

11.2.3 MARGARET RIVER SPEEDWAY LEASE

LOCATION/ADDRESS	Reserve 18838 Wallcliffe Road, Margaret River
APPLICANT/LANDOWNER	Augusta - Margaret River Hot Rod Club
FILE REFERENCE	RES/18838
REPORT AUTHOR	Amelia Englert, Senior Legal Officer
AUTHORISING OFFICER	Nick Logan, Acting Director Sustainable Development

IN BRIEF

- The Augusta-Margaret River Hot Rod Club (**Hot Rod Club**) has formally occupied a portion of Reserve 18838, Wallcliffe Road (**Site**) since 1978 and has operated the speedway during this time.
- The current 21 year lease granted in favour of the Hot Rod Club expires on 31 December 2017.
- The Hot Rod Club has requested that a new lease be granted on the same terms as the current lease.
- During the operation of the speedway the Shire has received noise complaints from surrounding property owners and occupants.
- In December 2000 the Minister for the Environment made an exemption order which allows speedway noise emissions to exceed the noise levels set under the *Environmental Protection (Noise) Regulations 1997 (Regulations)* and protects the Hot Rod Club and the Shire from potential prosecution under the *Environmental Protection Act 1986*.
- Since gazettal of the exemption order the Regulations have been amended and provide for provisions specifically applicable to motor sport venues with the Department of Environment Regulation (**DER**) indicating that the development of noise management plans for motor sport venues is preferable to exemption orders.
- It is considered that the exemption order should be replaced by a noise management plan developed in accordance with the amended Regulations so as to allow for community consultation, flexibility, certainty and consistency.
- The noise management plan should be finalised prior to the granting of a long term lease so as to gauge noise impacts and proposed management.
- The granting of a new short term lease is considered to be appropriate to allow time for the development of a noise management plan and to allow the Hot Rod Club to fulfil its future planned events.

RECOMMENDATION

That Council:

Supports the preparation and execution of a new lease agreement under the Chief Executive Officer's delegated authority pursuant to section 5.42 of the *Local Government Act 1995* in favour of the Augusta-Margaret River Hot Rod Club (**Hot Rod Club**) over a portion of Reserve 18838 subject to the following requirements:

- a) The Hot Rod Club commencing the process of developing a noise management plan pursuant to the *Environmental Protection (Noise) Regulations 1997* within 2 months of the date of this resolution and completes the process within 12 months of the date of this resolution;
 - b) The new lease commencing on 1 January 2018 and expiring on 16 May 2019;
 - c) On approval of a noise management plan Council consider granting a further lease from 17 May 2019; and
 - d) On approval of a noise management plan, the Shire of Augusta Margaret River's Chief Executive Officer requesting the Department of Environment Regulation revoke *Environmental Protection (Margaret River Speedway) Exemption Order 2000*.
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SHIRE OF AUGUSTA MARGARET RIVER
ORDINARY COUNCIL MEETING 8 JUNE 2016

21 years. During the occupation of the Site noise from the Speedway has become a matter of contention as a result of encroaching residential development. The following list sets out the relevant background information regarding the noise issue at the Site:

- In October 1992 the Shire informed the Hot Rod Club that the lease granted in 1978 would not be renewed until relocation of the speedway was resolved.
- Subsequently, in November 1992, the Environmental Protection Authority (EPA) advised the Shire that prior to the Shire approving further residential development it should ensure that it considers the impacts of residential development and forced relocation on the Speedway.
- In April 1993 the Shire received advice from the Minister for the Environment (**Minister**) stating that it supported the EPA advice and that it would be very disappointed if the Shire used the *Environmental Protection Act 1986 (EP Act)* to manage a noise pollution situation it had, through its own decisions, created.
- In August 1993 the Hot Rod Club wrote to the Shire requesting it consider alternate sites for the Speedway as the members realised that future development of the surrounding area would result in increased complaints and pressure on the Hot Rod Club and the Shire. After a large amount of investigation and effort on behalf of the Shire and the Hot Rod Club a number of sites were identified. A State Forest site vested in the Department of Conservation and Land Management was identified as the preferred option however it was determined that the Site was not suitable.
- In September 1995 the Hot Rod Club advised the Shire that it would be applying for a noise exemption order for the current site and that it would also be investigating another site in Witchcliffe. This Witchcliffe site was later found to be unsuitable. In January 1996 the Minister advised the Shire it would be granting the exemption order so as to give the Hot Rod Club more time to relocate because the Speedway had operated at the Site prior to the encroachment of residential development.
- A new lease agreement was entered into between the Shire and the Hot Rod Club and was made on 24 December 1997. The term of the lease was for a period of 10 years from 1 January 1998 with a further 10 year option. The lease also contained clauses addressing noise and compliance with future exemption orders. This lease is still current and applicable to the Site.
- On 22 December 2000 the *Environmental Protection (Margaret River Speedway) Exemption Order 2000 (Exemption Order)* was published in the *Government Gazette (WA)*.
- In April 2007 the Hot Rod Club requested that the further 10 year option be renewed and, in August 2007, the Shire informed the Hot Rod Club that it consents to the renewal of the further term and that the expiry date of the lease will be 30 December 2017 with no further option to renew. There does not appear to be any records of exploration of noise or relocation as part of the Shire's consideration of the request to renew.
- In March 2011 Council adopted the Land Asset Management Plan (**LAMP**) which resulted in a resolution to prepare a scheme amendment to rezone the Site to rural residential subject to appropriate studies being undertaken.
- In March 2012, as part of its review of LAMP, Council resolved to change the rezoning priority of the Site from medium term to long term and to receive a report on the potential relocation options for the Speedway by the end of the 2012-2013 financial year.
- The last review of LAMP was undertaken in June 2014 with Council resolving to remove the Site from LAMP because, although the Shire's *Local Planning Strategy (LPS)* contemplates the rezoning and development of the Site, the strategic timeframe exceeds the timeframe in LAMP and would not be viable for at least another 10 years. The officer's report also commented that a report on the relocation option for the Speedway remains a priority once the tenure arrangement for NBN infrastructure on the Site is resolved.

The Site

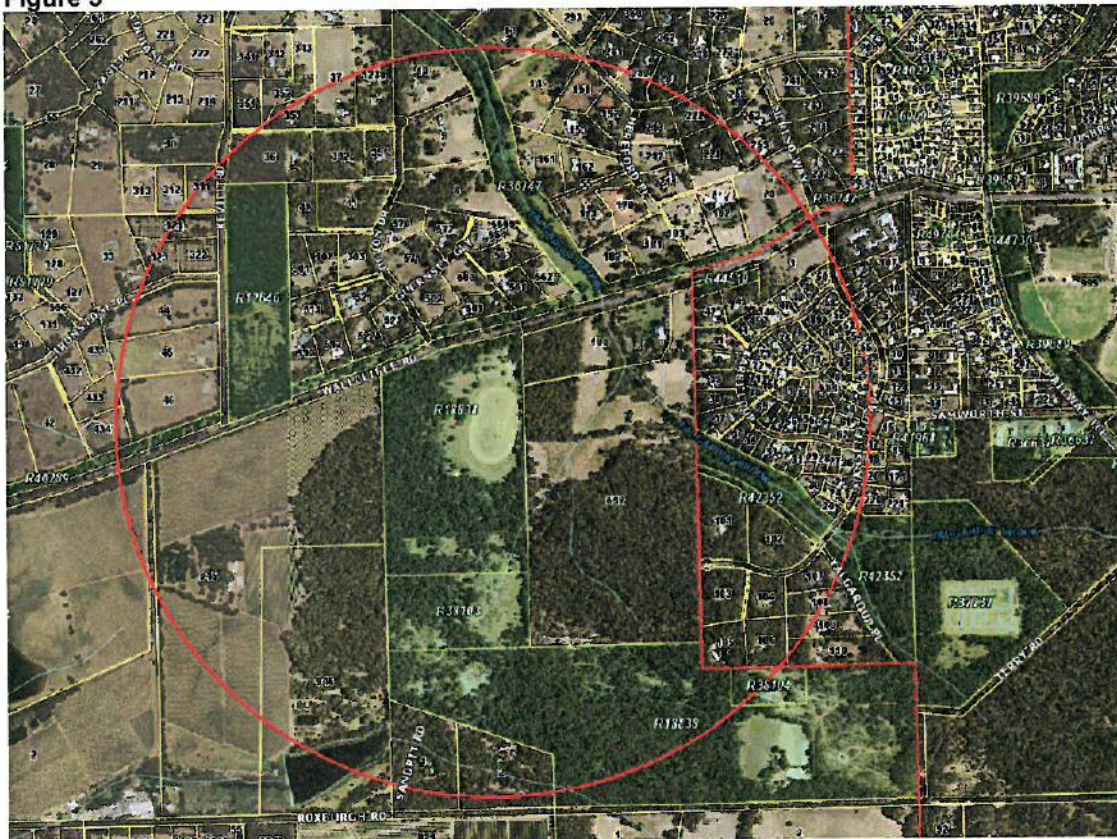
The Site is a portion of approximately 22.5 hectares of Crown land under Shire management and is separated from the remaining portions of the reserve by Reserve 38103 as shown in Figures 1 and 2 above. The Site was vested in the Shire on 10 July 1970 and the management order applicable to the Site provides that it is to be used for the designated purpose of "Recreation" only.

The Site is located south of Wallcliffe Road and approximately 2.3 kilometres west of the Margaret River town centre. Development on the Site consists of the Speedway racetrack and associated buildings while the majority of the Site is vegetated. In March 2014 the Shire granted development approval for the construction of a telecommunications tower on the Reserve and, by way of a deed of partial surrender of lease, the Hot Rod Club agreed to excise this area from the current lease. The Site is relatively level and a watercourse traverses across the far north-east corner.

Larger freehold properties adjoin the Site to the west and to the east while Reserve 38103 and remaining areas of Reserve 18838 are located to the south of the Site. Smaller rural residential freehold lots are located across Wallcliffe Road to the north while the Basildene Manor tourist accommodation is located approximately 400 metres from the Speedway racetrack. There is no residential development on the rural property to the east of the Site. Dwellings, with a distance of 200m to 300m from the Speedway racetrack, are located on the rural residential properties to the north of Wallcliffe Road. Two freehold properties owned by Cape Mentelle Vineyards Ltd are located to the west of the Site and development on these properties consists of vineyards, dams and associated vineyard buildings. The distance from the Cape Mentelle cellar door to the Speedway is approximately 1.3 km. Figure 3 shows the number of properties and residences within 1km of the Speedway.

The Margaret River Pony Club lease applies to a separate portion of Reserve 18838 to the south-east and is separated by Reserve 38103.

Figure 3



The Augusta-Margaret River Hot Rod Club and Current Lease

The Hot Rod Club has been an incorporated association since 1 December 1970 and has occupied the Site under a lease agreement since 1978. The Hot Rod Club was responsible for developing the racetrack and associated buildings at the Site and use of the Site as a Speedway track commenced in 1964. The Hot Rod Club hosts a maximum of 10 race meetings at the Site annually with the race meetings attended by the Hot Rod Club drivers and drivers from other clubs around Western Australia.

The current lease agreement between the Hot Rod Club and the Shire, shown at Attachment 1, commenced on 1 January 1998 and will expire on 31 December 2017. The purpose of the lease is stated as 'A race course for vehicles of the type known as "Speedway"'. Specific terms of the lease address noise and provide that the lessee is to comply with all legislation relating to noise including any exemption orders.

CONSULTATION AND ADVICE

External Consultation

Department of Environment Regulation (DER)

In 2009 the Hot Rod Club requested that the Exemption Order be amended so as to allow all meetings to be staged at the 95dB sound level for all vehicles which is an increase from the required level of 90dB under the Exemption Order. MLC Barry House wrote to the Minister in support of the Hot Rod Club's request.

In response to the request the Minister advised that amendments to the Regulations will include a specific regulation addressing motor sport venues and the development of noise management plans to be approved by the Chief Executive Officers of local governments. The Minister expected the amended regulations to be completed by 2010 and that a noise management plan was the preferred option to amending the Exemption Order. The amended Regulations were gazetted in 2013.

The Hot Rod Club wrote to DER in 2016 again seeking an amendment to the Exemption Order to allow an increase from 90dB to 95dB.

In response to this second request DER advised that it is not possible to amend an existing exemption order however the Minister or the Environmental Protection Agency (EPA) may revoke an existing exemption order and replace it with another. DER further advised, however, that the preferred option is to engage with the specific management provision within the amended Regulations by developing a noise management plan that will potentially allow the exceedance of the prescribed noise levels within the Regulations. DER also advised that the development of a noise management plan under the Regulations is intended to provide certainty for both motor sport venue operators and the affected community.

The Hot Rod Club

Shire officers have met with members of the Hot Rod Club to discuss the lease and have advised it of the possible recommendation to Council as detailed and discussed in this report.

The WA Speedway Commission

The WA Speedway Commission has advised that it will provide assistance to the Hot Rod Club in the development of a noise management plan.

Adjoining and Surrounding Property Owners

The process of assessing the noise management plan includes consultation with the community which has not been undertaken since the advertising of the Exemption Order. In 2000 when the Exemption Order was released for public comment 10 supporting comments and 6 objections were received.

Internal Consultation

Environmental Health Services

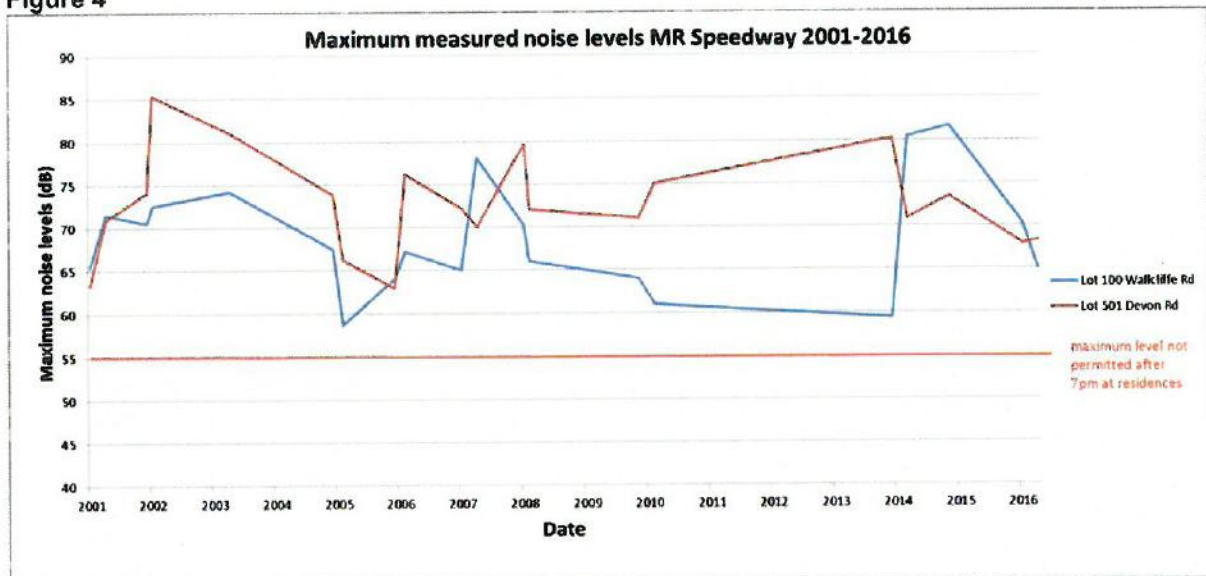
In terms of complying with the Exemption Order the Hot Rod Club must send reports to the DER and provide copies to the Shire. The reports specifically detail noise levels of vehicles and noise levels at

adjoining properties. Environmental Health Service's role is a secondary one with it assisting DER with the monitoring of compliance. Final enforcement of the Exemption Order lies with the DER.

The Exemption Order does not set noise limits that are received at nearby noise sensitive premises (residential premises/accommodation businesses). They can however, be calculated should the race vehicle be generating noise at 90dB or 95dB. It should be noted however that sound levels received can be affected by wind direction, cloud cover and other environmental conditions.

The noise level measurement taken at 2 residential premises in accordance with the Exemption Order is performed by a contractor engaged by the Hot Rod Club. A graph record of sound level readings from 2001 to 2016 and is representative of 2 race meetings per race season is shown at Figure 4.

Figure 4



The readings were undertaken in accordance with the Exemption Order at Lot 501 Devon Road (190 metres from the speedway) and Lot 100 Walkcliff Road (360 metres from the speedway). The red line on the graph represents 55dB which is the prescribed maximum sound level under the Regulations that should not be breached after 7pm. A useful indicative measure of loudness is that an increase of 3dB is just perceivable and an increase of 10dB equates to double the loudness.

Shire records yield that there have been a total of 32 complaints about the Speedway since 1984 with the last complaint received in 2014 in which the complainant sought a review of the Exemption Order. The other complaints range from loud noise; race meetings conducted beyond authorised times; scheduling of race meetings; advertising of the race season program; and the need to relocate the Speedway and not renew the lease. It is difficult to assess the noise impact based on the number of complaints over the years because this statistic may be influenced by the gazettal of the Exemption Order with impacted residents feeling that complaints are futile.

On Saturday 23 April 2016 Environmental Health Officers undertook monitoring of sound levels during a race meeting at the Speedway. The purpose of the monitoring was to determine sound levels at different residences and to determine to what extent, in terms of distance from the Speedway, they impacted on those locations. Recordings were performed at residences with distances ranging from 190 metres to 3.5 kilometres from the Speedway. Figure 5 shows the different locations and Figure 6 shows the noise levels at these locations.

Figure 5

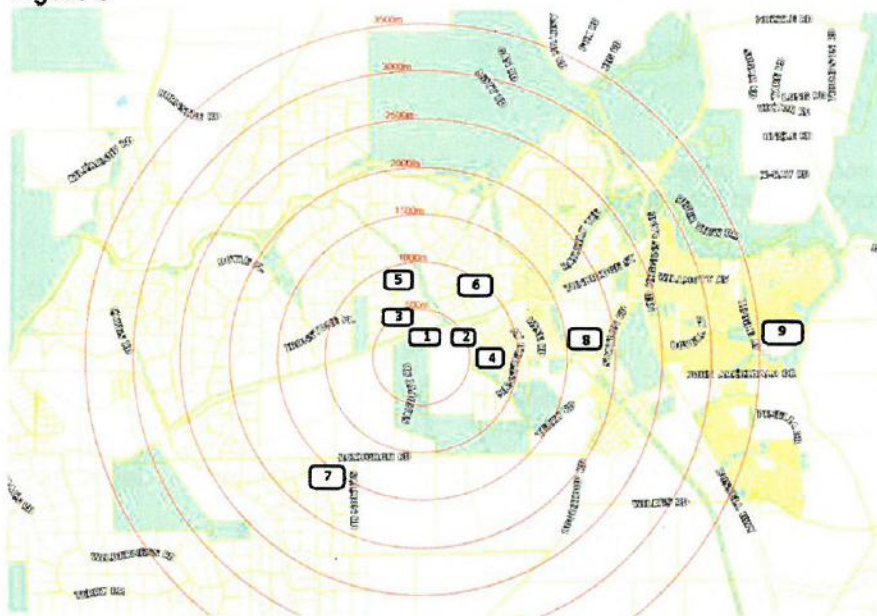


Figure 6

Noise levels at 23 April 2016 meeting
recorded by AMRS EHOs

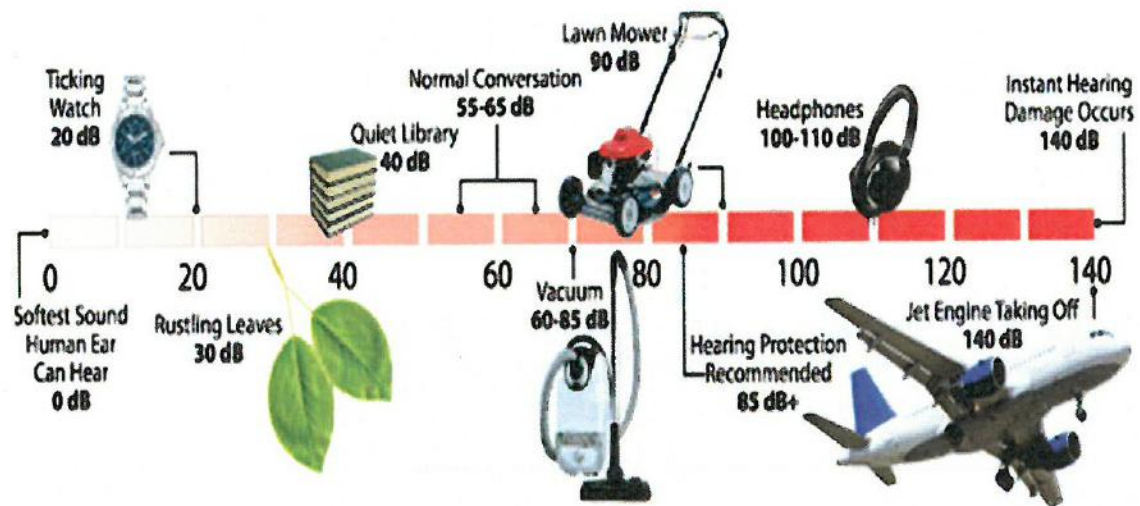
Map ref	Address	Distance from speedway (m)	Maximum noise level (dB)
1	Devon Drive (south)	190	68.3
2	Basildene Manor	360	65.0
3	Guernsey Gully	400	45.7
4	Karri Loop	600	59.8
5	Devon Drive (north)	750	45.5
6	Cnr Illawarra and Hereford	860	40.2
7	Ridgeview Close	1460	63.5

8	Tennis Club	1700	46.1
9	Tingle Ave (south)	3470	51.6

The prescribed maximum sound level under the Regulations that should not be breached is 55dB and results of the sound monitoring ranged from 40.2dB to 68.3dB.

Different noise emissions with corresponding sound levels are shown at Figure 7.

Figure 7



STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

Legal Advice

Refer to Confidential Attachment 2.

Environmental Protection Act 1986 (EP Act)

Section 49(2) of the EP Act provides that where a person or local government intentionally causes noise pollution or allows noise pollution to be caused it commits an offence. The penalty for committing such an offence for local governments is a penalty not exceeding \$1,000,000 and a daily penalty not exceeding \$200,000. The Exemption Order currently acts to exempt the Shire and the Hot Rod Club from this offence and is discussed in more detail below.

Environmental Protection (Margaret River Speedway) Exemption Order 2000 (Exemption Order)

The Exemption Order was gazetted in 2000 and is shown at Attachment 3. The Speedway is the only speedway in Western Australia operating under an Exemption Order.

The Exemption Order was made under the EP Act and causes Part V of the EP Act (except for sections 71, 74, 76, 77 and 78) to not be applicable. It enables race meetings to be conducted even though the resultant noise levels contravene the Regulations and the Hot Rod Club cannot be prosecuted for these contraventions.

The Exemption Order does not have an expiry date and its duration is dependent on the Hot Rod Club being the leaseholder at the Site. Clause 4(1) of the Exemption Order provides that the Exemption Order will apply while the operator is the leaseholder of the Speedway. Once the current

lease expires the Exemption Order will cease to apply and the Hot Rod Club and the Shire may be liable under section 49(2) of the EP Act if the Speedway is still operating.

The Exemption Order contains provisions in terms of allowable sound levels, number of race meetings, types of racing vehicles and recording of sound levels of actual race vehicles. Requirements also extend to the publishing of race meeting times and reporting requirements.

Specifically, the Exemption Order provides the following requirements:

Meetings

- 10 meetings per race season from 15 October to 15 May with a maximum of 4 meetings featuring sprint car, super sedan & late model sedans as these are deemed to produce the loudest noise at 95dB.
- Race meetings containing sprint cars, super sedans and/or late model sedans are limited to 5 races.
- A meeting can only be held on consecutive days once per season.
- The racing program must be published in the *Augusta-Margaret River Times* and the *Augusta-Margaret River Mail* in the last 2 weeks of September prior to the season.
- Race meetings must be completed within 5 hours (between midday-10pm).

Race car sound levels

- All race vehicles racing at a meeting must be scrutinised in terms of noise levels by an authorised person. This is undertaken prior to the season with a certificate issued. Should modifications be undertaken later during that season, the vehicle must be reassessed and a new certificate issued.
- 95dBLa slow for sprint car, super sedan and late model sedan.
- 90dBLa slow for all other vehicles.
- Race car sound levels are determined prior to the season and taken from within 30m of inside of the track. Three consecutive laps must be undertaken within a period not greater than 4 x times the average race winning lap time of previous season of the same vehicle class (then take average sound level).
- Should a race vehicle be noted to be producing a noise level beyond 90dB or 95dB at a race meeting the Hot Rod Club may prevent that vehicle from continuing at that meeting.

Residential levels

- Sound levels must be taken of at least two meetings – one of which must be of a meeting where sprint cars, super sedans & late model sedans are featured (95dB).
- Sound level recordings are to be taken adjacent to 2 approved residential premises (the Exemption Order is silent on length of recording other than the standard requirement within the Regulations which is 15 minutes).
- The 2 approved residential premises are:
 1. Basildene Manor at Lot 100 Wallcliffe Rd (A1029) - 10m north of NW corner of building; and
 2. Lot 501 Devon Rd (A9519) - 15m south of SW corner of dwelling.

Reporting

- A report must be submitted of recordings to DER and the Shire within 30 days of the meeting.

The Exemption Order may be revoked by the Minister.

Environmental Protection (Noise) Regulations 1997 (Regulations)

The Regulations assign levels of noise for various premises and where a motor sport venue cannot practicably comply with these levels Division 3 of the Regulations allows the venue occupier to apply for the approval of a noise management plan. If the noise management plan is approved it will mean that the noise emissions from the venue are permitted to exceed the assigned levels in the Regulations provided the venue operates in accordance with the approved noise management plan. As stated above the DER have provided advice that the Regulations were amended in 2013 to include noise management plans and that DER prefer noise management plans over exemption orders.

Under the Regulations 'motor sport venue' is defined as:

[P]remises approved or recognised by a motor sport organisation as premises at which racing activities may be conducted...

The WA Speedway Commission is included as one of the organisations under the definition of 'motor sport organisation'.

Under existing delegation, the Shire's CEO has the authority to approve or refuse a noise management plan. Principles of an approved noise management plan are to include:

- Protection – the noise amenity of the community should be protected to a reasonable degree;
- Fairness – the process and the outcome should be as fair as possible to all parties;
- Certainty – the outcome should provide certainty to service providers as to their operations, and certainty to the community as to what they can expect in the management of noise from their operations.

Process of developing a noise management plan

The occupier of a motor sport venue may apply to the CEO of the local government and it is not compulsory to generate a noise management plan. The WA Speedway Commission supports motor sport venues and will assist clubs with the development of noise management plans.

An application fee of \$500 is required under the Regulations but can be waived or reduced by the local government CEO. An additional fee reflecting the actual cost of assessing/ processing the submitted application is to be estimated by the CEO (to be no greater than \$15,000) and be paid by the applicant prior to assessment.

The applicant may be required to undertake a survey that is directly related to the noise impact on the community.

The CEO must not approve a noise management plan for a motor sport venue unless the plan:

1. Contains a detailed map of the venue;
2. Contains a description of types of racing activities and classes of vehicles that can be reasonably expected to race at the venue;
3. Sets out limitations on racing activities to be conducted and times during which racing occurs;
4. Contains details of reasonable & practicable measures to be implemented to control noise emissions;
5. Contains details of when and the manner in which notice of racing activities is to be published or distributed to the public;
6. Specifies the persons who will be responsible for implementing the approved noise management plan and sets out each person's responsibilities; and
7. Contains a complaint response procedure.

Before making a decision to approve or refuse a noise management plan, the CEO must:

- Provide an opportunity from the occupier of any noise sensitive premises within 1km of the motor sport venue to make a submission on whether or not the plan should be approved; and
- May give any other person the CEO considers appropriate an opportunity to make a submission on whether or not the plan should be approved.

Approval of a noise management plan may be granted by the CEO with conditions and for a specified period. Conditions of a noise management plan may include periods of review however any decision to remove the noise management plan as a result of review would be a decision made by Council given the community impacts. A person aggrieved by the approval, refusal or any conditions within the plan may appeal to the Minister within 21 days of publication of notice of the decision.

Contaminated Sites Act 2003 (CS Act)

In Western Australia, contaminated sites are regulated by DER through the administration of the CS Act which provides the framework for the identification, recording, management and remediation of contaminated sites.

The CS Act includes the requirement for mandatory reporting of known and suspected contaminated sites to DER by land owners, occupiers and polluters with all reported sites recorded on the contaminated sites register. Reported sites are classified by DER, in consultation with the Department of Health, as one of seven classifications based upon the available information and risk they pose to human health and the environment. The CS Act includes provisions for investigation, monitoring and/or remediation of contaminated sites. Investigating and cleaning up contaminated sites is, in most cases, the responsibility of the polluter or current site owner.

The DER guidance documents on contaminated sites reporting provides a list of potentially contaminating activities and land uses, and associated potential contaminants. Motor racing venues are included on the list due to the potential contamination of the land by petroleum hydrocarbons, monocyclic aromatic hydrocarbons (e.g. benzene, toluene, ethyl benzene and xylenes), solvents, resins, heavy metals and polycyclic aromatic hydrocarbons.

It is however noted that a site is not necessarily contaminated nor requires any notification to the DER solely because a potentially contaminating activity or land use has occurred on the site. If however it is known that a potentially contaminating activity has occurred on the site and there are indicators of possible contamination, then it is a mandatory requirement on the landowner to report the site to the DER.

Local Government Act 1995 (LGA)

The process required for the disposition of property under the LGA does not apply because the Hot Rod Club is a non-profit organisation and such a disposition is exempt under section 30(2)(b) of the *Local Government (Functions and General) Regulations 1996*.

Land Administration Act 1997 (LAA)

Any lease over a reserve managed by a local government is to be approved by the Minister for Lands pursuant to section 18 of the *Land Administration Act 1997*.

STRATEGIC PLAN / POLICY IMPLICATIONS

Community Strategic Plan 2033 (CSP)

The granting of the new lease to the Hot Rod Club is consistent with Goal 2 of the Shire's CSP which is to provide a welcoming and inclusive community. However this is also to be balanced against managing growth sustainably at Goal 3.

Corporate Business Plan 2015-2019 (CBP)

Goal 2: Welcoming and inclusive communities

Community Outcome 2.1: Sense of identity and belonging

Strategic Response: Support community celebrations, events and local festivals

Service level strategy/plan: Provide professional advice and support to community groups.

PLANNING FRAMEWORK

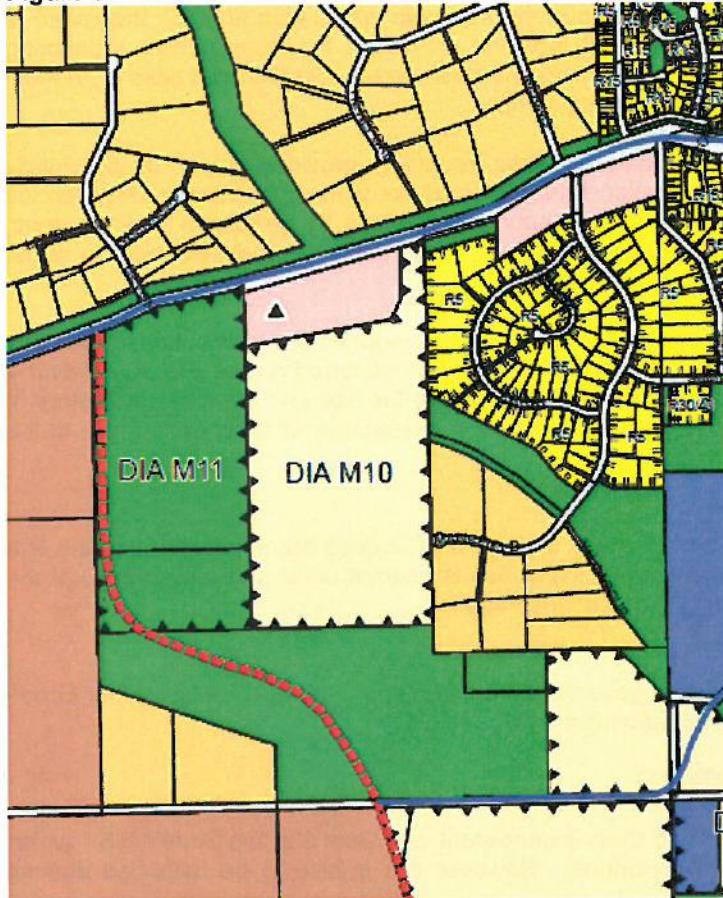
Local Planning Scheme No. 1 (LPS1)

Under LPS1, the Site is zoned as a Reserve for Parks and Recreation. There are no relevant provisions relating to the current lease under LPS1. Surrounding zones include Rural Residential to the north, General Agriculture to the east, Tourism to the east, Priority Agriculture to the west and Reserve for Parks and Recreation to the south.

Local Planning Strategy (LPS)

The LPS was endorsed in April 2011. The strategic timeframe of the LPS is 15 years which means that it will be reviewed in 10 years. Under the LPS the Site is designated as 'Parks & Recreation' within 'Development Investigation Area M11' as shown at Figure 8. The Parks and Recreation land use category supports a range of active and passive recreation and community facilities including parks, sporting grounds and walk trails and may contain areas of local environmental value that are worthy of protection. The LPS also states that these community facilities should be developed to accommodate a range of uses and be adaptable to future changes in use and users.

Figure 8



The LPS has identified Development Investigation Areas (DIAs) to provide strategic guidance as to the possible future major 'greenfield' development areas within the Shire and further states that it cannot be construed that just because land has been included in a DIA that it will be supported for subsequent rezoning. This means that DIAs will be subject to detailed investigation to ensure suitability for the envisaged land use; the need for that land use; and the appropriate staged release of land.

The DIA Summary Table under the LPS states that the Site has a Staging Priority of 5 and that development is to be clustered rural residential/special residential with the protection of remnant vegetation and the indicative western perimeter road alignment being primary planning considerations. The staging priority given to the Site is the lowest priority as compared to the other DIAs under LPS.

The eastern Perimeter Road alignment is shown running along the western boundary of the Site under the Land Use Strategy Map which is an 'in principle' alignment requiring further detailed studies.

The property to the east of the Site is designated as DIA M10 which means that it is potentially suitable for clustered special rural/special residential development. This property has a staging priority of 2 which is a higher staging priority than the subject Site however development of this Site would be subject to the operation of the Speedway although not specifically mentioned in the LPS.

The other sites adjoining the Subject site includes classifications of Tourism, Priority Agriculture and Reserve under the LPS.

State Planning Policy 6.1 Leeuwin-Naturaliste Ridge (SPP6.1)

Under SPP6.1 the Site is identified as a Development Investigation Area which is explained as a guide to potential development requiring detailed investigation prior to subdivision and development.

FINANCIAL IMPLICATIONS

It is reasonable to lease the Site to the Hot Rod Club for the nominal 'pepper corn' rent given that it is a not-for-profit community organisation. However, as a lessee of the Site, the Hot Rod Club will be responsible for the payment of all services such as electricity, gas and water to the Site. The Hot Rod Club will also be responsible for public liability and building insurance.

The Hot Rod Club will also be responsible for the costs associated with the preparation of a noise management plan.

SUSTAINABILITY IMPLICATIONS

Environmental

Contamination

Motor sport venues can pose environmental risks through:

- (a) noise emissions;
- (b) leaks or spills of chemicals or petroleum hydrocarbons from storage areas, accidents and crashes, mechanical servicing areas and on the race tracks;
- (c) turbid or contaminated stormwater runoff;
- (d) inappropriate containment or disposal of solid waste and wastewater from mechanical servicing and wash-down areas; and
- (e) amenities for the congregation of large numbers of people.

Furthermore motor racing activities may cause environmental contamination of the site and as such the provisions of CS Act are relevant and should be considered by the Shire in leasing a parcel of land under its responsibility for a use which if not controlled, has the potential to contaminate the land on which it occupies. Currently there are no indications that the Shire is aware of that would suggest contamination of the Site that would require the Shire to report it as contaminated to the DER.

To safeguard against this potential eventuality, it is recommended that should renewal of the lease be considered that a requirement for compliance with an Environmental Management Plan be included as a provision of the lease. This plan will include good environmental practices included managing impacts of vehicle maintenance, storage fuels and chemicals, dust management, stormwater, waste management and disposal, stormwater management, emergency response, spill containment, fire prevention and management, environmental monitoring and reporting.

If the renewal of the lease is not supported and the land use of the Site is proposed to be changed to a more sensitive use it will trigger a further site contamination assessment through the planning process to ensure that the Site is suitable for the proposed land use. Should preliminary site investigation prove the Site as contaminated it will require remediation prior to rezoning, subdivision or development.

There is currently no clause in the current lease to cover the remediation and clean-up of the Site by the Hot Rod Club should it be proven as contaminated due to the existing activities on the leased portion of the Site. The Shire will be responsible for these costs should it wish to rezone the site for a more sensitive land use. Any new lease should address the potential contamination of the Site.

Drainage

A Shire officer recently inspected the drainage from the racetrack to determine any environmental impacts from this drainage. The officer noted that the drain is close to the boundary but that it appeared to discharge relatively small amounts of water. The main concern that the officer had was the amount of litter (plastic, carpet, tiles, tyres, bricks and bottles) in the fill that supports this pipe. The pipe discharge area itself shows signs of minor erosion, but there is also some gully erosion in the area along the length of the pipe, presumably from overland flows also collecting in this area. Neither of these issues are significant but should be addressed by the Hot Rod Club as part of an overall management plan required as a provision of any new lease which also addresses the storage and use of fuels and oil.

Social

The Hot Rod Club provides social benefit to the Shire through the provision of alternative recreational activity and community interaction. However, if the noise emissions are excessive and largely impact on nearby occupiers it may cause social issues associated with land use conflict.

Economic

The Hot Rod Club events provide an alternative form of entertainment for visitors to the area which supports the economy of the area. However, a long term lease will restrict the Shire from developing the Site as envisioned by the LPS.

DISCUSSION / OFFICER COMMENTS

Noise

Since the subdivision of surrounding land the issue of noise has become more topical and in the past has led to the exploration of other sites for the relocation of the Speedway. The issue of noise has also limited subdivision potential of adjoining properties. The adjoining property to the east has development potential given its designation under the LPS however it is unlikely that the Shire would support the rezoning of this site if the Speedway is still operating in its current location.

Race meetings held at the Speedway are regarded as 'events' and accordingly should be subject to normal Shire processes in terms of their staging. The normal process for multiple noise emitting events, such as music events, is to require consultation with the occupiers of nearby properties likely to be affected. Granting a long term lease for the future operation of the Speedway without undertaking community consultation does not follow this standard Shire process.

It is considered that the development of a noise management plan satisfies the consultation process, will allow further exploration of noise impacts and will provide greater flexibility and certainty for the Hot Rod Club and the Shire in managing the noise.

New Lease

The noise issue requires further exploration to determine impacts on adjoining residents and the community. A new short term lease would allow this process to occur and allow time for the Hot Rod Club to fulfil its events calendar. The new lease can be granted so as to commence at the expiry of the current lease, 1 January 2018, and expire at the end of the racing season in 2019 thereby encompassing 2 racing seasons. The new lease will need to refer to the current exemption order and future noise management plan and will provide that the Site be left in an uncontaminated condition at the end of the lease.

If the noise management plan is approved the Shire may consider the granting of another lease for a longer term. However, if it is not approved the Hot Rod Club will be able to occupy the Site under the current Exemption Order until the end of the racing season in 2019.

Alternative options include:

- Not renewing the lease and the Speedway being relocated; or
- Renewing the lease (with the Exemption Order or a noise management plan) for a longer period of up to 21 years however there are known amenity impacts and it may compromise the DIA implementation.

CONCLUSION

Considering the noise issue and future planning for the Site it is reasonable to conclude that a new 10 year lease with a 10 year option is not a suitable option. Further community consultation is required to gauge noise impacts and the development of a noise management plan is the appropriate method for undertaking this consultation.

A minor lease extension prior to undertaking the noise management plan process enables consultation on the noise issue which will, in turn, inform the decision on whether to extend the lease for a further period and will provide sufficient certainty for all parties.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council:

Supports the preparation and execution of a new lease agreement under the Chief Executive Officer's delegated authority pursuant to section 5.42 of the *Local Government Act 1995* in favour of the Augusta-Margaret River Hot Rod Club (**Hot Rod Club**) over a portion of Reserve 18838 subject to the following requirements:

- a) The Hot Rod Club commencing the process of developing a noise management plan pursuant to the *Environmental Protection (Noise) Regulations 1997* within 2 months of the date of this resolution and completes the process within 12 months of the date of this resolution;
- b) The new lease commencing on 1 January 2018 and expiring on 16 May 2019;
- c) On approval of a noise management plan Council consider granting a further lease from 17 May 2019; and
- d) On approval of a noise management plan, the Shire of Augusta Margaret River's Chief Executive Officer requesting the Department of Environment Regulation revoke *Environmental Protection (Margaret River Speedway) Exemption Order 2000*.

ADVICE TO APPLICANT / PROPONENT

Nil

ATTACHMENTS

1. Lease
2. Confidential attachment
3. Exemption Order

RECOMMENDATION

CR , CR

That Council:

Supports the preparation and execution of a new lease agreement under the Chief Executive Officer's delegated authority pursuant to section 5.42 of the *Local Government Act 1995* in favour of the Augusta-Margaret River Hot Rod Club (**Hot Rod Club**) over a portion of Reserve 18838 subject to the following requirements:

- a) The Hot Rod Club commencing the process of developing a noise management plan pursuant to the *Environmental Protection (Noise) Regulations 1997* within 2 months of the date of this resolution and completes the process within 12 months of the date of this resolution;
- b) The new lease commencing on 1 January 2018 and expiring on 16 May 2019;
- c) On approval of a noise management plan Council consider granting a further lease from 17 May 2019; and
- d) On approval of a noise management plan, the Shire of Augusta Margaret River's Chief Executive Officer requesting the Department of Environment Regulation revoke *Environmental Protection (Margaret River Speedway) Exemption Order 2000*.

0/0

As there was no mover for the Officer's recommendation, Cr Townshend moved the following motion:

MOTION / COUNCIL DECISION

CR TOWNSHEND, CR KENNAUGH OM2016/90

That Council:

- a) Supports the preparation and execution of a new lease agreement under the Chief Executive Officer's delegated authority pursuant to section 5.42 of the *Local Government Act 1995* in favour of the Augusta-Margaret River Hot Rod Club (**Hot Rod Club**) over a

portion of Reserve 18838 with the new lease commencing on 1 January 2018 and expiring on 16 May 2019;

- b) Directs the Chief Executive Officer to undertake consultation with the community on further extension of the lease of portion of Reserve 18838 to the Hot Rod Club, to be used under the parameters of the current Noise Exemption Order; and
- c) Considers further extension of the lease of portion of Reserve 18838 to the Hot Rod Club following the consultation process.

CARRIED 7/0

REASON:

Councillor Townshend spoke to the motion, stating that the Hot Rod Club do not have the financial means to prepare and submit a noise management plan within the given time frame.