
NARROMINE SHIRE COUNCIL
EXTRAORDINARY MEETING BUSINESS PAPER – 25 SEPTEMBER 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

**1. DEVELOPMENT CONSENT CONDITIONS DEVELOPMENT APPLICATION 2022/58
PROPOSED RECREATION FACILITY (OUTDOOR) – MOTORBIKE TRACK AT 151 OLD
BACKWATER ROAD, NARROMINE**

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Link to Strategic Plans	Narromine Local Environmental Plan 2011; Narromine Development Control Plan 2011; Narromine Shire Residential and Large Lot Residential (Land Use) Strategy (Reviewed 2021).

Executive Summary

Council at its Ordinary Meeting held on 9 August 2023 resolved to grant consent to the development application (2022/58) subject to a further report being presented to Council with conditions set. (2023/130). The conditions relating to the consent were resolved (2023/148) at the Ordinary Council Meeting held 13 September 2023.

In compiling the minutes of the September Council meeting an error in the description of one of the conditions (as resolved) has been found.

This report seeks to clarify the wording of this condition to enable the Notice of Determination to be provided to the applicant.

Report

At the September Council meeting a discussion regarding the conditions that should be applied to DA 2022/58 took place. The wording of condition 6 was changed during the discussion (and subsequent resolution) to reflect the use of 'bicycles' rather than motorbikes. This particular condition was being discussed with the view to allow for an additional motor bike to be ridden, if it were ridden by a child.

The resolution as made (as it appears in the draft minutes) reads:

6. A maximum of three (3) bicycles plus one child. (2023/148)

Given that the Development Application was determined by Council, staff would recommend that this likely 'misspeak' be clarified by Council by resolution prior to the issuing of the Notice of Determination, and the condition be reworded to further clarify the intent of the resolution.

Conditions of consent control and regulate the implementation and operation of approved development. Conditions should be valid, easy to implement, enforceable and easy to understand.

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The recommended wording for condition 6 which would also assist to clarify the number of intended riders as suggested below.

6. The typical ongoing use and operation of the track is limited to three (3) motorcycles at any one time. However, an additional fourth motorcycle, of smaller engine capacity is permitted, to include a child rider (16 years and under) only.

Condition reason:

To limit noise impacts and clarify the number of motorcycles permitted to ride at any one time.

Legal and Regulatory Compliance

This development assessment has been undertaken consistent with Council's obligations under the Environmental Planning and Assessment Act, 1979, as amended.

Environmental Planning and Assessment Regulation (2021) outlines that:

(1) Within 14 days after determining a development application, the consent authority must give written notice of the determination to the following—

(a) the applicant,

(b) each person referred to in the Act, section 4.18(1)(b),

(c) each person who made a submission about the development application under the Act, whether or not the development was designated development,

Financial Implications

No financial issues are identified.

Risk Management Issues

Given that the conditions were determined by Council it is appropriate to seek clarification regarding the error that has occurred.

Internal/External Consultation

During the development assessment stage community and statutory consultation have been undertaken in accordance with Environmental Planning and Assessment Act and Regulation.

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As this is a planning decision made in the exercise of a function of a Council under the Environmental Planning and Assessment Act 1979, including a decision relating to a development application under that Act, a division is required to be called.

RECOMMENDATION

1. That Council amend condition 6 as outlined in the draft minutes of the Council meeting of the 13th of September 2023 regarding the approval conditions for DA 2022/58 Motorbike track at 151 Old Backwater Road, Narromine, to be:
 - 6. The typical ongoing use and operation of the track is limited to three (3) motorcycles at any one time. However, an additional fourth motorcycle, of smaller engine capacity is permitted, to include a child rider (16 years and under) only.

Condition reason:

To limit noise impacts and clarify the number of motorcycles permitted to ride at any one time.

Phil Johnston
Director Community and Economic Development