

Report No:	REP12-08-03
File No:	L232
Date:	25 July 2012
Decision Required	

REPORT SUMMARY

Report to: Environment & Planning Committee
Meeting Date: Thursday, 9 August 2012
Report Author: Rose Biss, Policy Planner
Subject: **RECREATIONAL USE OF MOTORBIKES CODE OF PRACTICE**

EXECUTIVE SUMMARY

The report addresses a Council resolution from a meeting late last year to make amendments to the Code of Practice for Recreational Use of Motorbikes to reflect the Rural 1 and 2 Zone noise standards. The results of several meetings with parties affected by the Packard's Road motocross track at Motupipi in Golden Bay are also discussed.

The report recommends the insertion of an additional statement that the Code does not override the need to comply with the relevant noise standards for the relevant zone imposed by the Tasman Resource Management Plan. The report also invites direction on whether further changes to the Code should be made in light of feedback received from interested parties.

DRAFT RESOLUTION

THAT the Environment & Planning Committee

- 1. Receives the Recreational Use of Motorbikes Code of Practice report REP12-08-03 and;**
- 2. Approves the addition of the noise statement to the introduction and;**
- 3. Directs which, if any, amendments should be made to clauses 1, 3, 5 and 8 as shown in the redrafted Code of Practice June 2012 (Appendix 1 to REP 12-08-03).**

Report No:	REP12-08-03
File No:	L232
Report Date:	25 July 2012
Decision Required	

Report to: Environment & Planning Committee
Meeting Date: Thursday, 9 August 2012
Report Authors: Rose Biss, Policy Planner
Subject: **RECREATIONAL USE OF MOTORBIKES CODE OF PRACTICE**

1. Purpose

- 1.1 The purpose of the report is to update the Recreational Motorcycling Code of Practice which has been in use since 2007 and make recommendations on some possible changes to it to better reflect the Rural 1 and 2 Zone noise rules.

2. Background

- 2.1 The Environment & Planning Committee considered a report on recreational use of motor bikes and whether the rural zone noise rules should apply to this activity at its 23 November 2011 meeting. A legal opinion included with the report concluded that the recreational use of motorbikes in the rural zones of the District was not exempt from the noise standards in the rural zones.
- 2.2 The Council obtained the legal opinion following an extensive report by the Ombudsman on motocross activities in the District.
- 2.3 The resolutions from the 23 November meeting were:
- To release the report and legal opinion to the public
 - To negotiate a site specific agreement with the Packard Road motocross track parties
 - To amend the Code of Practice for Recreational Use of Motorbikes to reflect the Rural 1 and 2 zone noise standards.

3. Present Situation/Matters to be Considered

3.1 Code of Practice

The Code of Practice has been amended to include reference to the need to comply with the noise performance standards in the relevant zone. It was then sent out in April 2012 to interested parties, including the Nelson Motorcycle Club, the Golden Bay Community Board, motocross noise complainants and the owner of the Packard Road motocross track for comment.

3.2 Consultation Responses

A summary of the responses received is attached (Appendix 2). The Nelson Motorcycle Club supports the additional wording about the need to comply with the noise standards. However it notes that it will impact heavily on other motorcycle events in the area.

Some responses want the name of the Code to be changed to Code of Compliance. However this would cause confusion as the term has another meaning under the Building Act.

The Golden Bay Community Board would like a sunset clause on the Packards Road Track so that a more suitable riding venue can be found. It also suggests that allowable daily riding hours be reduced from four to three. Some submissions also wished to see an alteration to riding times and while it might be an option to align riding times to fit with the TRMP measurement periods, this would not change the underlying obligation to comply with the noise standards.

There is a common theme in the responses from the Community Board and the neighbours of the Packards Road track that the Code of Practice is mandating excessive noise and they seek a reduction in either the number of days of use and /or the number of hours of use.

Neighbours of that track have found a timetable for track use helpful provided that track users adhere to it. They would like to delete the reference to “likely” timetable in clause 7 of the Code.

There is a request to alter clause 8 to read - “The terms of this Code of Practice may be varied with the written agreement of *affected* neighbours”. Some neighbours are not adjacent to the site but are still affected because of topography of the neighbourhood.

Two responses have queried the need to have a Code of Practice at all if the Council consistently applies the noise rules.

3.3 Recent Consent

A recent resource consent RM 110772 issued in late 2011 for a commercial motocross activity on a very large (700ha) site in the upper part of 88 Valley allowed a maximum of two practice days per week. The Code is allowing up to three non consecutive days of use in one week. The consent also allows up to four events a year - one of which was the Nelson Motor Cycle Club Championships held there recently on 21- 22 July.

4. Options

4.1 Option 1 - Code of Practice with Noise Statement

This option would be to confine any change to the Code of Practice to the addition of a statement in the introduction about the need to comply with the noise performance standards for the relevant zone that the activity is occurring in. See the **plain red** text in the attached redrafted Code of Practice (Appendix 1)

4.2 Option 2 - Code of Practice with Noise Statement and Other Alterations

This option would be to add the statement about the need to comply with the relevant noise performance standards and to amend the Code of Practice in light of other comments received. The changes for consideration are shown in **red italics** and **strikeout** in the attached redrafted Code of Practice (Appendix 1).

The clauses which could be changed relate to the number of riders, riding duration, number of riding days per week and the term “affected” neighbours. The Code currently allows up to three non consecutive riding days a week. Riding days could be reduced to two non-consecutive days per week, the number of riders reduced from four to three, and a reduction of hours from four to three.

4.3 Option 3 - discontinue Code of Practice and rely on noise rules

Two responses are concerned that the current Code of Practice appears to be granting the right to create nuisance noise for four hours per day every second day. These respondents would like to dispense with the Code of Practice rather than have it amended.

5. Pros and Cons of Options

5.1 Option 1 adds a statement that the noise rules in the TRMP are to be complied with. If the Code is used to its maximum extent there is likelihood that the noise rules may be exceeded on some sites. On Saturday for example the daytime noise limit applies until 6.00 pm and then the quieter night time noise limit of 40dBA Leq applies. The Code of Practice implies that riding until 7.00 pm on Saturday can occur. This may create some confusion if there is a mismatch between the Code of Practice and the TRMP noise rules although the noise rules would prevail.

5.2 Option 2 adds a statement that the noise rules are to be complied with and makes some other amendments to the Code. Any one change or a combination would reduce effects on neighbours but add additional restraints on riders. The suggested restraints come from Golden Bay interests but if accepted would apply across the District.

- 5.3 Option 3 is likely to place more pressure on the Council's noise officers to attend complaints about motocross noise. The Code of Practice was established to provide a simple, easy to understand layman's guide rather than a legally enforceable document. However when the current Code is used to its maximum a noise nuisance may arise for some residents.

6. Site Specific Agreement for Packard Road Track

- 6.1 Some councillors, the Mayor and the Coordinator Environmental Health have had several meetings with the Packard Road track users, owners and neighbours on preparing a site specific agreement for the Packard Road track.

The track owners have volunteered a number of changes to reduce noise. These include:

- Quad bikes no longer permitted to use the track
- The general public are excluded from using the track, with the privilege of using the track reserved for competitive riders only
- No Sunday use of the track is permitted
- Responding to special requests (not to ride at a particular time) from local residents

7. Significance

This is not a significant decision under Council's Significance Policy, but the implications of any amendment to the Code may be of localised significance on either those who live close to motocross tracks or those who participate in motocross as a recreational activity. The Nelson Motorcycle Club currently promotes compliance with the code to its members. Perceived reduction in opportunities for riding may weaken this commitment.

8. Recommendation

- 8.1 Option 1 responds to the committee's request to update the Recreational Use of Motorbikes Code of Practice. Direction is sought on whether further changes under Option 2 should be made to following clauses:

Clause 1 - amend "*four motorbikes*" to "*three motorbikes*"

Clause 3 - amend "*four hours*" to "*three hours*"

Clause 5 - amend "*three*" to "*two*"

Clause 8 - amend "*adjacent neighbours*" to "*affected neighbours*"

9. Draft Resolution

THAT the Environment & Planning Committee

- 1. Receives the Recreational Use of Motorbikes Code of Practice report REP12-08-03 and;**
- 2. Approves the addition of the noise statement to the introduction and;**
- 3. Directs which, if any, amendments should be made to clauses 1, 3, 5 and 8 as shown in the redrafted Code of Practice June 2012 (Appendix 1 to REP 12-08-03).**



Rose Biss
Policy Planner

Appendices:

- Appendix 1 - Code of Practice - draft June 2012
Appendix 2- Summary of Responses

CODE OF PRACTICE RECREATIONAL USE OF MOTORBIKES

June 2012 Draft

Introduction

This Code of Practice introduces guidelines on the frequency, the number and types of motorbikes and the length of time that they can be ridden on a recreational basis only on Rural 1 and Rural 2 zoned properties in the Tasman District. The guidelines are intended to reduce the impact of nuisance effects but also to allow recreational motorbike riding to be carried out and enjoyed by private property owners. This Code of Practice does not apply to motorbikes being used for legitimate farming activities **or occasional motocross events run by any club affiliated to Motorcycling NZ and run in accordance with its rules. Nor does it override the need to comply with the noise performance standards for the relevant zone imposed by the Tasman Resource Management Plan.**

Terms of Code of Practice

Recreational riding of motorbikes on Rural 1 and Rural 2 zoned properties shall be subject to the following guidelines:

1. Not more than ~~four~~ **three** motorbikes shall be used on a property at any one time.
2. Motorbikes used on the property shall have standard, factory-fitted, unmodified exhaust systems that are properly maintained.
3. A maximum period of up to ~~four~~ **three** hours per day from the time of start of riding (ie, if riding commences at 2.00 pm it must finish at ~~6~~**5.00** pm).
4. Riding times shall be between the hours of 9.00 am and 7.00 pm
5. Up to ~~three~~ **two** non-consecutive days may be used in a one-week period (ie, between Monday to Sunday inclusive).
6. An appropriate area away from adjacent neighbours should be used as far as is practicable for the recreational riding of motorbikes on an individual property.
7. Those responsible for the recreational motorbike riding on their property will inform the potentially affected neighbours of a timetable in accordance with the above limitations, indicating the days and times during which motorbike riding is likely to take place.
8. The terms of this Code of Practice may be varied with the written agreement of ~~adjacent~~ **affected** neighbours.
9. Proven non-compliance with this Code of Practice may result in appropriate enforcement action being instigated under the Resource Management Act 1991.

Name	Summary of responses
Golden Bay Community Board	<ul style="list-style-type: none"> • Use of Code of Practice to be strictly monitored • Rename Code • Sunset clause to close track at Harwood property • Allowable hours of riding limited to three hours per day • Tracks used more than two days /week or for events should require resource consent
J Salmon	<ul style="list-style-type: none"> • Discontinue Code of Practice as it allows nuisance noise • Allow noise control officers to investigate nuisance motocross noise
H Macready	<ul style="list-style-type: none"> • Track at Harwood property inappropriate amongst a residential area • Code of Practice reference to “appropriate area away from neighbours” is too loose • Appreciates that Harwood Track use is less than the Code of Practice allows
Nelson Motorcycle Club	<ul style="list-style-type: none"> • Agrees with the proposed amendment on noise in CoP • Concerned about the effect on other motorcycle events
S Macready	<ul style="list-style-type: none"> • CoP is too loose, ambiguous and open to interpretation • Any change made to CoP will have minimal effect on users of motorbikes • Only a few hours of riding per month acceptable on Harwood track as Motupipi neighbourhood an unsuitable location
H & D Dorman	<ul style="list-style-type: none"> • Limit Packard Road track to max one day / week - not always a weekend day • Dates of riding to be given in advance • Would support a permanent written agreement on use of Packard Road track • Code of Practice allows too much noise
W Harris	<ul style="list-style-type: none"> • Amount of activity allowed by CoP is unacceptable and unfairly impacts on quality of life
M Faulkner	<ul style="list-style-type: none"> • Specify who will ensure mufflers comply • Riding time to be between the hours of 11.00 am and 5.00 pm • Riding to be limited to two days/month (no Sundays or public holidays) • Separation distance from neighbours needs to be more specific

	<ul style="list-style-type: none"> • Delete the word “likely” in likely timetable of riding for neighbours • Code of Practice is weighted in favour of riders rather than those affected by noise • Harwood’s track only to be used if Harwood family are riding • TDC to find land and construct a track with motorcycle clubs that won’t affect neighbours
R Pringle	<ul style="list-style-type: none"> • Motorcycle exhausts should be monitored by independent party • Riding time should be reduced to between 10.00am and 5.00 pm • Supports reduction of riding to maximum of two days per week (no Sundays and public holidays) • Acceptable setback distance difficult to determine • Supports advance notice of riding timetable • Supports more serious enforcement action • Neighbours subjected to abuse, bullying, ridicule and vandalism
K Pringle	<ul style="list-style-type: none"> • The CoP legitimises excessive noise - allowing three days /week for up to four hours/ day - the latter is very difficult to cope with • Resource consent should be required so neighbours concerns can be addressed • There has been no effective enforcement of CoP in relation to excessive noise • Supports advance notice of riding timetable • Supports no further motocross events at Harwood’s track
P Brennan	<ul style="list-style-type: none"> • Remove the CoP as it is not protecting residents from unreasonable noise • Council should enforce its noise rules
P Riddett	<ul style="list-style-type: none"> • Supports recreational motorcycling having to comply with noise standards • Using CoP at Packards Road track to full extent would be intolerable for neighbours • Supports the 2-3 day annual event on the Packards Road track