



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

July 12 2005

**DSDS1 RALLY CAR DRIVER TRAINING FACILITY
FILE: T6-05-158 GGL**

This application was considered at Council's Meeting of 14th June 2005 and was the subject of a Works Committee Inspection held on 20th June 2005 with the following recommendation:

RECOMMENDATION:

That the application be referred to the next Council meeting recommending the application be refused for the following reasons:-

- 1 Inadequate provision has been made in respect to the proposed means of access to the development.
- 2 The proposal is likely to result in unacceptable impacts on the amenity of the area by means of noise.

Note: Since the Works Inspection on 20th June 2005, Council has received a submission from Forest NSW stating that they are prepared to grant consent to allow the proposed development to be accessed via McIlwains and O'Learys Roads under an Occupation Certificate Tenure under the Forestry Act. [\(Appendix A\)](#)

SUMMARY:

Reporting that Council has received a development application to establish a Rally Car Driver Training Facility to be held seven (7) days a week, for which eleven (11) objections have been received.

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Applicant: Hopkins Consultants
Owner: Ian & Margaret O'Leary
Subject Property: Lot 1 DP 1017148, 31 O'Learys Road,
Kundabung [\(Appendix B\)](#)
Zone: 1(A1) Rural A1 Zone

Background:

Council previously approved development application T4-95-42 on Lot 1 DP 628804 in April 1995 to establish a Motor Cycle Track to hold six (6) moto cross events per calendar year and other off road activities such as horse riding and mountain bike riding.

Development Consent T6-04-281 was granted in March 2005 to subdivide the land into three (3) lots, which has not yet been acted upon.

In this current proposal the applicant has indicated that the Rally Car Driver Training Facility will use the same track layout as the previously approved moto cross track T4-95-42. The proposed driver training facility will operate between the hours of 10.00am and 5.00pm seven (7) days a week annually. The facility will employ two (2) staff and its envisaged that a maximum number of ten (10) people will visit the site daily.

Heads of Consideration

The proposal has been examined having regard for the Heads of Consideration identified under Section 79 C (1) of the Environmental Planning and Assessment Act 1979 with the following matters to be of particular relevance to the proposal.

Kempsey Local Environment Plan 1987 and North Coast Regional Environmental Plan 1988

The proposed Rally Car Driver Training Facility may be defined as a "recreational area" under Kempsey Local Environmental Plan. It is considered that the proposal operating in accordance with development controls, would not conflict with the objectives of the rural zone and is permissible with consent.

The objectives of the 1(A1) Rural Zone of the Kempsey Local Environment Plan are to:

- Predominantly provide for agricultural use
- Preserve the visual amenity of the land
- Provide for compatible tourist and industrial uses.

It is considered that the proposed development will not cause a loss of prime crop or pasture land and is therefore consistent with the North Coast Regional Environmental Plan 1988.

Department of Environment and Conservation (DEC)

Whilst the development application is not identified under the Environmental Planning and Assessment Act as integrated development, the Department of Environment and Conservation was given notice as a neighbour of the proposal. The DEC's submission states that site and surrounds are in the DEC Key Habitats and Corridors Study as being high conservation. As no clearing is proposed as part of this application, it is considered that there will be no significant effects. See "Flora and Fauna" [\(Appendix C\)](#)

Forests NSW

Forests NSW objects to the proposal by reason that the proposal is a commercial venture that appears to rely on State Forest access roads and that the proposed facility may attract irresponsible use of rally cars on State forest. The access route for the proposed driver training facility is via Old Coast Road, which is a Council road and maintained by Council. Access from Old Coast Road to the location of the proposed development is via an access handle contained within the lot and privately owned. There is no evidence to support the statement that irresponsible driving of rally cars on State Forest road will occur as a result of the proposal. [\(Appendix D\)](#)

Access, Transport and Traffic

The applicant now proposes to enter into an agreement with Forests NSW for the use of McIllwains and O'Learys Road. Forests NSW have made a submission to the applicant stating that Forests NSW agree to take out an Occupation Permit Tenure under the Forestry Act for the purpose of providing access to the proposal.

Given the minimal capital investment, such an arrangement is considered to be adequate and a copy of the permit should be provided prior to commencement of the use.

Road contributions for Old Coast Road are payable given the likely number of vehicle movements to and from the site.

Based on an estimated maximum annual usage of the site, a contribution of 0.5 of an ET is considered appropriate.

Noise

The proposal has the potential to impact on a number of adjoining dwellings by reason of noise. The applicant's dwelling, located on the same land parcel is the nearest residence to the proposal at about 200 metres.

The application is supported with a noise impact assessment, which concludes that no adverse impacts will result from the operation of the proposal. However, it is considered reasonable to require ongoing noise monitoring of the driver training facility on a regular basis.

Air and Microclimate

The proposal has the potential to result in dust pollution should weather conditions be dry. It is considered reasonable that the applicant provide a water cart or similar dust suppression mechanisms to prevent excessive dust from becoming airborne through vehicles using the track. Dust management should be undertaken during its hours of operation. The management of dust suppression will be in accordance with the Protection of the Environment Operations Act.

Cumulative Impact on Amenity

If the proposal is poorly managed, and not conducted in accordance with the details supplied in the application, it has the potential to generate traffic along Old Coast Road, noise and dust impacts may lead to some loss of amenity, 'peace and quiet', and be of inconvenience for some residents in the area.

It is proposed to grant a 12 month limited consent to determine the ability of the operator to perform to the required standards, and use this measure to determine if the operation should continue.

Flora and Fauna

The proposed location of the driver training facility is generally clear of vegetation and no trees are required to be removed. The subject property has a history of uses ranging from logging to dairy farming and grazing.

Threatened species assessments were conducted on the subject site in 1995 and again in 2000, which revealed no threatened flora or fauna species present on the subject site.

As no trees are to be cleared, the location of the proposal is unlikely to have a detrimental impact upon the biodiversity of the subject land.

Public Exhibition

Adjoining property owners were notified of the proposal in accordance with Council's Public Notification Policy. Council received eleven (11) objections, which can be summarised as follows:

[\(Appendix E, Part 1, Part 2, Part 3, Part 4, Part 5, Part 6, Part 7, Part 8\)](#)

Objection	Planning Comment
1 Access to the site will be gained via Forest NSW Roads. The proposal will attract irresponsible driving on Forestry Roads.	1 Access to the site is via Old Station Road, which is a Council maintained road. Irresponsible driving on Forestry Roads cannot be reasonably attributable to this proposal and would continue whilst State Forests allows their use by the public.
2 There will be significant erosion and degradation of the land.	2 Council should impose a condition of consent to have the land maintained so that disturbed surfaces are stabilised to prevent degradation and incorporated in an environmental management plan.
3 From our property we can	3 The noise impact assessment

hear the Pacific Highway which 4.5km away. The noise assessment was conducted with only one type of vehicle, which may not be always used on the track.

- 4 Loss of amenity and 'peace and quiet' to both local residents and on the surrounding State Forests.
- 5 Fuel oil Storage may impact on the environment and may cause a bushfire.
- 6 The proposal will cause dust and petrol fume pollution
- 7 The proposal is contrary to the 1(a1) zone objectives and is prohibited.
- 8 The proposal will impact on flora & fauna.

demonstrates that EPA compliance can be achieved during the operation of the training facility. A condition of consent should require the applicant to continue noise monitoring including a program for frequency of monitoring and reporting results to Council.

- 4 A 12 month consent would determine if the use complies with the criteria detailed in the application, which is the basis of assessment for no significant impacts.
- 5 Safeguards should be included in any conditions of Consent for fuel storage to be managed safely.
- 6 Dust should be required to be managed and a detailed environmental management plan should be required including the means to control dust prior to commencement of the use. The vehicles are to be registered and meet traffic safety standards.
- 7 The definition of this land use development application may be defined as a "recreation area" and is permissible with consent.
- 8 The proposed driver training track will use an existing track and no trees are to be felled. There is no evidence to suggest that any long-

term disturbance to any threatened fauna is likely.

Conclusion

As evidenced in the Heads of Consideration above, there are a number of issues and potential impacts associated with the proposed driver training facility. However, if the use is conducted in accordance with details specified, these impacts are considered to be manageable. To test the performance of management, it is proposed to limit the use to an initial 12 month trial.

It is considered reasonable to require the applicant to furnish Council with a Plan of Management for the facility prior to the commencing the facility. Such a plan is to outline how the applicant will implement each condition of Consent and outline contingencies in the event of any hazard, incident or emergency.

Subject to compliance it is considered that the proposed development could be held in a safe and sustainable manner with manageable impacts on surrounding residents.

Should an approval be granted, compliance with conditions would be heavily weighted and carefully analysed when examining any future proposals of this nature.

REPORT IMPLICATIONS:

- ***Environmental***

There are no significant fauna and flora species associated with the location of the proposed development, however there may be impacts from noise and dust pollution. Increase traffic on Old Coast Road would result from the proposed development.

- ***Social***

The proposed development facility may impact on the amenity of the surrounding area. Appropriate management of the facility is considered necessary to ensure impacts are acceptable.

- ***Economic (Financial)***

The proposal will provide employment for two (2) employees. The operation of the facility may provide some indirect benefits to the economy of the Shire.

- ***Policy or Statutory***

The application as submitted has been assessed under Section 79 (c) of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

A That consent be granted subject to the following conditions:

- 1 This development consent is valid for a twelve month (12) period from the nominated date of commencement. A separate development application is required to be submitted to Council to continue the driver training facility at the competition of this development consent.**
- 2 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**
- 3 The hours of the driver training facility is restricted to 10.00am to 5.00pm daily.**
- 4 A detailed Plan of Management (in a single document) is required to be provided to Council incorporating the means of complying with all conditions of consent. The facility shall not proceed unless Council has provided written confirmation that all conditions have been adequately addressed.**
 - (a) Monitoring of the use at monthly intervals for the first 3 months, and then at 6 months and 12 months after the nominated date of commencement, is to be carried out by a suitably qualified acoustic consultant at the closest affected adjoining residence in**

accordance with Department of Environment and Conservation Guidelines and relevant legislation. A report is to be forwarded to Council indicating the results of the monitoring within 30 days of the end of the 12 month trial.

- (b) Sediment control devices are required to be installed to areas where stormwater can discharge from the track. Details of the means for compliance are to be included in the required Plan of Management.
 - (c) The applicant is to provide a water cart or similar dust suppression mechanisms along the entire length of track. Details of the means for compliance are to be included in the required Plan of Management.
 - (d) The applicant is to provide equipment and facilities suitable for the containment and clean-up of any petroleum products that are spilt. Details of the means for compliance are to be included in the required Plan of Management.
- 5 Following receipt of written approval of the required Plan of Management, the applicant shall provide written notice of the nominated date on which it is intended to commence the use.
- 6 All access to the facility is to be gained via McIlwains and O'Learys Roads.

Submission of written advice confirming that suitable arrangements have been made with Forests NSW in relation to access, prior to commencement of the use.

- 7 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.

- 8 The applicant is to demonstrate that the proposed access is capable of being constructed to a two wheel drive vehicle all weather standard i.e. five (5) metre formation width, with four (4) metre wide gravel pavement complete with drainage structures and longitudinal grades not exceeding 16%. A surveyors report is to be lodged with Council prior to the issue of the construction certificate demonstrating compliance with this condition.
 - 9 Should Council receive any complaint considered by Council to be justified regarding the operation of the driver training facility, the activity is to cease until such time as details of mitigation measures are submitted to Council and approved.
 - 10 Five car parking spaces are to be provided at a safe area away from the track.
 - 11 This consent does not authorise the construction of any building on the site, or any accommodation other than the permanent residents of the existing dwelling house.
 - 12 No driver training is to be carried out prior to/after the agreed dates.
 - 13 The applicant is to pay a contribution towards Old Coast Road. The current rate is \$10,948 a rate of 0.5 of an E.T. ie. $\$10,948 \times 0.5 \text{ E.T} = \$5,474$ (Indexed 2004/2005). This payment maybe deferred for 12 months and will be payable in the event that the use is approved to continue beyond 12 months.
- B That the objectors be advised of Council's decision.**

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K J Ward
ACTING DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES