



STAFF REPORT

TO: Environment & Planning Committee

FROM: Rose Biss, Policy Planner

REFERENCE: L232, L203

SUBJECT: **DRAFT VARIATION, TEMPORARY ACTIVITIES - RECREATIONAL MOTORCYCLING - EP07/02/16 - Report prepared for 28 February 2007 Meeting**

1. PURPOSE OF REPORT

The purpose of the report is to provide the Council with an analysis of comments on the draft variation on recreational motorcycling and recommend an appropriately amended variation for notification.

2. STRUCTURE OF THE REPORT

The report addresses the following matters:

- Background
- Consultation
- Noise / exhaust systems
- Complaints
- Effects of Noise
- Youth and Motocross
- Time limits
- Mediation
- Enforceability
- Events
- Motorsport venue
- Devaluation of property
- Zones
- Emanation easements
- Future options
- Recommendation

3. BACKGROUND

On 11 October 2006 the Committee approved a draft variation on recreational motorcycling to be circulated for a period of consultation (Report EP06/10/05 refers). This followed consideration of a Code of Practice in circulation from late 2005 to mid 2006 in September 2006 (Report EP06/09/03 refers).

4. CONSULTATION

The draft variation had a six week consultation period from mid October until the 24 November 2006. This included an article in Newline and inclusion of the draft variation and a feedback form on the Council's website. Copies of the draft variation were available at the Council service centres. A flyer was distributed to eight motorcycle shops in Nelson and Tasman. Staff and councillors also attended a meeting of the Nelson Motorcycle Club on 1 November and a consultation clinic with residents and motorcyclists in Takaka on 10 November 2006.

The response was significant and included 134 individual written responses as well as a circular letter addressed to the Mayor with 1935 signatories (approximately 30% of which were from out of the district including 260 from Nelson City residents). A shorter version of the circular letter was received from 20 respondents using a Greypower form.

Also a petition to Tasman District and Nelson City Councils with 47 signatories was received (copy available at meeting). It sought that *"Council look at all options available and those taken elsewhere before imposing additional regulatory barriers to our sport and do this in consultation with those affected. .. we understand there are current noise control methods available to the Council."* Some of those signatories had also signed the letter to the Mayor and written individually.

5. NOISE LIMITS

The current rural noise limit in the TRMP is 55 dB(A) for daytime noise with an exemption for any intermittent or temporary rural activity, including noise from:

- (i) mobile horticultural and agricultural equipment
- (ii) forest and tree harvesting activities
- (iii) animals
- (iv) bird scarers

Some respondents are concerned that the draft variation separates the activity of recreational motorcycling out of the noise rules and sets a new benchmark for allowing unmitigated noisy recreation in the rural area. These responses support a noise rule for recreational motorcycling. They express concern that the permitted baseline for noise may be increased from what is currently occurring in many rural parts of the district. They note that the Council's legal advice received in 2006 was to include a noise limit.

Many of those residents affected by cross boundary recreational motorcycle noise state that they accept that some rural activities such as farming including the use of farmbikes and tree harvesting should be exempt from the rural noise rules. However they do not support recreational motorcycling as an exemption.

The circular letter from motorcycling interests takes a slightly different perspective:

"If it is noise that is the problem and not the activity then put a realistic and achievable noise level in place that is in line with current manufacturing and international sporting body standards."

This suggests a noise level on individual bikes. The current FIM (Federation International Motorcycling) standard is 96 dB(A). It is likely that some motorbikes operating in the district exceed the FIM standard. Even if all bikes met the standard there could still be noise issues especially where there is inadequate separation between tracks and neighbouring dwellings and prolonged periods of riding. It is encouraging that Motorcycling NZ is now issuing clubs with noise measuring equipment to test individual bikes. What is of interest however is the noise level in the environment adjacent to motocross courses and practice and riding areas rather than the noise level measured 0.5m from an individual bike exhaust (although this measurement will help identify particularly noisy bikes). The latter is how the FIM standard is measured. Ideally recreational motorcycling should take place in areas where it does not disturb those not involved in the sport.

The current presumption in the rural areas of Tasman district is that noise will not exceed a certain level at a dwelling on a neighbouring property unless it is an exempted noise. Some responses want the noise to be measured on the boundary and to have a lower noise limit than 55 dB(A) .

Some responses suggest there is as a right to make as much noise as one likes on one's own rural property and that should be an unrestricted right. However the Council has a duty to control excessive noise (section 327 RMA) and every occupier of land a duty to avoid unreasonable noise (section 16). The Golden Bay Community Board has commented on the right of property owners with no interest in motorcycling to have quiet enjoyment of their properties.

Noise is controlled under the Resource Management Act because of its potential to adversely affect health and well being. It should be noted that some recreational noise in the rural area is already controlled by the Council - for example loud stereo music.

Overall there is considerable support for a noise limit.

6. COMPLAINTS

There have been 87 complaints about recreational motorcycling noise in the last five years (2002 – 2006). The complaints relate to 27 properties. There were 52 complaints in the previous five years up to 2005 when report EP05/09/24 was prepared. The number of complaints peaked in 2005 when a competition track was developed from a previously casual track at Packards Rd in Golden Bay. In the last two years there have been more complaints than the previous three years possibly because new tracks have been developed close to neighbouring dwellings and increasing awareness of the issue.

It may also be because there is growing interest in motorcycling. The Nelson Motorcycle Club had 350 members when surveyed in 2005. The membership is now 500+.

Some responses, including from the Motorcycle Club, claim the complaints have not been validated. However the Council is in a catch 22 situation while there remains no clear noise limit for recreational motorcycling in the TRMP. How can the Council's officers make a judgement that the noise is unreasonable if there is no noise limit to benchmark the complaint against? Sometimes, (but rarely) there has been a repeat

complaint from a person in one day. This happened on three occasions in 2006. This is usually because the noise has resumed or the noise control officer has not yet visited the property. Many of the responses to the draft variation seek a noise limit. A noise limit would make it easier to verify complaints.

7. EFFECTS OF EXCESSIVE NOISE

Noise is an unwanted sound. Some responses point out that excessive noise causes stress and stress can cause illness. The noise of motocross may adversely affect people and animals located nearby. Several responses from neighbours noted that the noise of motocross bikes is extremely irritating. Apart from hearing loss the other documented effects of excessive noise are:

1. Speech interference – in an extra noisy environment it is hard to hear people talk.
2. Annoyance – unpleasant sounds, particularly sudden and uneven ones, may cause anger and emotional wear and tear
3. Inefficiency – noise may cause fatigue or distract attention from demanding or difficult tasks

For those involved in the sport of recreational motorcycling the noise may be exhilarating and useful as a guide to performance. Riders have the benefit of helmets for some noise protection.

Some people are more sensitive to noise than others but everyone is affected by excessive noise to some degree. This can depend on:

- loudness
- pitch
- length of exposure
- surroundings
- age
- previous ear trouble
- distance from noise source

The most annoying noises are high pitched, loud and irregular or on – and - off (Source: NZ Foundation for the Deaf website).

8. YOUTH AND MOTOCROSS

Other responses spoke in favour of motocross as a healthy sport, excellent recreation and a positive outlet for aggression in youths which keeps them out of trouble while others said the Council should encourage young people to enjoy riding and enable events run by Nelson Motorcycle Club and schools.

The NMC has queried how children are going to be suitably restricted to abide by the rules for recreational motorcycling to avoid fines and confiscation of equipment. Children have to be taught (usually by parents/clubs) the rules of any and all the sports they engage in and the consequences of not following them.

9. EXHAUST SYSTEMS NOISE

There were comments both for and against having a condition limiting noise emission restricted to that produced by a standard factory fitted unmodified exhaust as proposed in the draft variation. Some considered this would be a difficult condition to enforce. The Nelson Motorcycle Club (NMC) had this to say:

“Agree that noise limited to that produced by factory fitted unmodified exhausts would be desirable but could be difficult to police.”

The application of improved mufflers on exhausts can substantially reduce the noise emission of motorbikes (by 8 dB) but may require a new set-up of the engine (ignition timing and mixture ratio) in order to prevent power loss. For this reason owners/users of motorbikes may have a negative opinion about improved mufflers. Thus communication with owners/users on this aspect is important.

Also while the exhaust is the main noise source, there may be still be noise from the engine itself and the air intake even if the exhaust noise is adequately silenced. The Environmental Health Officer has commented that standard factory fitted mufflers could become noisy in time due to compression of the muffler packing so maintenance needs to be included in the specification if that condition is retained.

10. RIDING TIME LIMITS

The draft variation proposed riding times of 9.00 am to 7.00 pm and not exceeding four hours in one day and not on consecutive days. However some say four motorbikes riding a circuit track for four hours is too generous.

Some recreational motorcyclists say they would like the hours extended beyond 7.00 pm so they can take advantage of daylight saving and go on overnight trips. A few responses by some of those living adjacent to motorcycling activities support an earlier limit such as 5.00 or 6.00 pm to enable small children to get to sleep and outdoor living / BBQs to occur. A 5.00 or 6.00 pm cutoff would curtail most after work riding.

The draft variation also includes limits of no more than three days in a week and riding on non consecutive days only. These limits apply to individual sites rather than individual riders, who could still ride every day provided it was not on the same site.

Some responses have objected to having limits on recreational motorcycling on the grounds that it is a healthy outdoor sporting activity and so should be encouraged. However it is also important that recreational activities are managed so they do not have negative environmental effects on others. The Council has an important role in managing environmental effects of all recreation, particularly where there are neighbours nearby. Noisy recreation is likely to attract more scrutiny than quieter forms of recreation.

11. LIMITS ON MOTORCYCLE NUMBERS

The circular letter to the Mayor noted that the limit of four bikes took no account of engine size (eg whether 50cc or 500cc) and thus its ability to create noise. It also

doesn't take into account that in some localities there are no nearby dwellings so extra noise created by a greater number of bikes is not creating adverse effects. In these localities motorcycling can be encouraged – provided there are no other adverse effects.

Some motorcyclists commented that a large family group would be prevented from riding if there is a four bike limit. There were also comments that practices often needed to involve more than four bikes to simulate race conditions.

As some responses have noted, the draft variation limit of four bikes was proposed as a substitute for a noise control. The figure of four bikes was proposed by the Council's noise officer based on some actual noise readings taken at a Golden Bay site in 2005.

Generally, the greater the number of bikes (of the same size) the more noise emission. A doubling of noise sources (e.g. eight bikes versus four bikes is an increase in noise emission of 3 dBA assuming that all the bikes have the same noise emission).

One bike produces X dB(A)
Two bikes produce X + 3 dB(A)
Three bikes produce X + 5 dB(A)
Five bikes produce X + 7 dB(A)
Ten bikes produce X + 10 dB(A)

A group of Orinoco residents suggests that a 5 dB(A) penalty should be added to the sound level from recreational motorbikes due to its "special audible characteristics."

12. EVENTS

While Motorcycling New Zealand supports the Council's proactive approach to noise control it suggests amending the provision for events so they are not limited to four hours per day and the hours of 9.00 am to 7.00 pm. Others have expressed concern that the draft variation would permit events on any Rural Zone site (excluding Rural Residential) regardless of the number of dwellings located nearby. A number of responses have requested that event sites should be established by resource consent.

Another response noted that the combination of casual/practice riding and six days of events a year allowed on any rural zoned property by the variation is too generous and will create an inappropriate baseline for the district. Taupo District for example allows only three operational days for the temporary activity in any one calendar year. In some instances in Tasman district neighbours close to event sites have had to leave their properties because of excessive noise. Unless neighbours agree, or resource consent is sought, it may be fairer to limit event days to a maximum of three per calendar year as a permitted activity. This would fit better with the Nelson Motorcycle Club policy of moving events round the district to minimise exposure to neighbours.

13. MEDIATION

Some responses want the Council to mediate solutions between landowners when problems arise over recreational motorcycling. Council officers have tried mediating between neighbours but have been unable to reach an agreement. Discussions have frequently broken down.

14. ENFORCEMENT

Many responses point out the importance of easy enforcement if any changes are made to the status quo.

While there have not been any complaints from the Murchison Ward which is distant from the enforcement officers' base there have been many recreational motorcycling noise complaints from Golden Bay – mainly about a site in Motupipi. In Golden Bay these complaints have been attended by noise control officers. As long as there remains no clear rule in the TRMP there is little these officers can do except offer sympathy to complainants. This is very frustrating for complainants.

15. MOTORSPORT VENUE

Some responses commented on the lack of motocross facilities in the district – “ *with no facilities in the district for dirt bike riders what are they supposed to do?*”

The Council's Long Term Community Plan has allocated \$600,000 towards the purchase of land for a motorsport facility. A decision on the purchase of a site for motorsport activities is imminent. While a new venue will provide an opportunity for riding for events and practices for events it will not solve all the problems of casual riding and possibly even events if they continue on some sites. Also some Golden Bay residents offer only conditional support for the motorsport land purchase – it is only supported if it brings them relief from the cross boundary effects of recreational motorcycling noise in their neighbourhood. A special solution may be required in Golden Bay.

The report writer visited the 47 hectare Digger McEwen motorcycle track (see attached photo) on the outskirts of Taupo over the Xmas break. It has been operating for 20 years and appears to be an excellent venue. It has an all-weather surface and borders an industrial estate with no dwellings in close proximity. It is also close to another motorsport venue. The track is open seven days a week for practice from 7am – 5pm – available to motorcycle club members at a nominal fee and to non members at a higher fee. Club events are run once a month.

16. DEVALUATION OF PROPERTY

Some respondents from Golden Bay claim their properties have been devalued by the presence of a motocross track nearby. It is possible that regular unmitigated noise from a motocross track or any other noisy recreational facility could affect the value of a neighbouring property.

17. ZONES

Some responses considered that increasing subdivision in the rural zones of the district has exacerbated the problem of motocross noise. A few of the complainants do live on small parcels of land. Some of the properties used for recreational motorcycling tracks are quite small – 8.5ha. Other complainants have lived on their larger properties for over 20 years and had not complained until motocross activities intensified in their neighbourhood. New tracks and dwellings continue to be established each year.

There is some support for not permitting recreational motorcycling in the Rural Residential zone. There are mixed views about the Rural 3 zone and what activities should be permitted there. Traditionally the forests around Old Coach Rd have been a popular riding area. However the forest is slowly being removed and not replanted. The forest is being replaced with rural residential developments.

18. EMANATION EASEMENTS

Some responses, (including from the Nelson Motorcycle Club) support having emanation easements on all properties in the Rural Zones. Such easements can be used to allow certain adverse effects on a property. It is unlikely that many rural landowners would allow such easements on their existing titles. However it is possible a subdividing landowner who had a motocross track already established may wish to include such easements on new titles created by subdivision.

19. FUTURE OPTIONS

There are strong views from those involved in recreational motorcycling that the draft variation places too many restrictions on their recreation. There are equally strong views from those who live near to recreational motorcycling tracks that the noise is excessive and this activity should be brought under noise control.

The main options are

1. Continue with the draft variation
2. Modify the draft variation
3. Retain the status quo

1. Continue with the draft variation

If the draft variation is pursued unchanged there are likely to be many submissions on the points already raised in the responses. There are many valid and well thought out comments.

Motorcycling New Zealand has commended the Council for its proactive approach to noise control in the district but has asked for some modification so events are not constrained by the four hour limit.

2. Modify the draft variation

Many responses query why the variation does not deal explicitly with noise, especially when the legal advice to Council was to include it. The draft

variation will still allow a lot of noise to be created because it allows events and practising on any rural zone property (except Rural 3).

A possible modification is that the activity complies with the noise conditions for the relevant zone unless a higher noise limit is agreed between adjoining neighbours. This option would allow for some riding with neighbours agreements as suggested by the Nelson Motorcycle Club.

3. Continue with the status quo

With further subdivision and increasing numbers of recreational motorcyclists and new tracks expected in the district the status quo is unlikely to adequately address the issue of unwanted noise. To date mediation has not provided satisfactory outcomes. Enforcement is difficult with a lack of clarity in the rural rules.

20. RECOMMENDATION

It is recommended that the variation is notified with the following amendments:

1. Delete the limit of four motorcycles.
2. Add a condition that the activity must comply with the noise conditions for the relevant zone unless neighbour agreement is reached. Clarify that recreational motorcycling, other than an event is not an exempt activity.
3. Delete the four hour limit on events. Limit events to three operational days per calendar year on one site.

Rose Biss
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TASMAN DISTRICT COUNCIL
PROPOSED TASMAN RESOURCE MANAGEMENT PLAN
PROPOSED VARIATION

Temporary Activities — Recreational Motorcycling

February 2007

EXPLANATORY STATEMENT

Variation x changes the temporary activity rule and addresses some cross-boundary issues that have arisen with certain recreational activities that occur in the rural part of the district. There have been complaints about noise from recreational motorcycling, and there has been a lack of clarity as to which noise rules apply. The Variation is not intended to apply to motorcycles being used for farming activities.

Temporary activity rules have been clarified to allow for recreational motorcycling subject to noise controls and for organised motorcycle club events for a limited number of days per calendar year.

The Council has been trialling a Code of Practice for Recreational Use of Motorbikes but has found that it has not been completely effective as a management tool.

The Council has considered the benefits and costs, and need and appropriateness of these amendments. Council reports EP05/08/03, EP05/09/24, EP06/09/03 and EP06/10/05 assess the options and are the reports prepared in compliance with the duties under Section 32 of the Resource Management Act 1991.

SCHEDULE OF PLAN AMENDMENTS

1. CHAPTER 5 - SITE AMENITY EFFECTS

1.1 **Amend Policy 5.1.4(i)** to read:
“temporary activities, including recreational motorcycling.”

2. CHAPTER 16, SECTION 16.8 - TEMPORARY ACTIVITIES RULES

2.1 **Add** a new section (2) to **Rule 16.8.1A** as follows:

(2) *Recreational motorcycle riding activity provided it complies with the following standards and terms:*

(a) *The activity is in the Rural 1 or Rural 2 zone.*

(b) *Motorcycles emit no more noise than that produced by a standard factory-fitted unmodified exhaust with a maintained muffler.*

- (c) *Except as permitted by 16.8.1A(2)(e) riding time is limited to between the hours of 9.00 am and 7.00 pm and does not exceed more than four hours in total in any one day.*
- (d) *Except as permitted by 16.8.1A(2)(e), no more than three days are used in a week for the activity, and riding is not undertaken on consecutive days.*
- (e) *The activity on any property is an organised, competitive motorcycle club event which occurs on no more than three days in any one calendar year.*
- (f) *The activity, except as permitted by rule 16.8.1A(2)(e) or written neighbour agreement, complies with the noise standards for the relevant rural zone.*

2.2 **Add** a new section **16.8.1B** as follows:

16.8.1B Restricted Discretionary Activities (Temporary Activities)

A temporary activity (recreational motorcycle riding) that does not comply with the standards and terms for a permitted activity is a restricted discretionary activity.

A resource consent is required. *Consent may be refused or conditions imposed, only in respect of the following matters over which the Council has restricted its discretion:*

- (1) *Hours of operation.*
- (2) *Noise conditions.*
- (3) *Location and density of tracks in relation to neighbouring properties.*

2.3. **Add** a new paragraph to **Principal Reasons for Rules 16.8.4** as follows:

It is necessary to mitigate the cross-boundary effects of recreational motorcycle activities in the rural area, taking into consideration the proximity and density of neighbouring dwellings and the scale and duration of activities while allowing reasonable recreational riding opportunities on rural properties.

2.4 **Add** the underlined words to rules 17.4.2(d)(i), 17.5.2(d)(i), 17.5A.2(d)(i) and 17.6.2(h)(i):

(i) mobile horticultural and agricultural equipment (excluding recreational motorbikes)