21.02-5 Natural resource management
 - 21.02-7 Economic development
- 21.03 Key issues
 - 21.03-2 Environmental and landscape values
 - 21.03-3 Environmental risks
 - 21.03-4 Natural resource management
 - 21.03-7 Economic development
- 21.04 Vision
- 21.06 Environmental and Landscape Values
 - 21.06-1 Biodiversity
 - 21.06-2 Coastal and hinterland landscapes
- 21.08 Natural Resource Management
 - 21.08-1 Agriculture
- 21.11 Economic Development
 - 21.11-4 Tourism

Relevant Incorporated and/or Reference Documents

The following relevant documents have been considered during the assessment of this application:

- *Interim guidelines for control of noise from industry in country Victoria* (EPA, 1989)
- *SEPP N-1 and NIRV Explanatory Notes* (EPA, 2011)
- *Noise from Industry in Regional Victoria* (EPA, 2011)

General Assessment:

Council must make a determination with regards to the key issues of this application, and whether on balance the application achieves net community benefit as required by Clause 10.01. Clause 10.01 on integrated decision making states:

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However in bushfire affected areas, planning authorities and responsible authorities must prioritise the protection of human life over all other policy considerations.

It is considered that the key issues relating to the application are:

- Is the proposal appropriate with regards to the relevant Clauses of the State and Local Planning Policy Framework (SPPF and LPPF) and the relevant objectives and decision guidelines of the Farming Zone?
- Does the proposal address potential environmental impacts and risks and are the potential amenity impacts of the application acceptable?
- Are any potential temporary amenity impacts offset by any potential social or economic benefit to the community?

These issues are discussed in turn below.

Is the proposal appropriate with regards to the relevant Clauses of the State and Local Planning Policy Framework (SPPF and LPPF) and the relevant objectives and decision guidelines of the Farming Zone?

SPPF:

12.01-1 Protection of biodiversity

The Objective is:

To assist the protection and conservation of Victoria's biodiversity.

The relevant Strategy is:

Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity.

Lace Monitor Lizard

Pursuant to Clause 12.01 of the State Planning Policy Framework, consideration must be given to any Statewide biodiversity information maintained by the Department of Environment, Land, Water and Planning (DELWP). Council has received a number of submissions relating to the Lace Monitor Lizard (*Varanus Varius*). The Lace Monitor is found within eastern and south-eastern Australia; with a distribution from Northern Queensland to Gippsland, and as far west as the Murray River mouth in South Australia².

The Lace Monitor is listed as threatened in the Department of Sustainability and Environment (now a part of DELWP) document '*Advisory List of Threatened Vertebrate Fauna in Victoria*' (2013).

While Council acknowledges that the bushland within and around the subject site could provide habitat for *Varanus Varius*, its presence within the site has not been confirmed by Council Officers. Furthermore, its presence does not automatically suggest that it would be adversely affected by the proposed activities that would last for 3 days a year. The information available to Council regarding its habitat, behaviour, diet and breeding, suggests that the proposed activities would be unlikely to have an adverse effect on the species. This is because the Lace Monitor is arboreal (lives in trees) and its habitat (trees) are not proposed to be removed as part of this application. Existing tracks are proposed to be utilised for the race track. Lace Monitors often seek shelter from heat and cold within tree hollows or logs. No trees hollows or logs are located on the track or proposed to be disturbed. Their diet is not being affected. Lace Monitors are usually solitary species but can come together to breed in spring or early summer. In theory, the timing of the proposed events could coincide with the breeding of the species. However, the species is known to lay their eggs in termite mounds to be incubated. Whilst it is possible that they may incubate them in other ways, it is unlikely. Nevertheless, whether they are incubated in termite mounds or not, either method of incubation would be unlikely to be disturbed by the proposed activities.

Obviously, it would be possible for individual Lace Monitors to be struck by a motorcycle during the event (direct impact). However, this is considered as likely as vehicles using existing roads in the vicinity of its habitat colliding with one (i.e. low given that there have been no reports or sightings of Lace Monitors being struck by vehicles in this area). In this case, without evidence of the presence of *Varanus Varius* within the bushland of the subject site being provided and subsequent consideration as to how it may be affected by the proposal (both as a species as a whole and individuals), it would be inappropriate to refuse the application on this basis.

² Cogger, H, 2000, '*Reptiles and amphibians of Australia*', 6th ed. New Holland, Sydney.

Other Flora and Fauna Impacts

As previously noted, the application does not seek approval for any development or vegetation lopping. The application before Council is to *use* the land for a motor racing track. It would follow from this that habitat loss would be little to none; potentially limited to damage to the bush understorey if a motorcycle rider was to lose control.

While it is possible that fauna may experience a level of distress from the noise generated by motorcycle racing, no evidence has been provided that demonstrates what this may be. It is likely that any animals affected by the temporary noise may relocate temporarily, such as birds, or take shelter. Either way, the proposal is not considered to have significant effect on flora and fauna. It should be acknowledged that vehicles (including motorcycles) use areas such as national parks or other race tracks adjoining or within vegetation, without leading to harm or extinction of animals. It may be that such activities have a temporary effect on the behaviour of animals, but it does not translate to an unacceptable effect that the animal cannot adapt or respond to. If a certain species was only identified in this area was so negatively affected, then it may lead to refusal of the application on this ground. However, no species appear to be endemic to this area alone, or so adversely affected that it would threaten its survival and therefore warrant refusal.

It is also noteworthy that as the site is greater than 40 hectares, the use of the land for a dwelling would not require a permit. As the site is covered by the BMO, it would be expected that the development of a dwelling on the land would result in a significant loss of vegetation, which would be exempt from planning permission.

Council acknowledges and appreciates the biodiversity value of the site (which can be seen in image 4 below), and recognises the significant community interest in ensuring the preservation of the site. However, as this application does not propose any development component, including the felling of trees or other vegetation, there is insufficient grounds to refuse the application on the basis that the proposed use would lead to unacceptable environmental impacts.

Given the nature of the application, it is considered appropriate that should a permit issue, strict conditions relating to the protection of existing vegetation be placed on such permit. This could be achieved through a mechanism such as a 'Trust for Nature' covenant or Section 173 agreement to ensure that any potential environmental impacts are minimised.

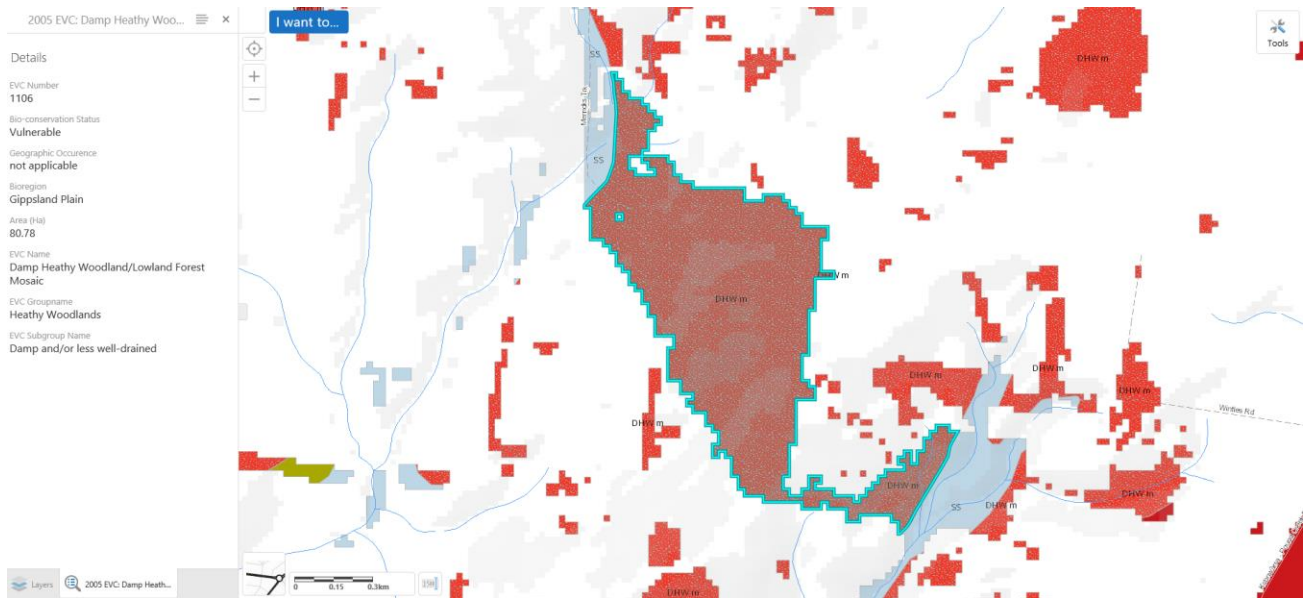


Image 4: Biodiversity value of the site. Source: Department of Environment, Land, Water and Planning.

13.04-1 Noise abatement

The objective of this clause is:

'To assist the control of noise effects on sensitive land uses'.

The Strategy is:

Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Within Victoria, there is no specific or adopted standard or guidelines for motorcycling noise emissions. State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) [SEPP N-1] is considered to be the most suitable comparative noise standard with regards to this application. The suitability of this standard in considering motor racing applications has been affirmed in previous VCAT matters³.

The standards of SEPP N-1 are detailed below; and have been applied to this application.

³ Williams v Horsham Rural CC [2010] VCAT 304 – Paragraph [28]

Planning zone for noise-receiving location

Receiving zone →	<input type="checkbox"/> Green Wedge A <input type="checkbox"/> GWAZ <input type="checkbox"/> Rural Conservation RCZ <input type="checkbox"/> Rural Living RLZ	<input type="checkbox"/> Low Density Residential LDRZ <input type="checkbox"/> Public Conservation and Resource PCRZ <input type="checkbox"/> Public Park and Recreation PPRZ <input type="checkbox"/> Public Use 2,5 PUZ <input type="checkbox"/> Urban Floodway UFZ	<input type="checkbox"/> Farming FZ† <input type="checkbox"/> Green Wedge GWZ <input type="checkbox"/> Residential 1 R1Z <input type="checkbox"/> Residential 2 R2Z <input type="checkbox"/> Residential 3 R3Z <input type="checkbox"/> Rural Activity RAZ <input type="checkbox"/> Township TZ <input type="checkbox"/> Urban Growth UGZ‡	<input type="checkbox"/> Business 1 B1Z <input type="checkbox"/> Business 2 B2Z <input type="checkbox"/> Business 5 B5Z <input type="checkbox"/> Comprehensive Development CDZ‡ <input type="checkbox"/> Mixed Use MUZ <input type="checkbox"/> Priority Development PDZ‡ <input type="checkbox"/> Public Use 1,3,4,6,7 PUZ <input type="checkbox"/> Road RDZ	<input type="checkbox"/> Industrial 3 IN3Z <input type="checkbox"/> Special Use SUZ‡	<input type="checkbox"/> Business 3 B3Z <input type="checkbox"/> Business 4 B4Z	<input type="checkbox"/> Industrial 1 IN1Z <input type="checkbox"/> Industrial 2 IN2Z	
Generating Zone ↓								
Planning zone for noise-generating use	▶ Low Density Residential LDRZ ▶ Public Conservation and Resource PCRZ ▶ Public Park and Recreation PPRZ ▶ Residential 1 R1Z ▶ Residential 2 R2Z ▶ Residential 3 R3Z ▶ Urban Floodway UFZ	Day: 45 Evening: 37 Night: 32	Day: 45 Evening: 39 Night: 34	Day: 45 Evening: 40 Night: 35	Day: 47 Evening: 42 Night: 37	Day: 48 Evening: 43 Night: 38	Day: 50 Evening: 45 Night: 40	Day: 53 Evening: 48 Night: 43
	▶ Business 5 B5Z ▶ Farming FZ† ▶ Green Wedge GWZ ▶ Green Wedge A GWAZ ▶ Public Use 2,5 PUZ ▶ Rural Activity RAZ ▶ Rural Conservation RCZ ▶ Rural Living RLZ ▶ Urban Growth UGZ‡	Day: 45 Evening: 38 Night: 33	Day: 45 Evening: 40 Night: 35	Day: 46 Evening: 41 Night: 36	Day: 48 Evening: 43 Night: 38	Day: 50 Evening: 45 Night: 40	Day: 52 Evening: 47 Night: 42	Day: 54 Evening: 49 Night: 44
	▶ Business 1 B1Z ▶ Business 2 B2Z ▶ Comprehensive Development CDZ‡ ▶ Mixed Use MUZ ▶ Priority Development PDZ‡ ▶ Public Use 1,3,4,6,7 PUZ ▶ Road RDZ ▶ Township TZ	Day: 45 Evening: 40 Night: 35	Day: 47 Evening: 42 Night: 37	Day: 48 Evening: 43 Night: 38	Day: 50 Evening: 45 Night: 40	Day: 52 Evening: 47 Night: 42	Day: 53 Evening: 48 Night: 43	Day: 55 Evening: 50 Night: 45
	▶ Industrial 3 IN3Z ▶ Special Use SUZ‡	Day: 46 Evening: 41 Night: 36	Day: 49 Evening: 44 Night: 39	Day: 50 Evening: 45 Night: 40	Day: 52 Evening: 47 Night: 42	Day: 53 Evening: 48 Night: 43	Day: 55 Evening: 50 Night: 45	Day: 56 Evening: 51 Night: 46
	▶ Business 3 B3Z ▶ Business 4 B4Z	Day: 48 Evening: 43 Night: 38	Day: 50 Evening: 45 Night: 40	Day: 52 Evening: 47 Night: 42	Day: 54 Evening: 49 Night: 44	Day: 55 Evening: 50 Night: 45	Day: 56 Evening: 51 Night: 46	Day: 57 Evening: 52 Night: 47
	▶ Industrial 1 IN1Z ▶ Industrial 2 IN2Z	Day: 50 Evening: 45 Night: 40	Day: 52 Evening: 47 Night: 42	Day: 53 Evening: 48 Night: 43	Day: 55 Evening: 50 Night: 45	Day: 56 Evening: 51 Night: 46	Day: 57 Evening: 52 Night: 47	Day: 58 Evening: 53 Night: 48

† In the Farming Zone, where the noise-emitting subject agricultural activity is 'intensive', then an adjustment of +3 dB should be applied to the determined Zone Levels to reflect amenity expectations of locally intense farming activities. Intensive farming activities are agricultural activities under the planning scheme (Clause 74), including horticulture and timber production, but not:

- 'extensive animal husbandry'
- 'apiculture'
- other 'crop raising'.

Image 5: NIRV recommended maximum noise levels. Source: Environment Protection Agency

Day:	Monday-Friday (0700–1800), Saturday (0700–1300)	46 dB(A)
	Saturday (1300–1800)	41 dB(A)
	Sunday and public holidays (0700–1800)	41 dB(A)
Evening:	Monday-Sunday (1800–2200)	41 dB(A)
Night:	Monday-Sunday (2200–0700)	36 dB(A)

Image 6: NIRV recommended maximum noise levels in the farming zone adjusted for time of day. Source: Environment Protection Agency

The nearest dwelling to the proposed motorcycle track course will be approximately 350 metres at its closest point. While dwellings do not always provide support to agricultural activities in the farming zone, they are a form of sensitive land use and consideration must be given to them as existing and legitimate land uses in the zone that deserve a reasonable level of amenity.

Consequently, due to the potential for motorbike noise to create amenity impacts on a number of dwellings, Council requested the applicant obtain an acoustic assessment to demonstrate the impact of the proposed use. This report was submitted to Council on 18 April 2018, and notification of this assessment commenced on 20 April 2018. A number of objectors have expressed doubts about the veracity of the assessment.

Council similarly believes that the report contains a number of faults and omissions, which include:

- Ambient/background noise levels were derived from an unattended noise monitoring device more than 500 metres away from the subject land and may not be representative of the site. Even if they are representative of the site levels, the report does not adequately explain or detail why this would be appropriate in the circumstances.
- The background noise levels that are provided in the report suggest that the existing noise levels are very low, “in the order of 28-30db(A) L₉₀” (Page 5). This would obviously have the effect of making any new noise source more noticeable and potentially more of an effect on existing amenity.
- No noise-monitoring receiver was placed within the racetrack area and the type of device used at the noise sensitive receptors is not stated. This is assuming that the assessment is not based on actual noise from motorcycles being generated during the monitoring/assessment period. It is assumed this is because the noise modelling is based on existing data that the consultant has for motorcycles that represent the anticipated noise to be generated. However, this is not made clear.
- The method used to calculate predicted noise levels at the noise sensitive receivers has not been shown.
- Raw data regarding noise levels was not provided with the report, nor the underlying methodology used.
- It is considered disingenuous to imply that an average speed of 24km/h provides a mitigating effect. Racetracks by nature are subject to sharp acceleration and deceleration of vehicles (increase and decrease in engine RPM), with a corresponding effect on sound levels.
- The report fails to explain how a test of 7 motorcycles translates into the expected or modelled noise generated by 50 motorcycles. Noise is measured in logarithmic units not linear, therefore it is acknowledged that 50 motorcycles will not translate

to 7 x the noise level than expected from 7 motorcycles. However, the applicant has not detailed how this has been modelled/determined.

- The report does not specify the make, model or engine capacity of the tested motorcycles. It makes a general statement regarding the type of motorcycle that the applicant envisages to be used in racing, but it is unclear whether the tested/modelled bikes will be representative of those to be used at the track.
- No information is provided about the particulars of the site in terms of contours/topography and the effects that this may have on travelling sound. It should be noted that vegetation is not a particularly good form of noise attenuation because it is not a solid barrier (save for trunks of trees) and sound can travel through it.
- The report fails to adequately address how a significantly lower noise level can be obtained at noise sensitive receivers than the ambient background noise determined.
- No allowance is provided for the frequency of noise from the racetrack (how often/repetitive the sound is). Based on the SEPP N-1 standards, an increase of 2-5 db(A) should be factored in to provide for noise of this nature.
- No allowance is provided for noise generated by public address systems, spectators and crews, and the compounding effects this may have.
- Effect of prevailing meteorological conditions (wind direction or times of no wind and inversions) on noise levels at different sites has not been undertaken – the assessment is a snapshot of conditions at the time of assessment.
- The modelled noise level of 44-48 db(A) L_{eq} at a dwelling less than 350 metres away, generated by 50 motorbikes racing appears to be unrealistic. Firstly, this is because that noise level suggests that the noise generated by 50 motorcycles racing each other will be similar or equivalent to existing background noise levels in the area, without any motorcycle racing noise. Secondly, the site is not in an area that has higher than expected background noise levels due to other sources. This means that there would be no masking of the noise source due to other noise sources. Thirdly, there is no physical barrier between the noise source and receiver such as a solid fence or earthen mound. Fourthly, comparing the expected noise from the source to other developments (industry) which generate similar noise levels, it is difficult to see how this would not travel further if in those other experiences the noise does travel further, unless attenuated. Whilst all this could be explainable, the report does not provide a clear explanation for the purported noise drop off.

In the event that the above points can be addressed to show that the noise readings and analysis provide an accurate assessment, Council notes that the assessment as submitted fails to comply with SEPP N-1 guidelines in the farming zone; namely recommended noise levels for dwellings of 46db(A) (7am-1pm Saturday) and 41db(A) (1pm-10pm Saturday; 7am-10pm Sunday).

These concerns have been somewhat supported by a second noise assessment provided to Council, undertaken by JTA Health, Safety and Noise. This report has been commissioned by an objector to the proposal. This report, while not addressing all of the concerns raised regarding the noise assessment by Watson Moss Growcott, is considered to be more reflective of the expected noise levels from the motor racing track. This is based on the following:

- Adjustments have been made for tonal and impulsive noise.
- Noise monitoring was undertaken in the track area.
- Allowance is made for motorbike acceleration, deceleration and topography.
- The raw data has been provided with the report.

The expected noise impacts detailed in this report can be seen below.

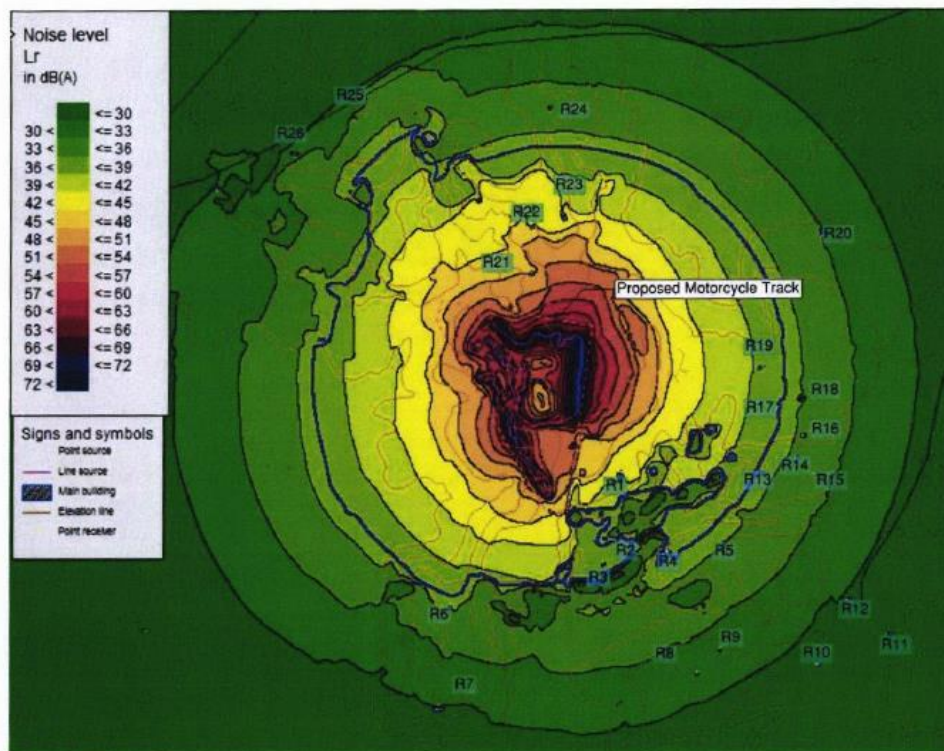


Figure 5.3 – Noise Contour Map of Proposed Motorcycle Track

It can be seen from the noise contour map that the uphill straight on the eastern section of the track generates the highest noise levels.

Image 7: Projected noise impacts from JTA report. Source: JTA Health, Safety and Noise

Table 6.1 – NIRV Predicted Compliance			
Location	Modelled Noise Level dB(A)	NIRV Compliance?	
		Day Noise Limit 46 dB(A)	Evening Noise Limit 41 dB(A)
R1	48	No	No
R2	41	Yes	Marginal
R3	43	Yes	No
R4	42	Yes	No
R5	41	Yes	Marginal
R6	41	Yes	Marginal
R7	34	Yes	Yes
R8	36	Yes	Yes
R9	36	Yes	Yes
R10	33	Yes	Yes
R11	32	Yes	Yes
R12	34	Yes	Yes
R13	41	Yes	Marginal
R14	40	Yes	Yes
R15	39	Yes	Yes
R16	40	Yes	Yes
R17	43	Yes	No
R18	40	Yes	Yes
R19	43	Yes	No
R20	37	Yes	Yes
R21	53	No	No
R22	51	No	No
R23	49	No	No
R24	39	Yes	Yes
R25	39	Yes	Yes
R26	38	Yes	Yes
R27	33	Yes	Yes
R28	31	Yes	Yes

Image 8: Projected noise impacts at receiver locations (1-28). Source: JTA Health, Safety and Noise

In *Monea v Binding* [2007] VCAT 1063, Watson Moss Growcott Acoustics (the consultants commissioned to conduct the applicant's acoustic assessment) submitted to the tribunal:

73. Mr Goddard explained that people normally do not notice a change by 1dB(A). A change in 3 dB(A) is '*just noticeable*'. A change (sic) in 5dB(A) is clearly noticeable. A change (sic) in 10dB(A) is experienced as a perceived doubling of noise or loudness.

[Tribunal emphasis]

Based on the noise assessment conducted by JTA Health, Safety and Noise, an increase of 23-25 db(A) would be experienced at the closest dwelling.

On balance, Council considers that the applicant has failed to demonstrate the true potential noise impacts of the proposal; or why these noise levels (that would otherwise be above the relevant guidelines for the Farming Zone) are acceptable in this instance. It has also failed to demonstrate that the amenity impacts on nearby dwellings can be appropriately mitigated.

In considering amenity of neighbouring landowners and land use conflicts, consideration is given to the conclusion reached in *Motorcycling Australia v Surf Coast SC [2013] VCAT 1388*, with the tribunal finding:

140. Even with conditions seeking to manage noise that can lawfully and reasonably be included on a permit, we are not satisfied that:

The conditions sought by the parties would adequately limit the amenity impacts arising for all landowners in the area (including some who are not parties to these proceedings).

141. Should these matters be over-ridden by the desire to achieve certainty with respect to the operation of McAdam Park, given the history of conflict and dispute that clearly is giving rise to tensions and mindful of the several protracted, costly and emotionally-wearing proceedings that have already been required? We have concluded "no". *We do not believe it is an appropriate exercise of our discretion to grant a permit that represents a poor long term planning outcome because it does not or cannot sufficiently limit or manage the potential for conflict.*

[Emphasis added]

Given the zoning of the land, it is reasonable for surrounding landowners to be affected by noise generated by agricultural activities within the Farming Zone. Such noise associated with farm equipment and dust associated with farming enterprises would be a reasonable expectation for other nearby activities. However, the application seeks to impose noise emissions on nearby land which are significantly greater than those associated with farming operations. While these emissions would be an irregular occurrence, they are likely to cause significant amenity impacts on nearby residents for an extended period of time during each event. The characteristics of the site provide minimal opportunity for noise suppression to mitigate these impacts or for the layout to be altered to provide larger distances of land use separation.

13.04-2 Air quality

The Objective is:

To assist the protection and improvement of air quality.

The Strategy is:

Ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses.

It is considered that the proposed land use is sufficiently separated from adjoining sensitive land uses to ensure that any dust generated by the proposed use is unlikely to affect the amenity of those sensitive uses. This is primarily because the closest dwelling is approx. 350m from the track and it is separated by significant stands of vegetation, which help reduce the amount of fugitive dust escaping from the site. In addition, it is considered that if a permit was issued, an appropriate condition could require that the track or operation incorporate suitable dust suppression techniques to the satisfaction of the responsible authority.

13.05-1 Bushfire Planning

The objective of this clause is to:

'To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life'.

The strategies of this clause are:

Give priority to the protection of human life by:

- *Prioritising the protection of human life over all other policy considerations.*
- *Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.*
- *Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision-making at all stages of the planning process.*

Whilst the protection of human life from bushfire is to be prioritised over other policy considerations, this should not be at the expense of all other policy objectives. In other words if the risk from bushfire can't be appropriately minimised whilst balancing other objectives the use or development should not be approved.

As no works are proposed, the use does not trigger a permit under the BMO. However, as large numbers of people will congregate in the area and a risk of bushfire remains, the application was referred to the CFA for comment. As a result of this referral, the CFA have

recommended that Council place a number of conditions on any permit that may issue. It is considered that these conditions have appropriately responded to the risk of bushfire.

Farming Zone

The purpose of the Farming Zone is to:

- Provide for the use of land for agriculture;
- Encourage the retention of productive agricultural land;
- Ensure that non-agricultural uses do not adversely affect the use of land for agriculture.

While applications must have regard for the purpose and decision guidelines of the zone; the use of farming zone land for non-agricultural activities is not prohibited. Consideration must be given to whether the application would be likely to create adverse impacts on future opportunities for agricultural production and/or create land use conflicts that could threaten the ongoing viability or limit the expansion of nearby agricultural operations.

A number of objections received regarding the application relate to the effects of noise on surrounding agricultural activities. This issue has previously been examined in *Goulburn Valley Junior Motor Cross Club Inc v Greater Shepparton CC [2005] VCAT 2049*, where the tribunal found:

40. Further, there was nothing presented to show that the proposed use would compromise the potential for surrounding rural land to continue to be used for agricultural purposes. The activities associated with the proposed use would occur on a very limited number of days, 12 days of 365 in the year. I doubt that this level of activity would compromise the ability for the surrounding rural land to continue to be used for its current purpose or some other agricultural use.

[Emphasis added]

As noted, the application does not propose an agricultural use. However, policy support can be found in the decision guidelines of the Farming Zone. This is based on the following:

- The farming zone is an appropriate location for a use of this nature, as farming zone lots provide sufficient land area, and in some cases appropriate buffers from incompatible or sensitive land uses.
- While the application would not provide for an improved agricultural outcome for the land, it is also unlikely to detract from its agricultural potential. A majority of the site contains extensive vegetation cover, save for the paddocks proposed for the car parking area. The temporary parking of vehicles on those paddocks for up to 3 days per year is unlikely to affect the ability to retain or protect agricultural land.

- Motor racing activity will be limited to a few days a year, reducing cumulative impacts from continued activity on the site and surrounding environs.
- The application provides for the rehabilitation of agricultural land (paddocks), which could be impacted by activities conducted in association with the proposed use.
- The proposed use is unlikely to render any surrounding agricultural land unviable.
- The site makes use of existing infrastructure and does not require service connections.
- The use will not permanently remove land from agricultural production.

The proposal is considered to be generally consistent with and acceptable having regard to the relevant SPPF, LPPF and Farming Zone provisions, except for Clause 13.04-1 regarding noise abatement. As discussed above, the proposal is not considered to sufficiently address Council's concerns regarding the effect of noise on sensitive receptors (dwellings) in the locality. Council's concerns regarding the applicant's noise assessment are supported by a noise assessment that was carried out by another qualified and experienced acoustic specialist who was engaged by one of the objectors. Whilst the EPA response was not particularly helpful, Council considers that it has reasonable expertise internally to assess the veracity of both reports before it, without having to engage another specialist to carry out an assessment.

Does the proposal address potential environmental impacts and risks and are the potential amenity impacts of the application acceptable?

As discussed above, it is considered that main potential impacts and risks associated with the proposal are:

- Biodiversity impacts on flora and fauna;
- Noise and dust impacts
- Potential bushfire threat to the users of the site or on adjoining owners as a result of the proposed use of the site.

Of those discussed and listed above, it is considered that the proposal does not adequately address the likely noise impacts of the proposal and that they are not likely to be acceptable even if a suitable report was prepared. It is considered that the other potential impacts are either insignificant or could be mitigated via imposition of appropriate conditions.

Are any potential temporary amenity impacts offset by any potential social or economic benefit to the community?

Council considers that the potential amenity impacts are not offset by any potential social or economic benefit to the community. The applicant suggests that the use will result in

wider community benefits, similar to other large events held within the shire. However, this is not considered likely by Council Officers, for the following reasons:

- The event will draw a total of 450-550 people, including participants;
- It is proposed to have food vans provide catering on the site;
- Most equipment and supplies will be brought by people to the site and not purchased during the event at local outlets;
- The use caters to a niche interest group and is unlikely to attract a wider community audience.

Consequently, it is considered that the proposal overstates the potential benefits that would flow to the community versus the potential adverse effects if the application were to be approved.

By comparison to some of the larger events in the Shire that may have an adverse effect on parts of the community, this proposal is not considered to attract the same volume of people (thousands) and therefore would not carry the same economic or social benefit of some of those larger proposals. It should also be noted that some of those larger proposals have been accompanied by assessments that allow Council to properly assess the potential impacts on the community or environment and then make an informed decision. In this instance, the same cannot be said.

Section 60(1B) of the *Planning and Environment Act 1987* directs that:

The responsible authority must (where appropriate) have regard to the number of objectors in considering whether the use or development may have a significant social effect.

Council considers that all 41 objections received have been validly made with regards to Section 57 of the *Planning and Environment Act 1987*. It is acknowledged that this is a significant number of objections for a single application within the Shire, which would indicate that the application may have a significant social effect. However, it should be noted that the sheer number of objections in this particular instance is not considered to be the determining factor regarding assessment of whether it may have a significant social effect. That is because of the 41 objections, it is considered that only some would be directly affected due to their proximity. Some of the objectors live in other parts of the State and would not realistically be affected by the proposal.

The objections received are summarised and responded to as follows:

- **Adverse environmental impacts including distressing of wildlife**

As discussed previously, the application does not have a development component. It follows that no habitat loss would be experienced (notwithstanding previous clearing that has occurred). While noise can impact fauna, no evidence has been provided to support the assertion that the event will significantly or irreversibly affect the fauna or flora on the site.

It is noted that Council would be unlikely to support the clearing of vegetation on this site if an application were made (unless it was for the purpose of constructing a reasonably sited dwelling, having regard to the bushfire provisions of the planning scheme).

- **Noise and amenity impacts**

As referred to previously, these concerns are shared by Council's planning department. The noise assessment submitted with the application fails to satisfy these concerns.

- **Fire risk**

As part of the application process, advice was sought from the Country Fire Authority regarding potential fire risk. It is considered that the fire risk could be appropriately managed through permit conditions.

- **Site safety and access restrictions**

Council's engineering department have considered the application and have raised no objection regarding access issues. Site safety can be managed through appropriate permit conditions.

- **Future intensification of the use & potential unauthorised use**

Council is required to assess the application before it. Conditions can be placed on a permit to limit use, and to ensure future intensification of the use would be subject to further consideration by Council.

- **Previous illegal event and clearing**

Past actions on the site have been investigated and dealt with by Council in accordance with its policy. Council cannot use these matters to prejudice the application before it.

- **Lack of information provided with the application**

These concerns are in part shared by Council's planning department, in particular the noise impacts. The application has failed to provide sufficient justification and evidence to support the proposed use and demonstrate that the amenity impacts can be managed.

- **Farming Zone land use conflicts and repurposing of the land**

Council acknowledges that uses of this nature have the potential to create land use conflicts, however the Farming Zone is an appropriate location for this type of application. As previously discussed, the use of this site for motor racing is unlikely to be an impediment to ongoing farming activities in the area. The subject site is predominately bush and is not conducive to farming activity.

- **Health and wellbeing impacts**

It should be clarified that the Planning Scheme does not specifically require assessment of the potential impact of this proposal on health and wellbeing. Whilst the proposal would be likely to generate some dust, this could be mitigated and would be unlikely to affect the health and wellbeing of adjoining uses. Health and wellbeing is regulated by other legislation. However, Council does share concerns that the impact of noise may have on amenity. The application has failed to provide sufficient justification and evidence to support the proposed use and demonstrate that the amenity impacts can be managed.

- **Better existing alternative locations**

This is not a relevant planning consideration. The presence of existing motor racing tracks does not preclude future use and/or development of same on this land. Nor, is it relevant that another site may or may not be more suitable than this one. Applications must be considered on their merits, with consideration to be given to the individual site context. Council is being asked by the applicant to consider this site, not other sites.

- **Business impacts on Leongatha Golf Club**

This is not a relevant planning consideration with regards to this application. It is also not clear how the proposal would impact on the business at the Leongatha Golf Club.

- **Doubts regarding purported community benefits**

Council shares concerns that the application has failed to substantiate the calculations used to justify the claimed community benefits relating to economic activity and tourism associated with the proposal. If Council did not have such significant concerns relating to the noise assessment, it would be more likely to consider that the economic or community benefits (even if minor) would weigh in favour of the application being approved.

- **Doubts regarding the stated number of people on site**

This could be controlled through appropriate permit conditions.

- **Rehabilitation of the land**

The application has provided some information as to rehabilitation of the land and smudging of the track area. As no works are proposed, it is likely that minimal rehabilitation outside of the track and parking area would be required.

- **Damage to infrastructure such as fencing**

Damage to fences and other private property are matters between private persons.

- **Land contamination**
No evidence has been provided to support a claim that this use will result in land contamination issues. It is possible that some localised contamination could occur although this is unlikely given regulations and the ability to condition and control such matters.
- **Inadequate public notification**
The notice periods have been undertaken in accordance with the requirements of the Planning and Environment Act. The general public often misunderstands or misreads the notice letter or newspaper notices and believe they have less time to object than they actually do. A number of objections have been received after the formal notice period and have been considered as part of this assessment.
- **Business impacts on Bed and Breakfast(s) in the area**
This is not a relevant planning consideration with regards to this application. It is also not clear how the proposal would impact on the business. The impact could be either positive or negative, depending on whether the users or spectators of this proposed site wish to stay at the other business.
- **Rubbish and waste management**
This could be controlled through permit conditions.
- **Emergency management**
This could be controlled through permit conditions.
- **Issues with application form**
This is not a decisive factor in the assessment of the application.
- **'Common Sense' decision**
This appears to be a philosophical position. Consideration must be had to the relevant Planning Scheme requirements.

Conclusion and recommendation:

Clause 10.01 emphasises the need to achieve net community benefit and sustainable development outcomes for the benefit of present and future generations. As discussed in this report, the approval of the application would be likely to cause detriment to other persons. This is compounded by a site which prevents appropriate mitigation measures to be implemented without creating other planning issues. This detriment is not offset by the purported benefits that the application contends would result if it were approved.

As a general rule the farming zone would represent a location where this land use would be acceptable. However, in this instance the amenity impacts likely to be experienced and uncertainty regarding whether these impacts can be mitigated are considered to be fatal to the permit application.

Having considered the matters under Section 60 of the Planning & Environment Act 1987, Council considers that on balance, the proposed use is not appropriate and cannot be managed through appropriate conditions.

It is recommended that a notice of refusal be issued for **Use land for a motor racing track (events)**, for the following reasons:

1. The noise assessment submitted by the applicant is not considered to adequately assess the potential amenity impacts on nearby sensitive receivers. The potential impact is considered to be understated. Therefore, Council cannot appropriately consider the likely impacts on the community and whether they would be acceptable having regard to the potential benefits. As a result, the proposal is not considered to result in the orderly and sustainable development of land and is not considered to achieve net community benefit as required by clause 10.01 of the Planning Scheme.
2. The use is considered to exceed the relevant noise criteria under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (in metropolitan Melbourne) and Noise from Industry in Victoria (NIRV). Therefore, it is considered contrary to the objective and strategy of clause 13.04-1 – Noise abatement of the Planning Scheme.
3. The use is considered to result in unreasonable amenity impacts on nearby dwellings by way of noise which is unable to be mitigated through permit conditions.