



KEMPSEY
Shire Council

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

14th February 2006

**DSDS12 KEMPSEY MACLEAY OFF ROAD CLUB INC.
FILE: T6-05-608 GGL**

SUMMARY:

Reporting that Council has received a development application to stage an off road racing event to be held over two days annually for 8 (eight) years, for which objections have been received.



Applicant: Kempsey Macleay Off Road Club Inc.
Owner: Mr D F B and Mrs M R Kemp
Subject Land: Lot 12, 17, 16, 15, 14, 21, 20, 7, 12, 25, 23, 24,
 DP 752435, 701 Dungay Creek Road, Wittitrin
Zone: 1(A1) Rural A1 Zone

Background

Council previously approved development application T6-05-12 in April 2005 to stage a single off road racing event over one weekend on the subject land.

A condition of development consent T5-06-12 required Council officers to attend the event on both days to ensure compliance of development consent conditions. This also included monitoring environmental impacts such as dust and noise. A noise report was carried out by Environmental Resource Management (ERM). Monitoring by Council officers and the noise report demonstrated that the event operated in accordance with the relevant Guidelines. A post site inspection revealed that the circuit area had been rejuvenated by seeding grass. No evidence of soil erosion was present as a result of the off road racing event. **Note:** it should be noted that as wet conditions were experienced leading up to the previous meeting, dust

was not an issue and spectator numbers were relatively low, thereby not fully testing the adequacy of the facility.

In this current proposal the Kempsey Macleay Off Road Club Inc. have indicated that the event will be held over two (2) days for one weekend annually. The applicant seeks an eight (8) year development approval. The date of the event is scheduled for 2006 is 8 and 9 July, however this is subject to weather conditions.

It is proposed to use the existing circuit that was previously approved by Council. [\(Appendix M\)](#).

It proposed to hold the event in accordance with the Confederation of Australian Motor Sport (CAMS) Ltd. Event Public Risk Insurance is part of the CAMS Permit Authority to the amount of \$100,000,00.

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 proposal is permissible with the consent of Council under the Kempsey Local Environment Plan 1987.

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 an annual event, controlled in accordance with a management plan, would be consistent with the objectives of the rural zone.

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

Department of Infrastructure Planning and Natural Resources (DIPNR) – Concurrence Report

Pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 a development that is to be carried out within 40m of a natural water course or foreshore is "integrated development" as an approval from DIPNR under the Rivers and Foreshores Improvement Act 1948 is required.

DIPNR advice that it proposes to grant a Part 3A Permit subject to conditions, which Council must include in any consent. [\(Appendix N\)](#)

Access, Transport and Traffic

Access to the event will be via Dungay Creek Road. Dungay Creek Road from the end of bitumen surface at the intersection of Clarkes Road to the site is a gravel road at an average width of 5m.

The applicant has indicated that the total number of vehicles associated with the participants and crews would be approximately 100 and it is anticipated that 50 spectator vehicles would attend the event with the capacity to cater for 100 off road spectator parking spaces. It was estimated that 100 spectators visited the event each day in 2005. Given the wet conditions previously experienced and increased awareness of the event, the potential for an increase in traffic congestion over the weekend of the event exists.

It is considered that contributions for the upgrading of Dungay Creek Road should be payable. Council may consider an agreement for either payment of a road contribution or request the applicant to have the unsealed section of the road regraded by Council at the applicant's expense post event.

The applicant has stated that 'heavy vehicles are generally not used to transport competing vehicles and crews'.

To ensure safety and to maintain adequate access, it should be a condition of any consent that no vehicles be parked on, or immediately adjacent to, Dungay Creek Road. The applicant demonstrated compliance with condition of consent with the previous event. It is intended to provide additional off road car parking and to separate event and spectator vehicles by temporary fencing. As with the previous event, it is proposed that signage and 'roaming officials' be used in order to prevent parking on Dungay Creek Road which should be incorporated in any consent.

Noise

The proposal has the potential to impact on a number of adjoining dwellings by reason of noise. Given EPA criteria which allow considerable noise to be generated by infrequent motor sports

events, and the separation of the track to the next nearest residence (approximately 275 metres), it is considered reasonable to require noise monitoring of the event to be undertaken. Monitoring undertaken at the previous event demonstrated compliance.

Whilst no complaint was received by Council, it is considered reasonable to have a condition of consent requiring acoustic monitoring of all events. Additionally, restricting the use of the track including practice to the nominated weekend with use of the track on event days to be restricted from 9am to 5pm Saturday and 8.30am to 5pm Sunday is considered reasonable.

Air and Microclimate

Council should be aware that the previous event was held following inclement weather conditions with minimal dust impacts resulting from the event. However, the proposal has the potential to result in dust pollution should weather conditions at the time of the event 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 vehicle use. Dust management should also be undertaken along the entire length of unsealed section of Dungay Creek Road from the intersection of Clarkes Road to the furthest vehicle access point to the site, from 7am of the Saturday to 7pm on the Sunday of the event. Dust should be suppressed in any location where any dwelling is within 400m of the racetrack should weather conditions warrant it. The management of dust suppression will be required to be in accordance with the Protection of the Environment Operations Act.

Cumulative Impact on Amenity

Whilst the proposal has the potential of causing traffic congestion, noise and dust emission, Council received no complaints during or post event in July 2005. A condition of consent should require adjoining residents to be informed in writing of the weekend the event is to take place at least four (4) weeks in advance.

Public Exhibition

Adjoining property owners were notified of the proposal in accordance with Council’s Advertising Policy. Council received three (3) objections marked confidential to the proposal, which can be summarised as follows:

Objection	Planning Comment
1 The objector opposes the	1 The applicant via an

<p>activity on the grounds of environmental impact, access, safety and image.</p>	<p>environmental management plan proposes environmental safe guards for the protection of the environment and for race participants and spectators.</p>
<p>2 There will be significant erosion and degradation of the land.</p>	<p>2 Compliance with the strict conditions of the Part 3A Permit to be issued by Department Planning should be required.</p> <p>Council should impose a condition of consent to have the land rehabilitated so that any disturbed surfaces (race track, car park and marshalling area etc.) will need to be seeded and stabilised after completion of the event. Refer to Planning Comment 1.</p>
<p>3 There is a lack of adequate fencing to contain livestock.</p>	<p>3 Livestock in the area may intrude on the event. Details of the stock containment area, including fencing should be required as a condition of consent.</p>
<p>4 There is potential for noise pollution.</p>	<p>4 Refer to 'Noise' comments and conditions of Consent.</p>
<p>5 Public liability if a spectator is injured on our property.</p>	<p>5 The event will be covered by a \$10,000,000 public liability insurance.</p>
<p>6 Restricted access to property owners during the event.</p>	<p>Refer to access transport and traffic comments and condition of consent.</p>
<p>7 Damage to flora and fauna.</p>	<p>7 As the proposed race track uses existing trails and open paddocks and no trees are to be felled, it is considered that obtainment of a Part 3A Permit and compliance with</p>

8 Pollution of water from oil spills.	<p>appropriate conditions of Consent would result in no significant impact to flora and fauna. There is no evidence to suggest that any long-term disturbance to any threatened fauna is likely.</p> <p>8 It is possible that mechanical failure may cause an oil spill. A condition of consent should be imposed to require the applicant to make facilities to clean up oil spills should a spill occur.</p>
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Conclusion

As evidenced in the Heads of Consideration above, there are a number of issues and potential impacts associated with the proposed off-road racing event. It is recommended to only grant consent to a single annual event for a period of two (2) years only. This will enable monitoring of impacts to determine the ability of the organisers to control potential impacts.

Whilst the applicant demonstrated compliance when staging its previous event in 2005, it is considered reasonable to require the applicant to continue with a Plan of Management for the event with the applicant required to implement each condition of Consent and outline contingencies in the event of any hazard, incident or emergency.

Upon obtainment of, and compliance with a Part 3(A) Permit under the Rivers and Foreshores Improvement Act 1948, a permit under the Confederation of Australian Motor Sport Ltd, approval from the Department of Sport and Recreation and appropriate Conditions of Consent from Council, including an Environmental Management Plan, 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 the relevant permits and conditions would be heavily weighted and carefully analysed when examining any future proposals of this nature.

REPORT IMPLICATIONS:

- **Environmental**

The proposed location of the off road racing event has no significant fauna or flora impacts. There is the potential to have noise, dust and water pollution impacts on a number of adjoining properties and the Dungay Creek.

To prevent dust emitting from the access route the applicant is required to water Dungay Creek Road from Clarkes Road. Suitable means for control dust generated by racing within close proximity to adjoining dwellings should also be required.

Sediment and erosion control measures will be required to be installed prior to the commencement of the event. Furthermore, the application will be required to rehabilitate any disturbed land as a result of the off road race event.

Noise monitoring should continue to be required.

- *Social*

The proposed off race event is considered to potential impact on the amenity of the locality. However, imposing strict development control conditions, specifically relating to dust and noise and anti-social behaviour will safeguard the sounding amenity of the area.

- *Economic (Financial)*

The proposed off road race event is likely to positively impact upon local business providers during the weekend of the event.

- *Policy or Statutory*

The application has been assessed under Section 79 (c) of the Environmental Planning and Assessment Act 1979. Pursuant to the Environmental Planning and Assessment Act the application was referred to DIPNR which assessed the application in accordance with the Rivers and Foreshores Improvement Act 1948.

- *Director's Comment*

The event previously approved by Council was held in accordance with conditions of consent and within DEC noise guidelines without any complaints received.

However, as stated, the wet weather leading up to the event negated any potential dust problems and spectator numbers were likely reduced.

In order to ensure that proposed dust suppression and traffic control measures are adequate, it is recommended that consent be issued for two (2) years, after which time an application for additional events could be made, contingent upon compliance with conditions and control of potential impacts in worst case conditions.

RECOMMENDATION

- A** That consent be granted subject to the following conditions:
- 1** 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.
 - 2** This consent is valid for a two (2) year period only from the date of consent. No events may be carried out after this consent has ceased without separate development consent being obtained.
 - 3** The applicant is to provide written advice to Council of the nominated date of the event not less than three (3) months prior to the nominated date.
 - 4** A detailed Plan of Management (in a single document) is required to be provided to Council not less than 3 months prior to the nominated dates of the events incorporating the means of complying with all conditions of consent. The Plan of Management is to include the approved 3A Permit from the Department of Natural Resources. The event shall not proceed unless Council has given written confirmation that all conditions of consent have been adequately addressed.
 - 5** Monitoring of the event is to be carried out by a suitably qualified acoustic consultant at the closest affected residence in accordance with the Department of Environment and Conservation (Environment Protection Authority Guidelines) and relevant legislation.

- 6 A report is to be forwarded to Council indicating the results of the monitoring within twenty-eight (28) days after the staging of the event.**
- 7 The applicant is to provide a minimum of ten (10) portable toilets onsite for the event. All effluent is required to be disposed off-site at an approved facility. The required Plan of Management should provide for the placement of toilets in all spectator and competitor locations.**
- 8 Any premises or vehicle that is to be used for the transportation, preparation, storage and / or sale of food is to be designed, constructed and equipped in compliance with the Food Act 2003 and Council's Standards for Temporary Food Premises, complete details of which are to be submitted for approval prior to the event. The applicant is advised to confer with Council's Environmental Services Department concerning these requirements prior to the preparation of detailed plans.**
- 9 No overnight camping or night-time entertainment is permitted on the subject land.**
- 10 The applicant is to make adequate provision for the collection and removal of waste rubbish / litter from the site. Details of the means for compliance are to be included in the required Plan of Management.**
- 11 All disturbed soils are to be levelled and re-seeded immediately following the event and no trees are to be felled or loped. Details of the means for compliance are to be included in the required Plan of Management.**
- 12 Sediment control devices are required to be installed on the access points to and from Dungay Creek Road. Details of the means for compliance are to be included in the required Plan of Management.**
- 13 All spectator vehicles are to be confined to the parking spaces provided and no parking is permitted on, or immediately adjacent to Dungay Creek Road. Details of the means for compliance**

are to be included in the required Plan of Management.

- 14 The applicant is to consult with Councils Engineering Department at least three (3) months prior to staging of the event so that appropriate signage for Dungay Creek Road, spectator and car parking areas can be arranged.
- 15 The event race times are to be restricted to between the hours of 9am to 5pm Saturday and 8.30am to 5pm Sunday of the nominated weekend.
- 16 No practice is to be carried out prior to / after the date of the designated event.
- 17 All residents immediately adjoining the subject land are to be given written notice of the nominated date of the approved event at least four (4) weeks prior to staging of the event.
- 18 The applicant is to give written notice to the Local Rural Fire Service of the location and date of the approved event at least four (4) weeks prior to the staging of the event.
- 19 The applicant is to provide water carts or similar dust suppression mechanisms along the entire unsealed section of Dungay Creek Road to the furthest vehicle access point to the site and provide similar measures to all sections of the race track within 400 metres of any dwellings. Details of the means for compliance are to be included in the required Plan of Management.
- 20 To prevent excessive weed dispersal, competition vehicle use is to be restricted to the designated racetrack and 'pit area'. Where possible, weeds are to be managed in all trafficable areas by means of slashing, spraying and / or similar.
- 21 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.

- 22 All spectators are to be confined to the designated spectator area. Details of the means for compliance are to be included in the required Plan of Management.
- 23 In the event of any emergency requiring access through / on the subject land, all racing is to cease until such access has been obtained. Details of the means for compliance are to be included in the required Plan of Management.
- 24 The applicant is to pay a contribution towards upgrading / maintenance of Dungay Creek road in accordance with Council's Section 94 Plan for Rural Roads. The contribution is to be paid prior to commencement of the event or within thirty (30) days of this consent being issued whichever occurs first. The current rate is \$230.10, based on one event per year for 2 years.

A copy of Council's Section 94 may be inspected at Council's offices, corner Elbow and Tozer Streets, West Kempsey.

- 25 Details of the means of controlling stock within the property, including stock numbers, watering, feeding and fencing are to be provided to Council within 3 months of the nominated dates of the events.
- 26 The applicant shall pay a fee of \$500 to Council to allow for monitoring of the event by Council staff prior to the staging of each event.

Conditions imposed by DNR

- 27 Irrespective of the granting of this consent or approval by any other Authority, work is not to commence in, or within a horizontal distance of 40 m from the top of the bank of the watercourse, without the prior issue of a Part 3A permit by Department Infrastructure Planning & Natural Resources.
- 28 The Part 3A permit will be issued upon application to the Department Infrastructure Planning & Natural Resources comprising:

- A copy of Council's development consent including all conditions of approval;
 - Plans and / or other documentation (2 copies) that satisfy the DNR General Terms of Approval and recommendations, which are, included in Council's consent conditions.
- 29 Work is to be carried out in accordance with drawings and any management plans required by these conditions and approved by DNR that will accompany the 3A permit.
- 30 Any Part 3A permit issued is to be renewed on an annual basis until all works and all rehabilitation, including maintenance provisions, have been satisfactorily completed in accordance with the permit conditions. Any application for renewal will be lodged at least 1 month prior to the permit expiry date.
- 31 Work shall not cause damage to, or increase erosion of, the streambed or banks. The permit holder shall carry out any instructions given by DNR with a view to preventing degradation of the streambed or banks.
- 32 Any vegetation or other material removed from the area of works shall be utilised as part of any rehabilitation and prevented from being swept back into the stream during a flood.
- 33 All works proposed must be designed, constructed and operated so they do not cause erosion or sedimentation and to minimise adverse impacts on aquatic and riparian environments.
- 34 Erosion and sediment control measures are required to be implemented prior to any off road event or commencement of track works, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the river system. These measures are to be in accordance with best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" (1998) manual (the "Blue Book").

- 35 The excavation of soil / spoil and its removal is the responsibility of the permit holder and the owner or occupier of the land.
- 36 The permit holder and the owner or occupier of the land are responsible for any works undertaken by any other person or company on this site.
- 37 The rehabilitation of the area in accordance with the Part 3A permit conditions is the responsibility of the permit holder and the owner or occupier of the land.
- 38 Any Part 3A permit granted is not transferable to any other person or company without the written approval of DNR and does not authorise works at any other site.
- 39 Any Part 3A permit granted does not give the holder the right to occupy any land without the owner(s) consent nor does it relieve the holder of any obligation which may exist to also obtain permission from local government and other authorities who may have some form of control over the site and/or the activities proposed.
- 40 Work as executed survey plans of a professional standard shall be provided to DNR upon request.
- 41 If, in the opinion of a DNR officer, any activity is being carried out in such a manner that it may degrade the riparian zone, stream, lake or foreshore environment, all work shall cease immediately upon oral or written direction of such an officer.
- 42 If the permit conditions have been breached, the permit holder shall restore the site in accordance with the permit conditions and/or as directed by Department of Natural Resources. If any breach of the permit conditions requires a special site inspection by Department of Natural Resources, then the permit holder shall pay a fee prescribed by Department of Natural Resources for this inspection and all subsequent breach inspections.
- 43 If works are to cease prior to completion Department Natural Resources must to be notified

in writing one month in advance of the cessation of the operation.

Stream Crossings

- 44 All stream crossing designs must be sensitive to the ecological functions and geomorphic character of the stream by providing adequate protection for aquatic fauna and minimising erosion.
- 45 Bank full creek flows and floodplain flows are not to be inhibited in any way.
- 46 Crossings should not cause scour or erosion to the streambed or banks in any storm events.
- 47 A management strategy is to be prepared for each crossing by suitably qualified persons, in consultation with, and with the approval of DNR prior to the issue of the Part 3A Permit.

B That the objectors be advised of Council's decision.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES