

DEVELOPMENT PROPOSAL FOR PUBLIC COMMENT
(Re-advertised)

Additional information has been submitted to Council in relation to the following development proposal, and although not designated development under the Environmental Planning & Assessment Act, 1979, is notified for public comment:

Portal Application Number	DA No.	Location	Proposal
PAN-439882	61/2024	LOT: 2 DP: 587599, 47 Horton Close GLEN MARTIN Applicant: Mr C Young Owners: Mr A Bitic & Ms K A Whitehead Consent Authority: Dungog Shire Council	Recreation facility (outdoor) - Continued use - earthworks; and use of property for a Recreation Facility (outdoor). Private motocross tracks

Details of the above proposal are available for inspection on the NSW Planning Portal website from **Wednesday 18 December 2024**.

<https://www.dungog.nsw.gov.au/Council/Council-Advertisements/Development-Applications>

Submissions can be made via the NSW Planning Portal until **Thursday 23 January 2025**. If you require assistance making a submission via the Planning Portal, please contact Council.

In accordance with *Section 10.4 of the Environmental Planning & Assessment Act 1979*, a person who makes a public submission to Council in relation to this application is required to disclose all reportable political donations within two years prior to the submission being made and ending when the application is determined.

If the submission includes an objection to the proposal, the grounds of objection must be given. Council may also be obliged to release your submission as required by the *Government Information (Public Access) Act 2009* and the *Environmental Planning and Assessment Act 1979*.

Further, as stipulated in Council's Public Submissions Policy C1.19, Council will not place any weight on anonymous submissions when determining the respective development application.

**DUNGOG SHIRE COUNCIL
EXHIBITED COPY**

Commencement Date 18 December 2024

Closing Date 6 February 2025

STATEMENT OF ENVIRONMENTAL EFFECTS

DATE: 29 May 2024

PREPARED FOR: Ms Kirsty Bitic

SUBJECT SITE: 47 Horton Close, GLEN MARTIN NSW

PROPOSED DEVELOPMENT: Continued Use – Earthworks and use of property for a *Recreation Facility (Outdoor)*



Subject Site – No 47 Horton Close Glen Martin

Document Version Control

1. Draft – Client Review
2. Final – DA submission

29 May 2024
29 May 2024

List of Standard Terms

Various abbreviated term/s (commonly used in Planning/Development matters) will be used throughout this document. These abbreviated term/s, and their meaning, are outlined as follows:

Abbreviated Term	Meaning
CMY Planning Services	CMY Planning Services – ABN: 4842 5669 421
Client	The name of the Client (as identified in the Introduction)
The Development	Proposal; project; proposed development; intended development; potential development etc
The Site	The location where The Development is to occur (to be identified by both legal description and street address)
The Neighbour	The location of any relevant neighbour/s (relative to The Site) to be identified as required
Council	The Council of the Local Government Area where The Site is located.
DA	Development Application
CC	Construction Certificate
CDC	Complying Development Certificate
EP&A	Environmental Planning and Assessment – as in EP&A Act 1979; or EP&A Regulation 2021
SEPP	State Environmental Planning Policy
LEP	Local Environmental Plan
DCP	Development Control Plan
FSR	Floor Space Ratio (as defined in the applicable environmental planning instrument)
GFA	Gross Floor Area (as defined in the applicable environmental planning instrument)
s.; Pt.; Cl.; Sch. etc	Section; Part; Clause; Schedule etc (ie common terms for Sections/Parts of legislation or planning documents)
St; Rd; Ave; Cl etc	Street; Road; Avenue; Close etc (ie common terms for road/street types)
N; S; E; W	North; south; east; west

Statement of Environmental Effects

1. Introduction

CMY Planning Services has been engaged by Ms Kirsty Bitic, to prepare a Statement of Environmental Effects regarding the earthworks that have occurred at the Site for private motocross tracks.

This Statement is in support of a DA to be lodged with the Council (Dungog Shire Council).

2. This Statement

This Statement has been prepared pursuant to s.4.12 of the EP&A Act 1979, and cl.50 of the EP&A Regulation 2021.

This Statement shall describe the subject site, the existing site features (eg buildings/infrastructure, vegetation etc), the proposed development, and undertake an assessment of the environmental impacts as per the heads of consideration listed in s.4.15 of the EP&A Act 1979.

In summary, the proposed development (the continued use of the earthworks and use of the property for private motocross tracks) can be defined as a *Recreation Facility (Outdoor)*, which is a use permissible with consent in the RU1 Primary Production zone under Dungog LEP 2014. This development is also generally consistent with the objectives and controls for the RU1 zone, and is also consistent with the existing development on the site.

This assessment of the proposal confirms that the development will have no adverse environmental impacts (in terms of the natural and built environments, and social and economic impacts). It is therefore recommended that the proposal be approved subject to standard conditions deemed appropriate/reasonable by the Council.

3. Subject Site and Surrounds

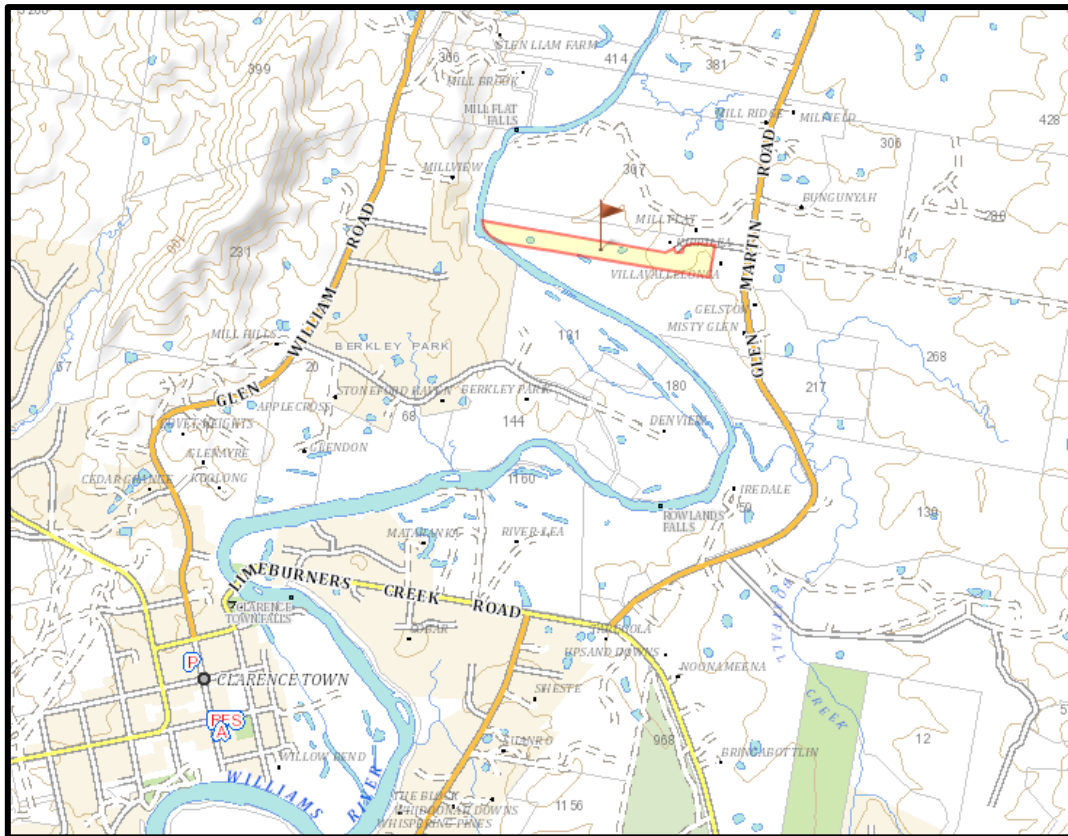
The site has a legal description of Lot 2 DP587599, and street address of No 47 Horton Cl Glen Martin. It is a rural property located near the end of Horton Cl (off Glen Martin Rd). The site is in Glen Martin, a small rural locality in Dungog Shire, and approx. 3.2km from the nearest town (Clarence Town).

The site has a frontage to Horton Cl of over 200m, and a site area of 12.66ha. It contains a single-storey dwelling generally at the E side of the site. The site contains mostly grazing paddocks and has been cleared of most vegetation, and there are several small farm dams.

Generally, the site has a gentle slope down towards the Williams River which forms the Site's W boundary.

The site and surrounds are generally used for grazing and extensive agriculture, and most adjoining properties have been cleared of significant vegetation (mostly grassed paddocks) and contain detached dwelling houses and associated farm buildings.

A location map for the subject site is provided below:



Location Map – 47 Horton Ct Glen Martin (red flag)

4. Proposed Development

The DA seeks consent for the continued use of the earthworks that have been carried out (without consent), and for the use of those earthworks as private motocross tracks.

During the period February to April 2024, earthworks to form 2 motocross tracks were undertaken at the W end of the Site: a small track (with 3 x “hairpin” bends and short straights on a smaller footprint) and a larger track (with 3 x “hairpin” bends and longer straights on a larger footprint).

The motocross tracks have been formed by minor re-shaping of the existing earth/soil at the property (ie there was no importation of fill). Most of the tracks are at/near the previously existing ground levels, however in some locations a more significant amount of earthworks was undertaken for the various track features (which include jumps, landers, tabletops and corners).

Most of the motocross tracks involve minor changes to previously existing ground levels – in particular, they involve less than 600mm of cut or fill (which could have been done as *exempt development* under SEPP (Exempt and Complying Development Codes) 2008). However in some locations, the amount of cut/fill exceeds 600mm so overall the motocross tracks cannot be *exempt* (ie a DA is required).

The following is a summary of the more significant alterations to previous ground levels (based on the accompanying DA plans prepared by Terry Survey & Development Consulting) – most of these have involved raising the ground level for the jumps, landers and tabletops:

- W Track: changes to ground levels range from nil to 1100mm (1.1m) at it's highest point
- E Track: changes to ground levels range from nil to 1300mm (1.3m) at it's highest point

As shown on the DA plans, the motocross tracks are generally at the W end of the site, and have a minimum setback from the rear (W) boundary of 83m from Williams River, and setbacks from the S

boundary of 4.5m (E track) and 11m (W track); and from the N boundary of 17.5m (E track) and 9m (W track).

The position of the motocross tracks on the Site was previously vacant of any buildings or vegetation.

This DA submission follows complaints received by Council during/following the construction of the motocross tracks. To date, the tracks have not been used for riding of any bikes (BMX/motorbikes etc), and so the complaints have related to the earthworks associated with construction of the tracks rather than the use of the tracks.

The Client intends that the motocross tracks will be privately used (ie by children residing at this site, and their friends etc) rather than any commercial usage.

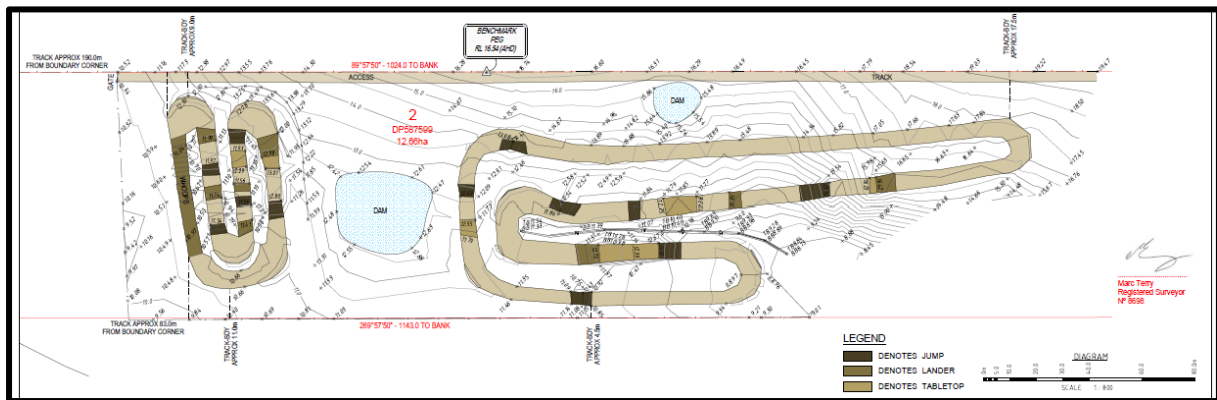
The following are recent (April and May 2024) photos of the constructed motocross tracks.



Flyover Photo – Constructed Motocross Tracks at No 47 Horton Cl Glen Martin (Apr 2024)



Ground Level Photo – Constructed Motocross Track (western track) at No 47 Horton CI Glen Martin (May 2024)



Site Plan: Proposed Motocross Tracks – 47 Horton CI Glen Martin

5. Statutory Framework

The legislation and environmental planning instruments applicable to the site and proposed development are identified and discussed below.

A. Relevant Acts and Regulations

- EP&A Act 1979: s.4.15(1): Matters for Consideration
- EP&A Regulation 2021

Comments: s.4.15 of the EP&A Act 1979 prescribes the matters for consideration in DA Assessment. A full assessment of the environmental impacts of the proposal is undertaken below.

The consent authority (Council) will undertake a full assessment of the proposal against these Matters for Consideration, as part of the determination of this DA.

B. Section 4.15 Assessment

Section 4.15(1)(a) the Provisions of any environmental planning instrument, draft instrument, development control plan, planning agreement, or matter prescribed by the Regulations:

The Site and Development requires assessment under various State and Local planning controls. This is undertaken in the following section.

State Planning Controls

There are several State-level planning controls – contained in State Environmental Planning Policies (SEPPs) applying to the Site/Development. These are assessed as follows:

State Environmental Planning Policy (Biodiversity & Conservation) 2021

This is a state-wide Policy for various matters regarding Biodiversity and Conservation, which took effect in 2021.

The chapters of this SEPP relevant to the subject site/proposed development are addressed as follows:

(a) Chapter 2 – Vegetation in Non-Rural Areas

This chapter of the Biodiversity & Conservation SEPP aims to protect the value of trees and other vegetation in non-rural areas or the State; and to preserve the amenity of non-rural areas through preservation of trees and vegetation.

The Site is zone RU1 – Primary Production under Dungog LEP 2014 and therefore this Chapter does not apply.

The subject earthworks for the motocross tracks did not involve any vegetation removal.

Therefore the development is satisfactory in terms of Ch. 2 of the Biodiversity & Conservation SEPP.

(b) Chapter 4 – Koala Habitat Protection

This chapter of the Biodiversity & Conservation SEPP aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Cl. 4.9 applies to land with an area of at least 1 hectare and does not have an approved Koala Plan of Management. Cl.4.9 (2) and (3) state:

(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.

(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.

The land does not have an approved koala plan of management and is not core koala habitat. The earthworks for the subject motocross tracks did not involve any tree removal.

This development is satisfactory under Ch. 4 of the Biodiversity & Conservation SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

The chapters of this SEPP applicable to the subject site/proposed development include:

(a) Chapter 4 Remediation of Land.

This chapter requires the consent authority to be satisfied that the land is not contaminated or that no remediation is required to make the site suitable for the proposed use.

The Site is a rural property that has only been used for “extensive agriculture” (eg cattle grazing etc) throughout it’s history. There is no evidence of potential contamination.

Although the proposed development does involve a different type of use of the particular part of the site where the motocross tracks have been constructed, there is no reason to suspect there are any contamination issues.

No further assessment is required in relation to potential contamination issues, and the development satisfies this Chapter of the SEPP.

Local Planning Controls

Dungog LEP (DLEP) 2014

DLEP 2024 is the local environmental planning instrument that applies to the Site/Development.

The applicable clauses in DLEP 2014 are discussed as follows:

(a) Clause 2.3 Zone Objectives and Land Use Table

The subject site is within the RU1 – Primary Production zone.

In summary, the proposed development is permitted with consent in the RU1 zone, and also it is consistent with the objectives of this zone.

The zone objectives and permissible/prohibited uses are discussed in more detail as follows:

Objectives of zone:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for recreational and tourist activities that are compatible with the agricultural, environmental and conservation value of the land.*
- *To promote the rural amenity and scenic landscape values of the area and prevent the silhouetting of unsympathetic development on ridgelines.*

Comment – Zone Objectives: The proposal is consistent with the objectives for the RU1 – Primary Production zone. Many of the above objectives are not strictly applicable to the subject Development, however the proposed motocross tracks will provide for recreational use of the land (for the owner and their family).

Although earthworks have been undertaken, these have involved the minor re-shaping and contouring of the Site without any importation of fill, or construction of any built structures.

The development therefore has no impact on the scenic landscape values of the area.

Permitted/Prohibited Landuses:

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home occupations; Horticulture; Markets; Roads; Roadside stalls

3 Permitted with consent

Agritourism; Airstrips; Animal boarding or training establishments; Aquaculture; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Crematoria; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Freight transport facilities; Function centres; Group homes; Health services facilities; Helipads; Heliports; Highway service centres; Home-based child care; Home businesses; Home industries; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Kiosks; Landscaping material supplies; Marinas; Moorings; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; **Recreation facilities (outdoor)**; Restaurants or cafes; Rural industries; Rural supplies; Rural workers' dwellings; Signage; Timber yards; Tourist and visitor accommodation; Transport depots; Truck depots; Veterinary hospitals; Water recreation structures

4 Prohibited

Any development not specified in item 2 or 3

Comment – Landuse/Permissibility: The following is the definition of a “Recreation Facility (outdoor) under DLEP 2014:

***recreation facility (outdoor)** means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).*

The proposed motocross tracks satisfy the definition of “recreation facility (outdoor)” and is therefore permitted with consent in the RU1 zone. It is clearly a “place of a like character” to many of the specific types of outdoor activities in the definition, and therefore can be considered.

The definition does allow for a “recreation facility (outdoor)” to be operated for the purpose of gain (ie financial gain) – however the Client has specifically stated that it will be a private facility to be enjoyed by the children residing at the Site, and their family/friends.

(b) Principal Development Standards

DLEP 2014 contains several *development standards* applicable to the Development and Site. The relevant clauses are outlined in the Table below.

Clause	Requirement	Proposal	Compliance
2.7 – Demolition requires development consent	Demolition requires development consent	Development does not propose demolition of any structures	Yes
5.11 – Bushfire Hazard Reduction	Bushfire hazard reduction work may be carried out without devt consent	Site is (partly) bushfire-affected. Development does not involve any vegetation removal or construction of any structures that would be affected by bushfire	NA
5.21 – Flood Planning	Various	Site is not shown on Council's mapping as being flood affected	NA

Clause	Requirement	Proposal	Compliance
6.1 – Acid Sulfate Soils	Provides that various works require DA consent; and prescribes a range of objectives and controls for Acid Sulfate Soils	Concerns regarding Acid Sulfate Soils generally arise when excavation occurs below ground, or lowering the water table which can cause a chemical reaction in the soil. As noted previously, most of the changes have been to raise the ground levels (for jumps etc). The development will have minimal impact in terms of Acid Sulfate Soils.	Yes
6.2 – Earthworks	Various	See detailed assessment below	Yes
6.5 – Drinking Water Catchments	Provides various objectives and controls to protect drinking water catchments.	<p>The development is within the Williams River drinking water catchment as shown on the DLEP 2014 Maps.</p> <p>The Development involves various earthworks involving relocation of soil within the site (ie no importation of fill) to form motocross tracks.</p> <p>The position of the tracks is such that the paddocks between the track and the Williams River will be retained, which will ensure that no excessive sediment runoff will adversely impact the Williams River.</p> <p>The Development is satisfactory in terms of cl. 6.5</p>	Yes
6.6 Riparian Land and Watercourses	<p>Provides various objectives and controls regarding riparian land and watercourses.</p> <p>This clause applies to land identified as “<i>Watercourse</i>” on the <i>Riparian Lands and Watercourses Map</i> or land within 40m of same.</p>	<p>The site is not mapped as a watercourse, and the position of the motocross tracks is outside 40m (ie minimum 83m) from the Williams River, which is a defined watercourse.</p> <p>Therefore, this clause does not apply.</p>	NA
6.10 Williams River Catchment	Provides various objectives and controls for land within the Williams River catchment	<p>The Site is within the Williams River catchment, as shown on the DLEP 2014 Maps.</p> <p>The Development involves various earthworks involving relocation of soil within the site (ie no importation of fill) to form motocross tracks.</p> <p>The position of the tracks is such that the paddocks between the track and the Williams River will be retained, which will ensure that no excessive sediment runoff will adversely impact the Williams River.</p>	Yes

Clause	Requirement	Proposal	Compliance
6.12 Protection of Rural Landscapes in rural and conservation zones.	Provides objectives and controls to protect rural amenity and the character of the land by managing visual impact (or built-structures).	This clause specifically relates to visual impact of built-structures. The development does not propose any built structures	Yes

Detailed Assessment from Table Above:

Clause 6.2 Earthworks:

Cl. 6.2 in DLEP 2014 contains a range of objectives and controls regarding Earthworks. This development involves various alterations to previous existing ground levels, so a more detailed assessment in terms of cl. 6.2 is warranted.

The Table below outlines the requirements of cl. 6.2 and discusses how the proposal complies with those requirements:

Clause 6.2 Requirement	Comments
(1) Objective: The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	<ul style="list-style-type: none"> There will be no detrimental impact on environmental functions/processes. The edges of the motocross tracks will be turfed (either existing paddocks maintained or new turf grown) so that there will be no sediment runoff onto neighbouring Sites or into the Williams River at the rear. The position of the tracks are some 360m from the nearest neighbouring residence, which is considered sufficient to ensure no adverse impacts (eg noise, dust etc). There are no heritage issues at this site, or any specific cultural features. <p>Complies/satisfactory</p>
(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.	<p>The extent of <i>earthworks</i> exceeds what could have been done as <i>exempt development</i> (under SEPP Exempt and Complying Development Codes 2008).</p> <p>The earthworks are “stand-alone” (ie they are not ancillary to any other development on the site).</p> <p>The consent required for the earthworks is applied for under this DA.</p> <p>Requirement for DA is noted.</p>
(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	<p>The site does not contain any mapped/defined natural watercourses.</p> <p>Overall, the development involves minimal disturbance to existing ground levels (ie maximum 1.3m high to form the jumps/landings)</p> <p>Complies/satisfactory</p>
(b) the effect of the development on the likely future use or redevelopment of the land,	<p>The site is zoned RU1 – Primary Production, and this zoning is likely to remain for some time into the future.</p> <p>The proposal will have no adverse impact on future use of the land (likely to be mostly for extensive agriculture/grazing etc) – the Site can be returned to such a landuse if/when the motocross track ceases use.</p>

Clause 6.2 Requirement	Comments
	Complies/satisfactory
(c) the quality of the fill or the soil to be excavated, or both,	No fill has been imported into the site (ie all earthworks have involved movement of soil within the site). Complies/satisfactory
(d) the effect of the development on the existing and likely amenity of adjoining properties,	The construction component of the development for the motocross track earthworks has already been completed – so there will be no further amenity impacts from such construction. The on-going use of the track is expected to have minimal impacts, given that the neighbouring properties are a considerable distance from the location of the tracks. Further, it is noted that while the constructed tracks would lead to focussed use of the site (for riding of bikes/motorbikes etc) – this could also occur without a track of this nature (ie residents are entitled to ride such bikes/motorbikes on their land without such a formalised motocross track). Complies/satisfactory
(e) the source of any fill material and the destination of any excavated material,	As above, the earthworks involved re-use of soil from within the site – no fill material was imported, and no excavated material left the site. Complies/satisfactory
(f) the likelihood of disturbing relics	The subject site is not mapped as being of <i>Aboriginal Cultural Significance</i> or <i>Sensitive Aboriginal Landscape</i> . Also, no relics were either sited or knowingly disturbed during the construction of the tracks. Complies/satisfactory
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	The site backs onto the Williams River. However the specific location of the motocross tracks is some 83m from the River, at it's closest point. This is considered sufficient to ensure that any sediment is prevented from entering the River, given that existing paddocks will remain between the tracks and the River. Complies/satisfactory
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	We would be willing to accept any reasonable consent condition aimed at addressing any potential external impact (eg hours of operation etc). It is considered, given the domestic-scale nature of the motocross tracks, that there will be minimal external impacts. Complies/satisfactory

The provisions of any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments that apply to the subject site/proposed development.

Development Control Plans (DCPs) – Dungog DCP (DDCP) No 1

A DCP generally provides more detailed controls than are contained in the LEP or SEPP/s, and can cover matters such as building setbacks, landscaped area, car parking, and drainage requirements.

DDCP No 1 came into force on 4 July 2018 and contains the specific development controls applicable to this Development/Site. DDCP No 1 applies to all land to which DLEP 2014 applies.

The following table provides an assessment in terms of the *relevant* controls in DDCP No 1, as they relate to the Development:

DCP Control	Requirement	Proposal	Compliance
Part A - Administration			
A.3 – Lodging a DA	This Part provides various requirements for lodging a DA	This DA submission has been prepared in accordance with the EP&A Act 1979 and Regulation 2021. It also satisfies the requirements of Part A.3 of DDCP No 1	Yes
A.4 – Notification and Advertising of DAs	This Part provides various requirements for notification and advertising of DAs.	Notification/advertising is expected to be undertaken by Council in accordance with their processes and procedures. We are available to respond to and address any submissions that may be received from these processes.	Yes
Part C			
C.5 – Bushfire	This Part provides various requirements relating to Bushfire.	This Part will work together with <i>Planning for Bushfire Protection 2019</i> as published by the NSW Rural Fire Service. Site is (partly) bushfire-affected. Development does not involve any vegetation removal or construction of any structures that would be affected by bushfire.	Yes
C.7 Buffer Zones	This Part provides various requirements relating to Buffer Zones, including: <ul style="list-style-type: none"> • 7.4 Vacant Land • 7.5 Landuse Conflict <p>This Part of the DCP applies to specific developments that could cause significant environmental impacts (eg Intensive Livestock industries, Extractive Industries etc).</p> <p>There are no requirements relating to <i>Recreation facilities (outdoor)</i> as proposed in this DA.</p>	The motocross tracks have been constructed a sufficient distance (360m to nearest residence) to ensure there will be minimal impacts on the amenity of neighbouring dwellings.	Yes
C.8 Managing Our Floodplains	This Part provides various requirements relating to Floodplain Management.	The available mapping shows that the subject site is not affected by flooding – this may be because there is insufficient	Yes

DCP Control	Requirement	Proposal	Compliance
		<p>information to determine whether (or the extent to which) the land is flood affected.</p> <p>The Site backs onto the Williams River, so it appears likely that the site would be flood affected to some extent.</p> <p>The nature of the development (for minor earthworks for motocross tracks) does not involve any built structures, nor does it involve significant earthworks that would impact the flood characteristics or flood risk for any adjoining properties.</p>	
C.15 – Contaminated Land	This Part provides various requirements relating to Contaminated Land.	There is no reason to suspect issues of contamination at this Site	Yes
C.16 – Biodiversity	This Part provides various requirements relating to Biodiversity.	<p>The available mapping shows that the Site is affected in terms of Biodiversity Values. However – this affectation only affects the part of the site along the Williams River frontage, and not the specific location of the motocross tracks.</p> <p>The construction of the tracks did not involve removal of any vegetation.</p>	Yes
Part D			
D.2 – Clarence Town Local Area Plan	<p>This Part provides various requirements for development in the Clarence Town Local Area.</p> <p>The Site is included in the Clarence Town Investigation Zone (Map 1 of this Part of the DCP)</p>	<p>The proposed development is minor, and involves on-site earthworks for Motocross Tracks.</p> <p>There were no built structures constructed as part of the earthworks, and no further structures are proposed.</p>	Yes

Section 4.15(1)(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The development will have minimal environmental impacts. In summary:

- A. *Natural environment:* The motocross tracks will have no impacts on the Natural Environment that cannot be managed through on-going maintenance of the tracks (such as maintaining the shape of the jumps, landings etc, or on-going watering to minimise dust).

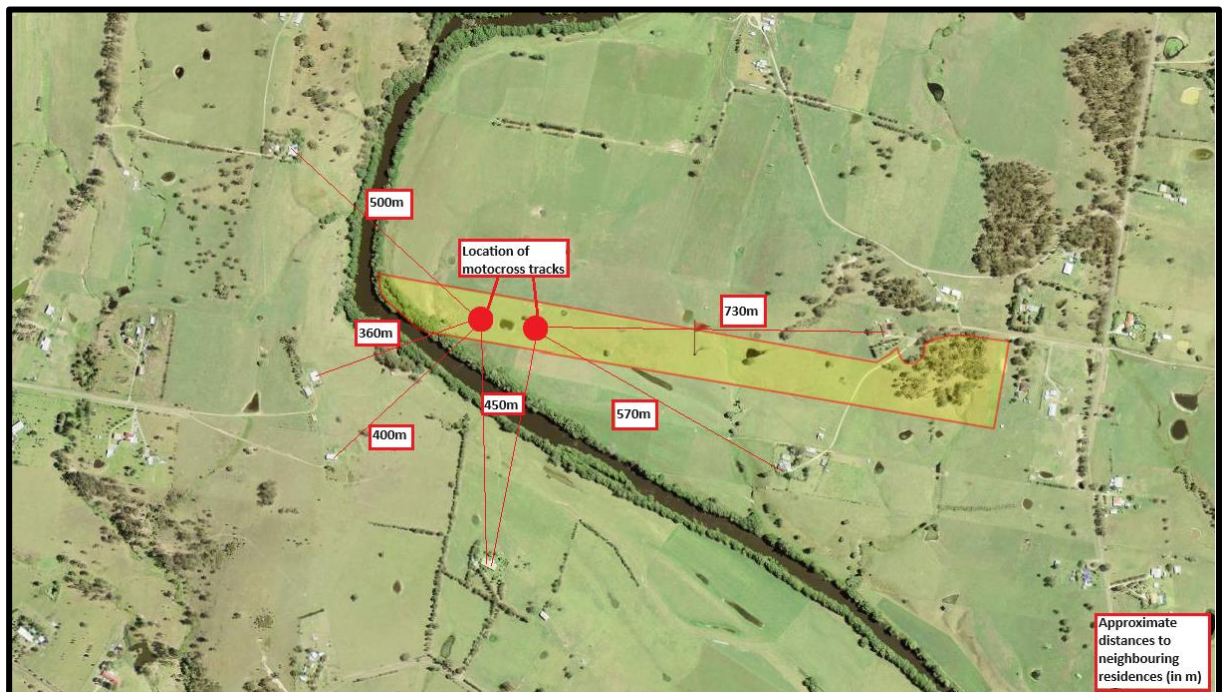
The construction of the tracks has had minimal impacts on the Natural Environment. There are no identified natural watercourses in the location of the tracks, and the earthworks were not sufficient to cause any significant deviation in surface water flows.

Further, the paddocks surrounding the tracks have been retained and will therefore ensure that no excessive sediment runoff discharges into the Williams River (forming the rear boundary).

- B. **Built environment:** The motocross tracks do not include any “building works” (ie no retaining walls or any structure of a building) so therefore there are no impacts in terms of the built environment of the site.

The motocross tracks may have external impacts on dwellings adjoining the Site (eg amenity impacts on adjoining dwellings etc) which need to be considered. Such consideration should have regard for both the nature of potential impacts on neighbouring dwellings, and the proximity to those dwellings.

In this regard, the following is an air photo showing the position of the motocross tracks in relation to neighbouring dwellings. It can be seen that the tracks are some 360m from the nearest adjoining dwelling:



These distances are considered sufficient to ensure there will be minimal impacts on the amenity of neighbouring dwellings.

In terms of amenity impacts (noise, dust etc) – it is noted that while the constructed motocross tracks will provide a specific location for where bikes, motorbikes etc can be used on the Site, it should also be noted that these could have been used anywhere on the property regardless of whether a track is/was built (ie anyone can ride motorbikes on their property without needing approval).

We would accept reasonable conditions of consent that Council may wish to impose to ensure that the amenity impacts are reasonably minimised (eg regular watering of the tracks to reduce dust, hours of operation etc).

Overall, it is considered that the motocross tracks (and the use of these tracks) can have reasonable and acceptable impacts in terms of the local built environment, and that any such impacts can be addressed via appropriate conditions of consent.

- C. **Social impacts:** The development will have no adverse social impacts. In terms of social benefits for the Site Owner – these will be positive as the motocross track will provide an additional recreation option for their children, family and their friends.

In terms of potential social impacts on neighbouring properties, whilst it is noted that the use of the motocross tracks could cause external impacts (eg noise, dust etc), the distances between the tracks and neighbouring residences (some 360m) is sufficient to ensure that such impacts are minimised.

- D. *Economic impacts*: The proposal would have no negative economic impacts. There is no intention to use the tracks other than by residents of the Site (ie their family and friends only), so there is no commercial aspect of the motocross tracks use.

Section 4.15(1)(c) The suitability of the site for the proposed development

There are no natural constraints (eg land slip, flooding, bush fire risk or the like) that would make the site unsuitable for the proposed development.

The various site constraints applicable to this site and proposed development have been reviewed and comments are provided as follows:

Bushfire: The available mapping (eg Council's mapping system, NSW Planning Portal Spatial viewer etc) shows that the Site is partly affected by bushfire. However, the nature of this development does not involve any issues associated with vegetation, or construction of any building structure/s.

Flooding: The available mapping shows that the subject site is not affected by flooding – this may be because there is insufficient information to determine whether (or the extent to which) the land is flood affected.

The Site backs onto the Williams River, so it appears likely that the site would be flood affected to some extent.

The nature of the development (for minor earthworks for motocross tracks) does not involve any built structures, nor does it involve significant earthworks that would impact the flood characteristics or flood risk for any adjoining properties.

Land Slip/Slope Instability: The available mapping shows that the subject site is not affected by land slip/slope instability.

Biodiversity Values Map: The available mapping shows that the Site is affected in terms of Biodiversity Values. However – this affectation only affects the part of the site along the Williams River frontage, and not the specific location of the motocross tracks.

The site is suitable for the proposed development, as it is permissible within the RU1 Primary Production zoning of the property, there are no site constraints that render the development as unsuitable for the development, and it will have no external impacts that could not be managed via appropriate standard conditions (noise, dust etc).

Section 4.15(1)(d) Any submissions received

Neighbour notification is likely to be required for this type of development, and it would be a matter for Council to consider any submissions received.

To assist in Council's consideration of this DA, we would be happy to respond to the issues raised in any submissions received for this development, if required.

Section 4.15(1)(e) The public interest

Given the relatively small scale of the development, it is considered that any impacts would be localised in nature and would be minimal.

The proposal has acceptable impacts as discussed in the preceding assessment.

It can be concluded that approval of the development is in the public interest.

6. Conclusion

The proposed development is for the continued use of the earthworks that have been carried out (without consent), and for the use of those earthworks as private motocross tracks.

The preceding assessment has been made in terms of the heads of consideration listed in s.4.15 of the EP&A Act 1979 – and it is concluded that the development is satisfactory when assessed against these criteria.

The proposal fully complies with the applicable planning controls (in Dungog LEP 2014 and Dungog DCP No 1); and would have minimal impact on adjoining properties, or the surrounding area generally.

It is recommended that Council grant consent to this development, subject to suitable standard conditions of consent.

Chris Young
Principal
CMY Planning Services



WILLIAMS RIVER
BANK OF RIVER (WIDE DP587599)

TRACK APPROX 86.2m FROM BOUNDARY CORNER

1
DP587599

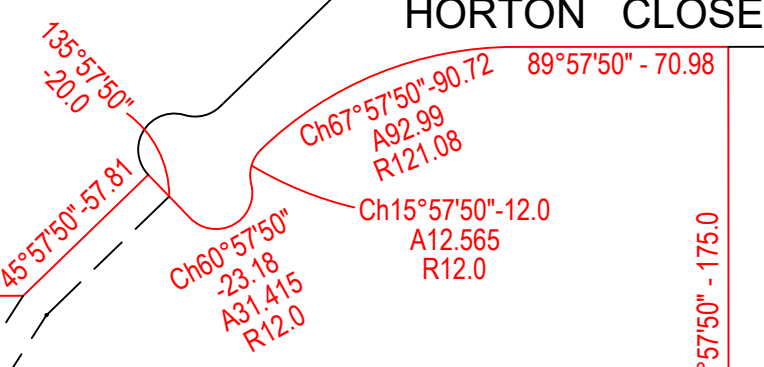
SEE DIAGRAM FOR DETAILS

2
DP587599
12.66ha

89°57'50" - 1024.0 TO BANK

269°57'50" - 1143.0 TO BANK

HORTON CLOSE



179°57'50" - 175.0

(A) RIGHT OF CARRIAGEWAY 10 WIDE (DP587599)

NOTE:

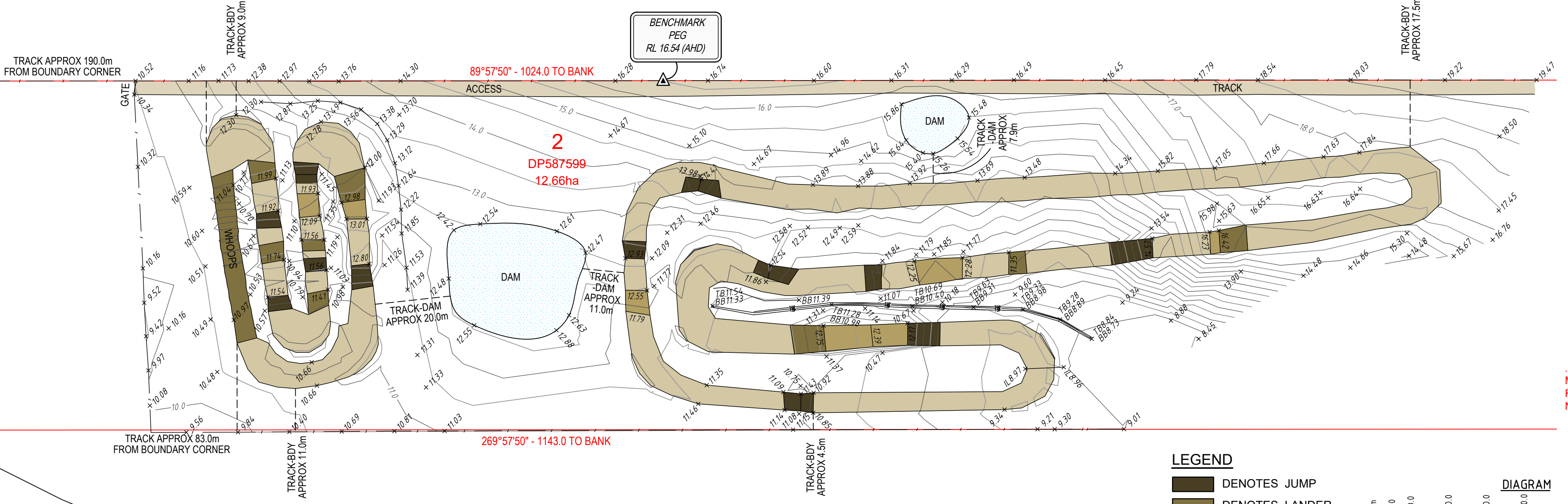
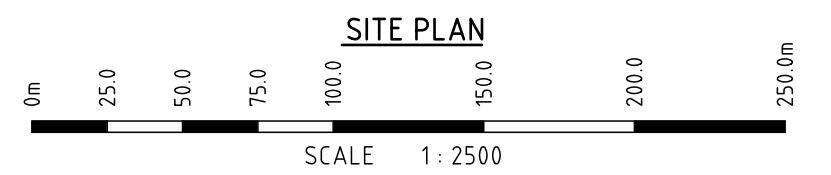
BOUNDARIES HAVE BEEN DETERMINED BY SURVEY ON 17/05/2024.

THE POSITION OF THE WILLIAMS RIVER BOUNDARY SHOWN ON THIS PLAN IS AS DEPICTED IN DEPOSITED PLAN 587599 AND HAS NOT BEEN CONFIRMED BY SURVEY TO CORRESPOND TO THE CURRENT POSITION OF THE WILLIAMS RIVER.

TITLE SEARCH MADE ON 15/05/2024.

THE ORIGIN OF AUSTRALIAN HEIGHT DATUM IS SSM 15517 RL 22.93 BY SCIMS REPORT DATED 15/05/2024. THE DATUM HAS BEEN TRANSFERRED TO THE SITE USING GNSS METHODS AND HAS AN ESTIMATED ACCURACY OF +/-0.02m.

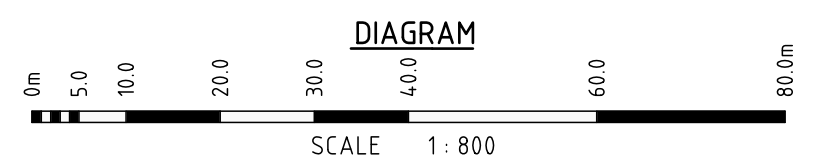
CONTOURS SHOWN DEPICT THE TOPOGRAPHY. EXCEPT AT SPOT LEVELS SHOWN THEY DO NOT REPRESENT THE EXACT LEVEL AT ANY PARTICULAR POINT. THE SPOT LEVELS ARE TRUE FOR THEIR POSITION, AND ARE INTENDED TO BE USEFUL TO REPRESENT THE GENERAL TERRAIN. CARE SHOULD BE TAKEN IF EXTRAPOLATING.



Marc Terry
Registered Surveyor
N° 8698

LEGEND

- DENOTES JUMP
- DENOTES LANDER
- DENOTES TABLETOP



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REVISION No.	PLOT DATE:	COMMENT:
A	22/05/2024	INITIAL PLAN
B	20/06/2024	ADD ADDITIONAL SETBACKS TO RIVER AND DAMS

PLAN SHOWING FEATURES & LEVELS OVER LOT 2 IN DP587599	
CLIENT:	ADAM BITIC AND KIRSTY WHITEHEAD
PROJECT:	240176 - GLEN MARTIN
ADDRESS:	47 HORTON CLOSE, GLEN MARTIN

JOB No.:	240176	DATUM:	AHD
PLAN No.:	240176DET-B	SCALE:	AS SHOWN@A2
DATE:	17/05/2024	CONT. INTERVAL:	0.5m
SURV:	JC	DRAWN:	SK
CHK:	MT	SHEET	1 OF 1

20 November 2024

NL242925

Kirsty Whitehead
 47 Horton Close,
 Glen Martin NSW 2321

Dear Kirsty,

Re: Water Quality and Flood Impact Assessment, 47 Horton Close, Glen Martin

Northrop Consulting Engineers have been engaged to prepare a Flood and Water Quality Impact Assessment to address Council comments relating to the recently constructed motorcross track at the aforementioned address. The following is included:

- A qualitative overview of the site.
- The extent of works within the developed area.
- An overview of the flood behaviour at the subject site using local council data and flood studies.
- Supporting information relevant to Dungog DCP No 1 Part C.8 and Dungog LEP 2014.
- Information addressing Dungog Councils RFI (DA 61/2024), specifically section b).

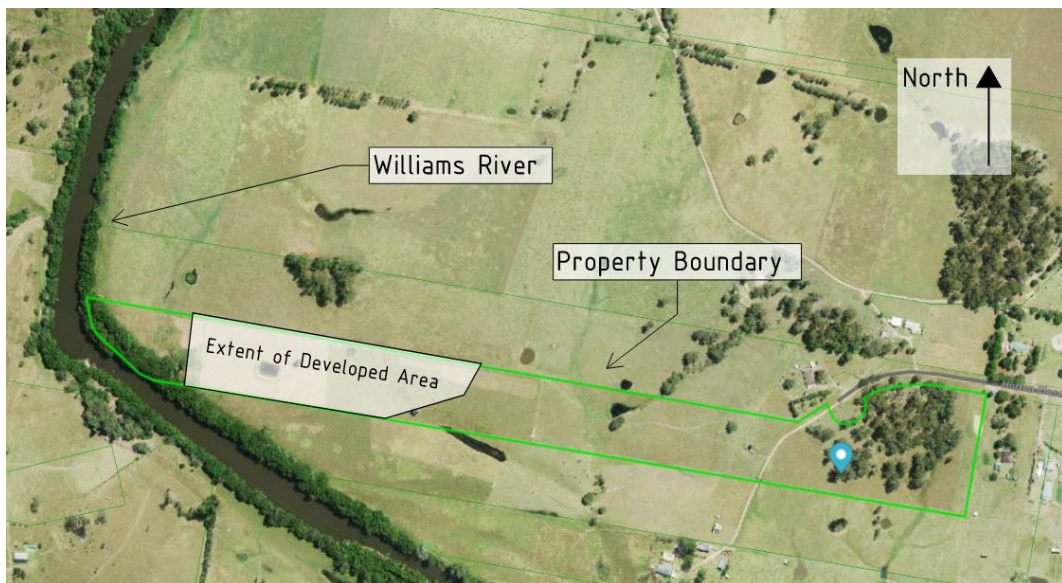


Figure 1 - Subject Site

Subject Site

The subject site is 47 Horton Close, Glen Martin – otherwise known as Lot 2 DP 587599. The site features a single-storey townhouse on the eastern side to the property, the western side runs adjacent to the Williams River. The site is largely covered by grazing paddocks and several small dams. Elevations throughout the lot range from 19.5 m AHD in the north-east corner to 9.3m AHD along the southern site boundary. The extent of development can be seen in Figure 1. Within this

		Date
Prepared by	LJ	18/11/2024
Checked by	CP	18/11/2024
Admin	ZJ	18/11/2024

developed extent, tracks have been built from soil within the site, no introduced soil has been used. The series of motorcross tracks span ~ 4 Ha of the 12.6 Ha site and the total track length approximates 4km. A detailed map of the track layout can be seen below in *Figure 2*.

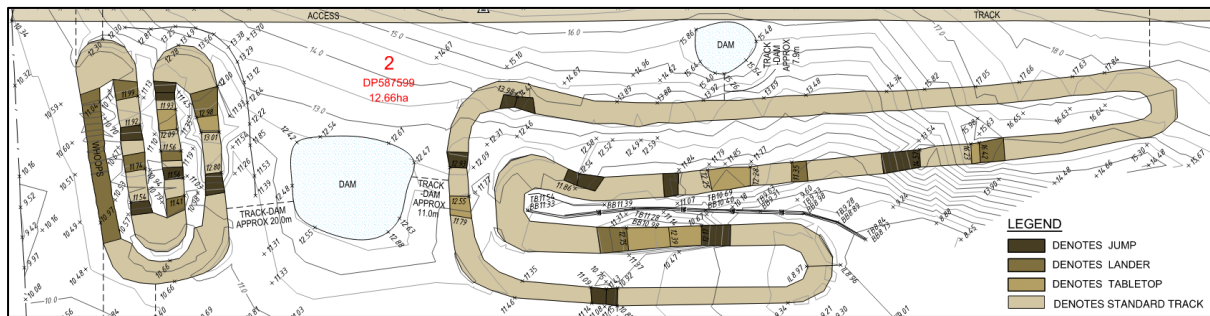


Figure 2 – Existing motocross track

The motocross course is split into jump sections, lander sections, tabletop sections, and lengths of standard track. The standard track sections stretch ~ 70% of the track and have been constructed to minimise unnecessary earthworks. Consequently, the standard sections of track match the topography of the site with maximum deviations of 0.6m. The jump, tabletop, and landing sections deviate from the natural surface by a maximum of 1.1m on the western side of the site and 1.3 m towards the east.

Under Dungog LEP 2014, the existing development (the motocross track) is categorised as a Recreational Facility (outdoor).

Flood Behaviour

The subject site falls within the William River catchment. William river stretches from Barrington tops to Raymond terrace and has a total catchment area of 1100 km². The subject site is part of the Williams River Flood Study (WRFS) and Dungog LEP maps. The resulting information has been interpolated from Locations 11 and 12 to reflect flood behaviour at the subject site.

Table 1 – Flooding data – Interpolated between Location 11 and Location 12

Source	Flood Behaviour	Elevation (m AHD)
WRFS Pt.2 – Table 9-14	1% AEP Depth (Channel)	13.3 m
WRFS Pt.2 – Table 9-14	1% AEP Total Flowrate	4080 m ³ /s
WRFS Pt.2 – Table 9-14	Probable Maximum Flood level (PMF)	19.5 m
WRFS Pt.2 – Table 9-6	1% AEP Channel Velocity	2.97 ms ⁻¹

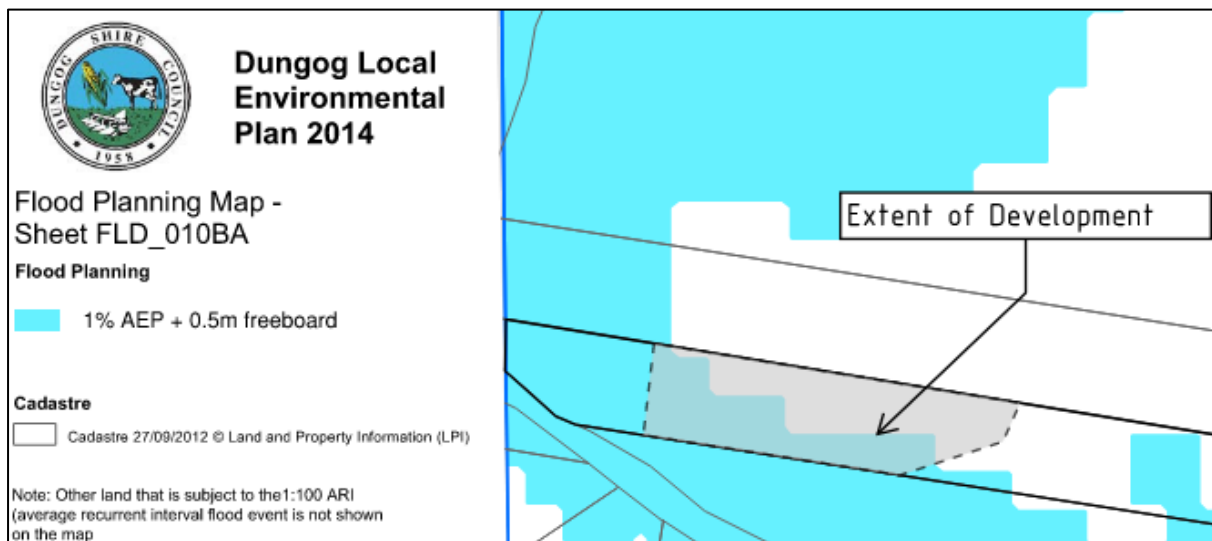


Figure 3 - Flood Planning Map

Due to the subject sites' proximity to the Williams River, Dungog Council have classified parts of Lot 2 DP 587599 as a 'Flood Planning Area' area as shown in Figure 3. The flood planning area is the extent of the 1% AEP (Annual Exceedance Probability) event combined with 0.5 m of freeboard. Considering this extent of flood planning extent, it is reasonable to conclude that the actual flood extent will have significantly less area within the developed extent.

Table 2 - Dungog DCP No1 Part C.8 Schedule 2

Development Controls	Requirement	Response
Flood effect on others	1 - Engineers report required to prove that the development of an existing allotment will not increase flood affection elsewhere. Flood modelling may be required for significant structures or fill in flood storage areas.	The recreational development has an even cut/ fill balance, and the developed site (motocross track) is not a significant structure.
Evacuation access	4 - Consideration required regarding an appropriate flood evacuation strategy & pedestrian/ vehicular access route for both before and during a flood.	The motocross track lies toward the western side of the site and therefore does not impede the occupants exit to the east. It is recommended that the occupants of Lot 2 DP 587599 develop a Flood Management Plan for the motocross track. This plan should particularly consider the risks of delayed flooding due to the William River's large catchment.

Note the controls related to a structural development have been disregarded.

Table 3 - Dungog LEP (2014) Part 5.21 'Flood Planning'

Clause	Requirement	Response
Clause 1	(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,	The development involves minor reshaping of terrain to form a motocross track. This scope of development has negligible impact of flooding behaviour. The developments potential environmental impacts have been remedied through sediment controls listed below.
Clause 2. Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:	<p>a) Is compatible with the flood function and behaviour on the land.</p> <p>b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties.</p> <p>e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses.</p>	<p>The track layout specifies minor reshaping of terrain while maintaining a net zero cut/fill balance. By maintaining this cut/fill balance, the storage capacity and floodway extent are not affected by the development. The recreational development does not meaningfully affect flood behaviour, resulting in no additional risk to local development or property.</p> <p>The developed site is significantly offset from William River so that the development will not adversely impact the stability or flora health along the riverbank. The downstream dam onsite and grassed buffer assist in retaining excess sediment within the site and the use of existing soil mean no pollutants are added to the catchment.</p>
Clause 6.5, 6.10 A development is considered to demonstrate NorBE if the development:	<p>a) has no identifiable potential impact on water quality, or</p> <p>b) will contain any water quality impact on the development site and prevent it from reaching any watercourse, waterbody or drainage depression on the site, or</p> <p>c) will transfer any water quality impact outside the site where it is treated and disposed of to standards approved by the consent authority.</p>	The development within the subject site involves reshaping of existing soil within the site. The potential impact of development on water quality is therefore limited to excess sediment runoff entering William River. To mitigate this, the exposed surface of the track will be treated through onsite controls detailed in an Erosion and Sediment Control (ESC) plan. These controls include utilising the downstream dam and the 80m grassed buffer to retain sediment.

Note the requirements relating to a structural development have been disregarded.

Table 4 - Addressing Dungog Council's RFI (PAN-439882)

Location in RFI	Dungog Council's Concern	Response
Section B: Point 4	The proposed development is identified as an unsuitable land use by Council's DCP Chapter C8 – Managing Our Floodplains due to the site's classification as being high flood hazard (floodway).	Chapter C8 - Schedule 2 of the Dungog Shire DCP states that development is allowable within a floodway given: <ul style="list-style-type: none"> - The category of development is a Recreational/ Agricultural or Minor development. - The relevant conditions listed in Dungog DCP C.8 Schedule 2 are met. The subject development aligns with the above conditions and is therefore an allowable development within the floodway.

Conclusion

Based on the assessment above, the existing development on the subject site complies with the relevant DCP and LEP requirements and objectives.

- The development has a net zero cut/fill balance resulting in zero displacement of water within the floodway. The development will not affect neighbouring properties during a flooding event.
- The development features minor reshaping of soil such that the conveyance of floodwater through the developed site is not meaningfully impacted. The development will not significantly affect flood behaviour.
- The developed site has an adequate buffer region between the site and William River to effectively mitigate and contain the environmental effects of development.
- The recreational development meets the conditions listed in Dungog DCP Schedule 2 is therefore a suitable development within a floodway.

We trust that the response above adequately addresses Council's concerns. Should you have any queries, please feel free to contact the undersigned on (02) 4943 1777.

Yours sincerely,



Chris Piper
Principal | Civil Engineer
BEng (Civil) (Hons) MIEAus CPEng NER

Limitation statement

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Noise Assessment

Motocross Track
47 Horton Close
Glen Martin, NSW

Prepared for: Kirsty Bitic
November 2024
MAC242308-01RP1



Document Information

Noise Assessment

Motocross Track

47 Horton Close

Glen Martin, NSW

Prepared for: Kirsty Bitic

47 Horton Close

Glen Martin NSW 2321



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DOCUMENT ID	DATE	PREPARED	SIGNED	REVIEWED	SIGNED
MAC242308-01RP1	13 November 2024	Rod Linnett		Oliver Muller	

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APPENDIX A – GLOSSARY OF TERMS

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1 Introduction

Muller Acoustic Consulting Pty Ltd (MAC) has been commissioned by Kirsty Bitic to prepare a Noise Assessment (NA) to quantify emissions from the proposed Private Motocross Track at 47 Horton Close, Glen Martin, NSW (the 'project').

The NA has quantified typical noise emissions from the operation and recommends reasonable and feasible noise controls where required.

This assessment has been undertaken in accordance with the following documents:

- NSW Environment Protection Authority (EPA), Noise Guide for Local Government (NGLG), 2013;
- NSW Environment Protection Authority (EPA), Noise Policy for Industry (NPI) 2017;
- NSW Environment Protection Authority (EPA's), Approved Methods for the measurement and analysis of environmental noise in NSW, 2022;
- Australian Standard AS 1055:2018 - Acoustics - Description and measurement of environmental noise - General Procedures;
- International Organisation for Standardisation (ISO) 9613-1:1993 (ISO9613:1) - Acoustics - Attenuation of Sound During Propagation Outdoors - Part 1: Calculation of the Absorption of Sound by the Atmosphere; and
- International Organisation for Standardisation (ISO) 9613-2:1996 (ISO9613:2) - Acoustics - Attenuation of Sound during Propagation Outdoors - Part 2: General Method of Calculation.

A glossary of terms, definitions and abbreviations used in this report is provided in **Appendix A**.

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2 Proposed Activities and Operating Hours

The motocross track is privately owned and will not be available for public use or hire. Generally, the track will be used for training and practice purposes for junior motocross riders as follows:

- Approximately one (1) hour per session, up to six (6) sessions per day; and
- Riding will occur during the during the daytime period, generally between 9am and 5pm.

2.1 Receiver Review

A review of residential receivers in proximity to the project has been completed and are summarised in **Table 1. Figure 1** provides a locality plan showing the position of these receivers in relation to the project.

Table 1 Receiver Locations				
Receiver	Description	Receiver Type	Coordinates (GDA94/MGA55)	
			Easting	Northing
R01	Horton Close	Rural Residential	387874	6396133
R02 ¹	Horton Close	Rural Residential	388092	6396327
R03	Horton Close	Rural Residential	388072	6396397
R04	Horton Close	Rural Residential	388351	6396291
R05	Horton Close	Rural Residential	388363	6396450
R06	Glen Martin Road	Rural Residential	388444	6396524
R07	Glen Martin Road	Rural Residential	388561	6396424
R08	Glen Martin Road	Rural Residential	388540	6396077
R09	Glen Martin Road	Rural Residential	388477	6395914
R10	Glen Martin Road	Rural Residential	388610	6395886
R11	Glen Martin Road	Rural Residential	388627	6396691
R12	Horton Close	Rural Residential	387821	6396935
R13	Glen William Road	Rural Residential	386877	6397007
R14	Glen William Road	Rural Residential	386877	6396744
R15	Glen William Road	Rural Residential	386823	6396696
R16	Glen William Road	Rural Residential	386815	6396633
R17	Glen William Road	Rural Residential	386804	6396550
R18	Cedar Getters Close	Rural Residential	386896	6396435
R19	Fords Road	Rural Residential	386889	6395983
R20	Fords Road	Rural Residential	387087	6395989
R21	Fords Road	Rural Residential	387007	6395889
R22	Fords Road	Rural Residential	387274	6395944
R23	Fords Road	Rural Residential	387097	6395796

Table 1 Receiver Locations

Receiver	Description	Receiver Type	Coordinates (GDA94/MGA55)	
			Easting	Northing
R24	Fords Road	Rural Residential	387009	6395781
R25	Fords Road	Rural Residential	386795	6395808
R26	Angela Close	Rural Residential	386966	6396147
R27	Angela Close	Rural Residential	386630	6396188
R28	Angela Close	Rural Residential	386577	6396388
R29	Angela Close	Rural Residential	386554	6396190
R30	Fords Road	Rural Residential	386493	6395777

Note 1: Project related residence.

FIGURE 1
Project Layout
MAC242308
Glen Martin Motocross



KEY

- Receiver
- Track
- Project/ Lot Boundary

0 90 180 270 360 m

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3 Relevant Noise Policy and Guidance

There is no specific guidance in NSW for the assessment of motorsport on a privately owned facility. The most relevant guidance available are the NSW EPA's Noise Guide for Local Government (NGLG) and Noise Policy for Industry (NPI).

3.1 EPA Noise Guide for Local Government

The aim of the NGLG is to help councils assess, manage and regulate noise issues. Part 2 of the NGLG outlines the noise assessment process, being an examination of the nature and characteristics of a noise and can involve verifying aural factors such as:

- the location of the noise source;
- its audibility at certain locations;
- the time the noise is made and its duration;
- its characteristics; and
- the reported effect it has on people.

This part of the NGLG discusses how an authorised person can judge whether a noise is audible, excessively long in duration, or offensive, as defined by the legislation¹ and outlines techniques for measuring noise.

3.2 EPA Noise Policy for Industry

The EPA released the Noise Policy for Industry (NPI) in October 2017 which provides a process for establishing noise criteria for consents and licenses enabling the EPA to regulate noise emissions from scheduled premises under the Protection of the Environment Operations Act 1997 (POEO Act).

The objectives of the NPI are to:

- provide noise criteria that is used to assess the change in both short term and long-term noise levels;
- provide a clear and consistent framework for assessing environmental noise impacts from industrial premises and industrial development proposals;

¹ Protection of the Environment Operations Act 1997, POEO Act and the Protection of the Environment Operations (Noise Control) Regulation 2008

- promote the use of best-practice noise mitigation measures that are feasible and reasonable where potential impacts have been identified; and
- support a process to guide the determination of achievable noise limits for planning approvals and/or licences, considering the matters that must be considered under the relevant legislation (such as the economic and social benefits and impacts of industrial development).

The purpose of the NPI is to ensure noise impacts associated with particular industrial developments are evaluated and managed in a consistent and transparent manner. It provides noise levels for assessing the potential impact of noise from industry and includes a framework for considering feasible and reasonable noise mitigation measures. The Environmental Planning and Assessment Act 1979 (EP&A Act) and the POEO Act require that authorities examine and consider matters affecting the environment when making decisions about development and activities. The policy also provides a procedure for the development of appropriate and achievable statutory noise limits and operational requirements for development consents and environment protection licences.

In general, the policy applies to industrial development projects such as industrial premises, extractive industry, commercial operations, warehousing premises, maintenance and repair facility premises, intensive agricultural and livestock operations and utility generation/reticulation service premises.

Section 1.5 of the NPI specifically states that noise from sporting facilities, including motor sport facilities are excluded from the policy.

3.3 Selection of Appropriate Noise Impact Assessment Criteria

In summary, the NGLG focusses on the assessment of noise issues and compliance with the POEO Act, whereas the primary intent of the NPI is to provide a method for assessing noise emissions from industrial noise sources with emphasis around the planning, design, approval, development and management of industrial premises.

Whilst the NGLG or the NPI does not specifically provide method to assess potential noise emissions from a private motocross track, considering that the NGLG is underpinned by the principles contained in the NPI, use of these principles and parameters would be considered appropriate to provide a transparent impact assessment methodology.

In determining an overall noise level to indicate potential noise impacts, the NPI considers two factors:

- the **intrusiveness noise level**, which aims to protect against significant changes in noise levels and seeks to limit the degree of change a new noise source introduces to an existing environment; and
- the **amenity noise level** seeks to protect against cumulative noise impacts from industry and maintain amenity for particular land uses

Generally, for a commercial or industrial project being assessed in accordance with the methods and guidelines in the NPI, the determination of Project Noise Trigger Levels² (PNTL) would be undertaken. However, considering the setting, application of the NPI and NGLG, adopting the (NPI) recommended amenity noise levels as noise goals for the track would be considered appropriate as it aims to protect the acoustic amenity of surrounding receivers over the course of a typical day.

² The project noise trigger level is the lower (that is, the more stringent) value of the intrusiveness noise level and amenity noise level determined in Sections 2.3 and 2.4 of the NPI.

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4 Assessment Criteria

4.1 Amenity Noise Levels (ANL)

The ANL is relevant to a specific land use or locality. To limit continuing increases in intrusiveness levels, the ambient noise level within an area from all combined industrial sources should remain below the (relevant) recommended amenity noise levels specified in Table 2.2 (of the NPI), reproduced in **Table 2**. The NPI defines two categories of amenity noise levels:

- **Amenity Noise Levels (ANL)** – are determined considering all current and future industrial noise within a receiver area; and
- **Project Amenity Noise Level (PANL)** – is the recommended level for a receiver area, specifically focusing on the project being assessed.

Table 2 Amenity Noise Levels

Receiver Type	Noise Amenity Area	Time of day	Recommended amenity noise level	
			dB LAeq(period)	
Residential	Rural	Day	50	
		Evening	45	
		Night	40	
	Suburban	Day	55	
		Evening	45	
		Night	40	
		Urban	Day	60
			Evening	50
			Night	45
Hotels, motels, caretakers' quarters, holiday accommodation, permanent resident caravan parks.	See column 4	See column 4	5dB above the recommended amenity noise level for a residence for the relevant noise amenity area and time of day	
Passive Recreation	All	When in use	50	
Active Recreation	All	When in use	55	
Commercial premises	All	When in use	65	
Industrial	All	When in use	70	

Notes: The recommended amenity noise levels refer only to noise from industrial noise sources. However, they refer to noise from all such sources at the receiver location, and not only noise due to a specific project under consideration. The levels represent outdoor levels except where otherwise stated.

Types of receivers are defined as rural residential; suburban residential; urban residential; industrial interface; commercial; industrial – see Table 2.3 and Section 2.7 of the NPI.

Note 1: Day - the period from 7am to 6pm Monday to Saturday or 8am to 6pm on Sundays and public holidays; Evening - the period from 6pm to 10pm; Night - the remaining periods.

Additionally, Section 2.4 of the NPI states: “to ensure that industrial noise levels (existing plus new) remain within the recommended amenity noise levels for an area, a project amenity noise level applies for each new source of industrial noise as follows”:

PANL for new industrial developments = recommended **ANL** minus 5dBA.

However, the NPI states “where cumulative industrial noise is not a necessary consideration because no other industries are present in the area, or likely to be introduced into the area in the future. In such cases the relevant amenity noise level is assigned as the project amenity noise level for the development”.

Therefore, adoption of a PANL of 50dB LAeq(period) or 53dB LAeq(15min) for residential receivers would be considered appropriate in protecting amenity for receivers in proximity to the track. The derivation of the PANL is presented in **Table 3**.

Table 3 Amenity Noise Levels and Project Amenity Noise Levels					
Receiver Type	Noise Amenity Area	Assessment Period ¹	NPI Recommended ANL dB LAeq(period)	ANL dB LAeq(period) ²	PANL dB LAeq(15min) ³
Residential	Rural	Day	50	50	53

Note 1: Day - the period from 7am to 6pm Monday to Saturday or 8am to 6pm on Sundays and public holidays; Evening - the period from 6pm to 10pm; Night - the remaining periods.

Note 2: Project Amenity Noise Level equals the Amenity Noise Level as there is no other industry in the area.

Note 3: Includes a +3dB adjustment to the amenity period level to convert to a 15-minute assessment period as per Section 2.2 of the NPI.

4.2 Intrusiveness Noise Levels (INL)

The INL (LAeq(15min)) is the RBL + 5dB and seeks to limit the degree of change a new noise source introduces to an existing environment. Hence, when assessing intrusiveness, background noise levels need to be measured. Where background levels are not measured the minimum applicable RBL of 35dBA for the daytime period can be adopted. This results in an INL of 40dB LAeq(15min).

4.3 Criteria Discussion

Generally, for a commercial or industrial project being assessed in accordance with the methods and guidelines in the NPI, PNTLs are derived from the lower of the PINL and PANL. However, the intent of the NPI is to provide a method for assessing noise emissions from industrial noise sources that are permanent operations that operate continuously through the day, evening and night time. Whilst the NPI is not the appropriate assessment guideline, its principles underpin the NGLG. Therefore, considering the type of project, setting and application of the NPI and NGLG, adopting the (NPI) recommended amenity noise levels as noise goals for this project is considered appropriate as it **aims to protect the acoustic amenity of surrounding receivers over the course of a typical day**.

5 Modelling Methodology

A computer model was developed to quantify noise emissions from use of the track to neighbouring receivers using DGMR (iNoise, Version 2024) noise modelling software. iNoise is an intuitive and quality assured software for industrial noise calculations in the environment. 3D noise modelling is considered industry best practice for assessing noise emissions from projects.

The model incorporated a three-dimensional digital terrain map giving all relevant topographic information used in the modelling process. Additionally, the model uses relevant noise source data, ground type, attenuation from barrier or buildings and atmospheric information to predict noise levels at the nearest potentially affected receivers.

The model calculation method used to predict noise levels was in accordance with ISO 9613:1. The ISO 9613 standards are the most used noise prediction method worldwide. Many countries refer to ISO 9613 in their noise legislation. However, the ISO 9613 standard does not contain guidelines for quality assured software implementation, which leads to differences between applications in calculated results. In 2015 this changed with the release of ISO/TR 17534-3. This quality standard gives clear recommendations for interpreting the ISO 9613 method. iNoise fully supports these recommendations. The models and results for the 19 test cases are included in the software.

5.1 Assessment Scenarios

The project site has two tracks that may be used – the ‘small track’ (270m long) situated to the west near the river; and the ‘big track’ (700m long) situated in the centre of the lot. Typically, there would be up to three small motorcycles (ie mini bikes, 50cc to 125cc) in use on one of the tracks for a period of up to one hour at a time. Therefore, the following scenarios have been assessed:

1. Three mini bikes circulating around the track at an average speed of 50km/h on the small track for a one hour period; or
2. Three mini bikes circulating around the track at an average speed of 50km/h on the big track for a one hour period.

5.2 Sound Power Levels

Due to the large range of Sound Power Levels (SWL) from track motorcycles, MAC has completed measurements of similar motorcycles proposed to be used on a similar track, to calculate motorcycle noise emissions.

Table 4 presents the measured sound pressure level (SPL) and the calculated SWL for each noise motorcycle type modelled in this assessment.

Table 4 Acoustically Significant Sources			
Item	Sound Pressure Level ¹	Sound Power Level ²	Source Height ³
	dB LAeq,t at 3m	dB LAeq(15min)	
50cc Motorcycle	90	107	0.5m
65cc Motorcycle	90	107	0.5m
80cc Motorcycle	88	106	0.5m
125cc Motorcycle	90	108	0.8m
Scenario1 3 x Small Motorcycle	--	111	0.5m
Scenario 2 2 x 450cc Motorcycle	--	111	0.8m

Note 1: SPL re 20×10^{-6} Pa.

Note 2: SWL re 10^{-12} Watts.

Note 3: Height above ground.

6 Noise Assessment Results

6.1 Operational Noise Assessment

Predicted noise levels from the operation of the track at surrounding residential receivers are presented in **Table 5**. As either track may be in use for periods of up to one hour with breaks between riding sessions throughout a whole day, results are expressed as short term LAeq(15min) noise levels and the time adjusted LAeq(day) noise level. The short term LAeq(15min) noise levels represent the average noise level over a 15 minute period while the motorcycles are in use. The time adjusted LAeq(period) is the average noise level over the 11 hour daytime period (7am to 6pm) including the time the motorcycles are in use (6 hours) and breaks of 30 to 45 minutes between riding sessions. Predicted LAeq(15min) noise levels are presented as noise contours in **Figure 2** for the small track and **Figure 3** for the big track.

Table 5 Noise Predictions – All Receivers (Daytime)¹

Receiver ID	Predicted Noise Level		Predicted Noise Level		Intrusive Noise Level dB LAeq(15min)	Amenity Noise Level dB LAeq(11hour)
	dB LAeq(15min)		dB LAeq(day) ²			
	Small	Big	Small	Big		
R01	36	40	44	48	40	50
R02 ³	30	33	38	41	40	50
R03	33	35	41	43	40	50
R04	<30	<30	34	37	40	50
R05	<30	<30	34	37	40	50
R06	<30	<30	33	35	40	50
R07	<30	<30	31	34	40	50
R08	<30	<30	31	33	40	50
R09	<30	<30	31	33	40	50
R10	<30	<30	<30	32	40	50
R11	<30	<30	30	32	40	50
R12	34	35	42	43	40	50
R13	35	33	43	41	40	50
R14	40	37	48	45	40	50
R15	39	36	47	44	40	50
R16	38	36	46	44	40	50
R17	40	37	48	45	40	50
R18	40	38	48	46	40	50
R19	<30	30	37	38	40	50
R20	37	39	45	47	40	50
R21	34	36	42	44	40	50
R22	40	40	48	48	40	50

Table 5 Noise Predictions – All Receivers (Daytime)¹

Receiver ID	Predicted Noise Level		Predicted Noise Level		Intrusive Noise Level dB LAeq(15min)	Amenity Noise Level dB LAeq(11hour)
	dB LAeq(15min)		dB LAeq(day) ²			
	Small	Big	Small	Big		
R23	36	36	44	44	40	50
R24	33	35	41	43	40	50
R25	<30	<30	36	37	40	50
R26	38	36	46	44	40	50
R27	<30	<30	35	36	40	50
R28	<30	<30	32	34	40	50
R29	<30	<30	33	36	40	50
R30	<30	<30	34	33	40	50

Note 1: Day - the period from 7am to 6pm Monday to Saturday or 8am to 6pm on Sundays and public holidays; Evening - the period from 6pm to 10pm; Night - the remaining periods.

Note 2: Predicted noise level, dB LAeq(period), for six hours use over the 11 hour daytime period.

Note 3: Project related residence.

6.2 Discussion of Results

Predicted noise levels from the operation of the track(s) for six (6) hours over the course of a whole daytime period (7am to 6pm) are expected to satisfy the proposed amenity noise level of 50dB LAeq(day) at all receivers. Similarly, the predicted short term noise levels do not exceed the intrusive noise level of 40dB LAeq(15min) at all receivers.

The assessment is based on the minimum applicable background noise levels. It is likely that, during the day, background noise levels could be higher than 35dBA and hence the predicted effect from the operation of the project would be further minimised.

To provide some context to the assessment, if a proposed industrial or commercial noise source were to be proposed in the same location and operate at a continuous noise level of 40dB LAeq(15min) during the daytime and 35dB LAeq(15min) during the evening and night time periods at a residential receiver, it would satisfy the requirements of the NPI.

Hence, the operation of the project is unlikely to cause intrusive noise at receivers and is unlikely to affect the acoustic amenity.

FIGURE 2
Predicted Short Term Noise
Levels - Small Track
MAC242308
Glen Martin Motocross



KEY

- Receiver
- Track
- Project/ Lot Boundary

dB LAeq(15min)

- 35
- 40
- 45
- 50
- 55

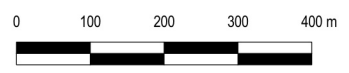


FIGURE 3
Predicted Short Term Noise
Levels - Big Track
MAC242308
Glen Martin Motocross



KEY

- Receiver
- Track
- Project/ Lot Boundary

dB LAeq(15min)

- 35
- 40
- 45
- 50
- 55



7 Discussion and Conclusion

Muller Acoustic Consulting Pty Ltd (MAC) has completed a Noise Assessment to quantify emissions from the private motocross track at 47 Horton Close, Glen Martin, NSW.

Using measurements of similar motorcycles proposed to be used on the track, sound power levels were calculated, and a noise model was developed to calculate noise emissions at the nearest receiver locations using a three dimensional noise model.

The results of the Noise Assessment show that typical noise emissions from- the operation of the track for up to six hours per day would satisfy the recommended amenity noise level over the course of a whole daytime period. The operation of the track would be in sessions of one hour, with breaks of 30 to 45 minutes between each session.

Typical noise emissions would also satisfy the most stringent intrusiveness noise criteria that may be applied to an industrial development which may operate continuously. However, as the project is within private ownership and operates within the restrictions outlined in this report, the application of the most stringent noise criteria may not be applicable as noise levels satisfy the recommended amenity levels over the course of a whole daytime period.

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Appendix A – Glossary of Terms

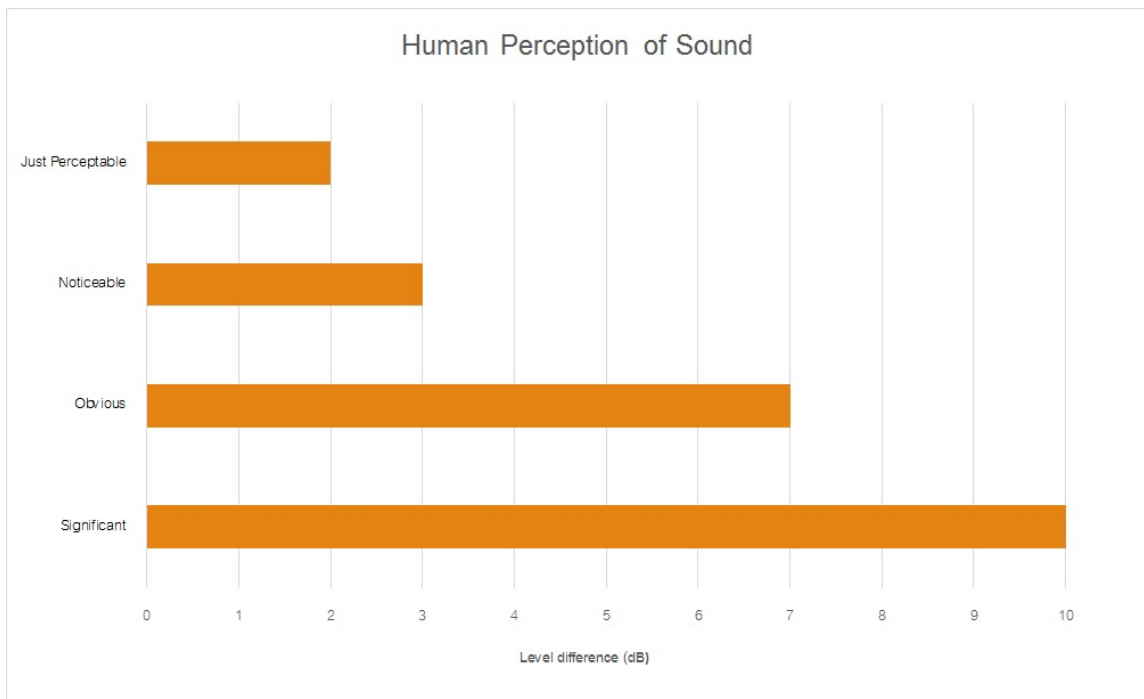
A number of technical terms have been used in this report and are explained in **Table A1**.

Table A1 Glossary of Acoustical Terms	
Term	Description
1/3 Octave	Single octave bands divided into three parts
Octave	A division of the frequency range into bands, the upper frequency limit of each band being twice the lower frequency limit.
ABL	Assessment Background Level (ABL) is defined in the NPI as a single figure background level for each assessment period (day, evening and night). It is the tenth percentile of the measured L90 statistical noise levels.
Ambient Noise	The total noise associated with a given environment. Typically, a composite of sounds from all sources located both near and far where no particular sound is dominant.
A Weighting	A standard weighting of the audible frequencies designed to reflect the response of the human ear to sound.
Background Noise	The underlying level of noise present in the ambient noise, excluding the noise source under investigation, when extraneous noise is removed. This is usually represented by the LA90 descriptor
dba	Noise is measured in units called decibels (dB). There are several scales for describing noise, the most common being the 'A-weighted' scale. This attempts to closely approximate the frequency response of the human ear.
dB(Z), dB(L)	Decibels Z-weighted or decibels Linear (unweighted).
Extraneous Noise	Sound resulting from activities that are not typical of the area.
Hertz (Hz)	The measure of frequency of sound wave oscillations per second - 1 oscillation per second equals 1 hertz.
LA10	A sound level which is exceeded 10% of the time.
LA90	Commonly referred to as the background noise, this is the level exceeded 90% of the time.
LAeq	Represents the average noise energy or equivalent sound pressure level over a given period.
LAmx	The maximum sound pressure level received at the microphone during a measuring interval.
Masking	The phenomenon of one sound interfering with the perception of another sound. For example, the interference of traffic noise with use of a public telephone on a busy street.
RBL	The Rating Background Level (RBL) as defined in the NPI, is an overall single figure representing the background level for each assessment period over the whole monitoring period. The RBL, as defined is the median of ABL values over the whole monitoring period.
Sound power level (Lw or SWL)	This is a measure of the total power radiated by a source in the form of sound and is given by $10 \cdot \log_{10} (W/W_0)$. Where W is the sound power in watts to the reference level of 10^{-12} watts.
Sound pressure level (Lp or SPL)	the level of sound pressure; as measured at a distance by a standard sound level meter. This differs from Lw in that it is the sound level at a receiver position as opposed to the sound 'intensity' of the source.

Table A2 provides a list of common noise sources and their typical sound level.

Table A2 Common Noise Sources and Their Typical Sound Pressure Levels (SPL), dBA	
Source	Typical Sound Pressure Level
Threshold of pain	140
Jet engine	130
Hydraulic hammer	120
Chainsaw	110
Industrial workshop	100
Lawn-mower (operator position)	90
Heavy traffic (footpath)	80
Elevated speech	70
Typical conversation	60
Ambient suburban environment	40
Ambient rural environment	30
Bedroom (night with windows closed)	20
Threshold of hearing	0

Figure A1 – Human Perception of Sound



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Ms Jenny Webb
Section Manager – Development Services
Dungog Council
PO Box 95
DUNGOG NSW 2420

21 November 2024

Dear Jenny

**Re: 47 Horton Close Glen Martin – Lot 2 DP587599
Development Application (DA) No: 61/2024
Proposed Development: Continued Use – Earthworks and Use of Property for a Recreation
Facility (Outdoor) – Private Motocross Tracks**

Thank you for Council's Request for Information (RFI) letter dated 16 October 2024 regarding our DA. We greatly appreciate the opportunity to provide greater clarity and further information in response to Council's request.

This letter contains our detailed response to the issues of concern raised by Council and also in the neighbour submissions that followed Council's neighbour notification/advertising of our DA. (redacted copies of these submissions were provided to us 21 August 2024).

We will address the environmental impacts of the **continued** use of the motocross tracks in this letter.

In summary, we consider that the issues of concern raised in Council's RFI letter and the neighbour's submissions are either:

- Able to be addressed via conditions of consent; and/or
- Not valid or reasonable or relevant to the development; and/or
- Not sufficient to warrant refusal of our DA.

In particular, in response to some of the concerns raised by Council and the neighbour's submissions, our client has indicated they are prepared to accept reasonable conditions of consent to address those concerns – including:

- Limit on hours of use of the motocross tracks to be consistent with the *Noise Impact Assessment* dated November 2024 (by Muller Acoustic Consulting, submitted as a separate document to this additional information response) help reduce noise impacts;
- Regular wetting down of the tracks (eg at the end of each day they are in use) – to help reduce dust emissions;
- Provide turf/landscaping to the edge/s of the tracks – to help prevent further sediment runoff from the tracks, and also reduce the external visual impact of the tracks.

Finally, we recognise Council's regulatory functions in DA assessment, particularly the need to find a balance in the assessment outcome between our DA submission and the issues of concern raised in neighbour submissions – and to arrive at a reasonable/balanced outcome which is satisfactory to all stakeholders (ie the local community, Council and myself/my clients). The main regulatory framework for these functions is of course set out in s.4.15 of the EP&A Act 1979 (*Matters for Consideration*).

We believe that our DA is worthy of Council's approval subject to appropriate/reasonable conditions of consent, and we are absolutely prepared to assist Council to work towards that outcome.

Please contact me on 0494 078 086 if you wish to discuss further.

Yours faithfully

(Signed)

Chris Young
Principal
CMY Planning Services

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Attachment 1 – Detailed Response to the Issues in Council’s Letter 16 October 2024

Council’s letter dated 16 October 2024 requested the submission of additional information to address particular issues.

The issues raised by Council are summarised below, together with our response.

1. RU1 Primary Production Zone Objectives.

Council’s letter 16 October 2024 states *Insufficient information has been provided to demonstrate how the development, being for recreation purposes, would be compatible with the agricultural, environmental and conservation value of the land.*

Response:

At the outset, it is necessary to define the key term in Council’s request – “**compatible**”. The common/everyday (dictionary) definition of “compatible” is (for things, people etc) to be *able to exist or work with something else; capable of living or existing together in harmony; consistent or congruous.*

The Site is zoned RU1 Primary Production under Dungog LEP 2014 (DLEP 2014). As the name suggests – *primary production* refers to the use of land for cultivation (of crops etc) or raising animals (sheep, cattle, pigs, poultry etc) for selling their produce or the natural increase in the numbers of such animals.

However, there is no requirement for the particular land uses in the RU1 zone to be only or “exclusively” for purposes of primary production. The RU1 zone under DLEP 2014 permits a broad range of land uses, including some which may not necessarily be integral to the nature of “*primary production*” named in the RU1 zone title.

One of the landuses permitted (with consent) in the RU1 zone is a *recreation facility (outdoor)* – which has the following definition:

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

We contend that the Development (constructed motocross tracks) fits squarely within the above definition. In particular:

- They are entirely located outdoors;
- They are to be used for recreation purposes (ie for enjoyment, amusement, pleasure, or “fun”);
- “Motocross” is a type of sporting activity, which is typically considered to be a form of recreation; and
- They are very similar in nature to some of those listed in the definition eg similar to a go-kart track.

The above definition states that a *recreation facility (outdoor)* may occur “*whether or not for the purposes of gain*”. As stated in our previous documents submitted with the DA – it is intended for the tracks to only be used as a private facility enjoyed by children residing at the site, and their family/friends. There is no commercial/financial gain aspect to the motocross tracks.

The residents of the site are motocross enthusiasts who wish to have a private motocross track for their own recreational enjoyment, and to practice for races/competitions conducted elsewhere. There is no intention to conduct organised races/competitions (etc) at the Site.

There is a large amount of NSW Land and Environment (L&E) Court case law dealing with development's consistency with the relevant Zone Objectives in a LEP.

One recent decision was in the case of *Jeffrey v Canterbury Bankstown Council* [2021] NSWLEC 73. The Court observed the following with respect to Zone Objectives (para 62-63 of this decision):

*In this context, the objective of Zone R4 should be construed so as to promote the purpose of this threefold classification of development and **the presumption that development for a purpose that is classified as being permitted with consent in the zone will be compatible with the objectives of the zone...***

*This leads to an expectation, in most cases, that development consent will be granted to an application to use a site for a purpose for which it is zoned. But this general expectation is subject to the circumstances of the particular development for which consent is sought. This is the second point made in *BGP Properties*. **The design of the particular development for that purpose should result in acceptable environmental impacts:** at [118]. If it does not, there can be no expectation that consent will be granted to the development, notwithstanding that it is for a purpose that is permitted and consistent with the zoning.*

Based on the above, there is a presumption that development that is permissible (with consent) will be consistent with the objectives of the relevant zoning. However, any expectation that development consent will be granted to a proposed development that is consistent with zone objectives must be tempered by the reality that the design of the proposed development must result in acceptable environmental impacts.

The Development ("*recreation facility (outdoor)*") is permitted with consent in the RU1 Zone. It follows, based on the Court's decision in *Jeffrey* above, that the permissibility of the development brings a presumption that it is also compatible with the objectives of the Zone.

The reality that the development must also result in acceptable environmental impacts is noted, and discussed throughout this response. In summary, we contend that (subject to appropriate and reasonable consent conditions) the development can have acceptable environmental impacts.

The current landuse of the Site is that there is a dwelling house, and a small area of trees/vegetation at the E end of the site. Otherwise, most of the site contains pastured grazing paddocks with some small trees/shrubs along the Williams River frontage. There is currently no specific "agricultural" use of the land (such as cattle grazing, growing of crops etc).

The motocross tracks are only intended to be ancillary/secondary to (and therefore *compatible* with) the established permissible use already on the site namely the existing dwelling house.

In terms of agricultural landuses, there are no existing agricultural landuses on-site for the motocross tracks to be compatible with. However, the motocross tracks have involved moderate changes to previous ground levels, therefore (if the motocross tracks usage were to cease) then the Site could be readily returned to be suitable for agricultural uses. In terms of the agricultural use of adjoining sites, based on the submissions received, includes a wide variety of primary production such as livestock grazing, and production of crops etc. Whilst there would be some external impacts (eg noise, dust etc, as discussed in the submissions in Attachment 2 below) – suitable and appropriate conditions can ensure the Development can operate with acceptable impacts and therefore be *compatible* with the agricultural use of adjoining Sites.

In terms of compatibility with the environmental and conservation value of the land, it is noted that the position of the existing motocross tracks is at the W end of the site, approx. 600m from the end of Horton Cl. The tracks will therefore not be visible or discernible from the public domain.

They will however be discernible from properties immediately adjoining the site. Again, suitable consent conditions can be imposed to ensure that the development can be compatible with the environmental and conservation values of the land.

We wish to note that private motocross tracks have recently been approved (in other Council areas) on land zoned RU1 – Primary Production. Three examples include:

- 621 Larbert Rd Larbert (Queanbeyan-Palerang Regional Council) – DA Reference DA.2021.1081
- 151 Old Backwater Rd Narromine (Narromine Shire Council) – DA Reference 2022/58;
- 1431 Wybong Road Castle Rock (Muswellbrook Shire Council) – DA reference unknown.

Whilst we recognise that these examples are in different locations (and are therefore obviously subject to different sets of circumstances in terms of environmental impacts, proximity to neighbours etc) – we provide these examples to indicate that it is not unusual for motocross tracks to be approved on land in the RU1 Primary Production zone.

Overall, subject to suitable and reasonable consent conditions, we contend that the use of the constructed motocross tracks can operate with acceptable environmental impacts – and therefore be compatible with the agricultural, environmental and conservation values of the land, both the subject site and adjoining properties.

2. Clause 5.21 Flooding.

In summary, Council's RFI letter dated 16 October 2024 states that the flooding characteristics of the site and associated impacts of the development have not been addressed within the SEE and various additional information has been required.

Response: Our Clients have engaged Northrop Consulting Engineers Pty Ltd to prepare a Water Quality and Flood Impact Assessment Report. This Report, dated 20 November 2024 is submitted under separate cover.

The Northrop Report addresses all of the specific requirements of Council's RFI letter dated 16 October 2024 in relation to Clause 5.21 of DLEP 2014.

The Northrop Report makes the following conclusions (at p. 5):

The existing development on the subject site complies with the relevant DCP and LEP requirements and objectives.

- *The development has a net zero cut/fill balance resulting in zero displacement of water within the floodway. The development will not affect neighbouring properties during a flooding event.*
- *The development features minor reshaping of soil such that the conveyance of floodwater through the developed site is not meaningfully impacted. The development will not significantly affect flood behaviour.*
- *The developed site has an adequate buffer region between the site and Williams River to effectively mitigate and contain the environmental effects of development.*
- *The recreational development meets the conditions listed in Dungog DCP Schedule 2 is therefore a suitable development within a floodway.*

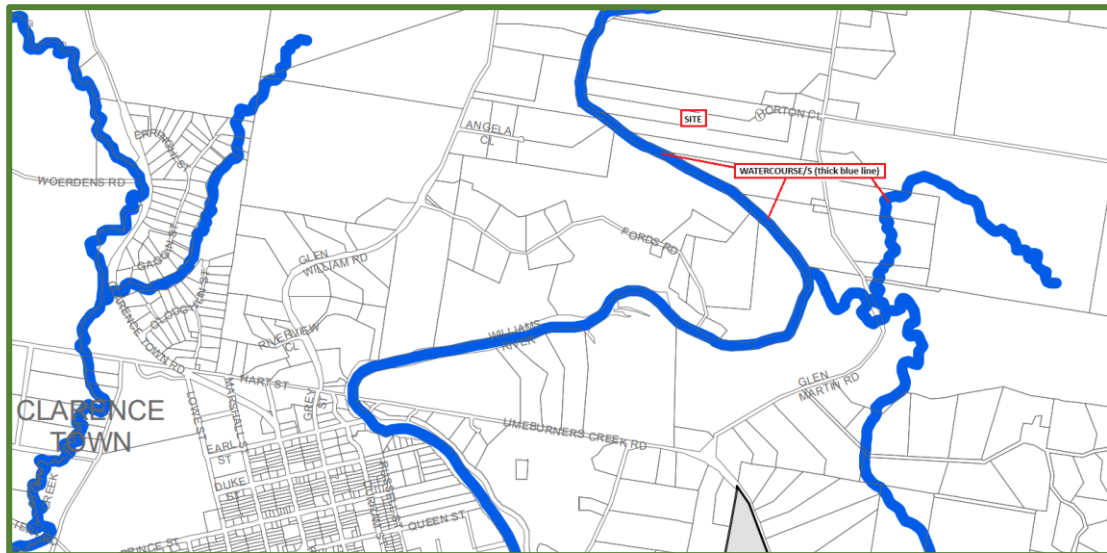
3. Clause 6.2 Earthworks.

Council's letter 16 October 2024 requests additional information to address clause 6.2(3) of DLEP 2014.

Response: The particular matters in Council’s letter 16 October 2024, and our response to those matters, are outlined in the table at the end of this Response Item (No 3).

Council’s RFI letter dated 16 October 2024 raises particular issues in relation to Watercourses within the site. We believe there needs to be clarity and agreement on what constitutes a “watercourse”; and also clarity regarding the correct mapping to be used to determine the location of any watercourse/s affecting the Site.

In this regard, the *Riparian Lands and Watercourses Map* attached to DLEP 2014 (see screenshot below) shows that there are no defined watercourses within the property itself (only the Williams River, forming the Site’s W boundary, is mapped as a watercourse).



Position of Subject Site relative to local Watercourses (Source: *Riparian Lands and Watercourses Map – DLEP 2014*)

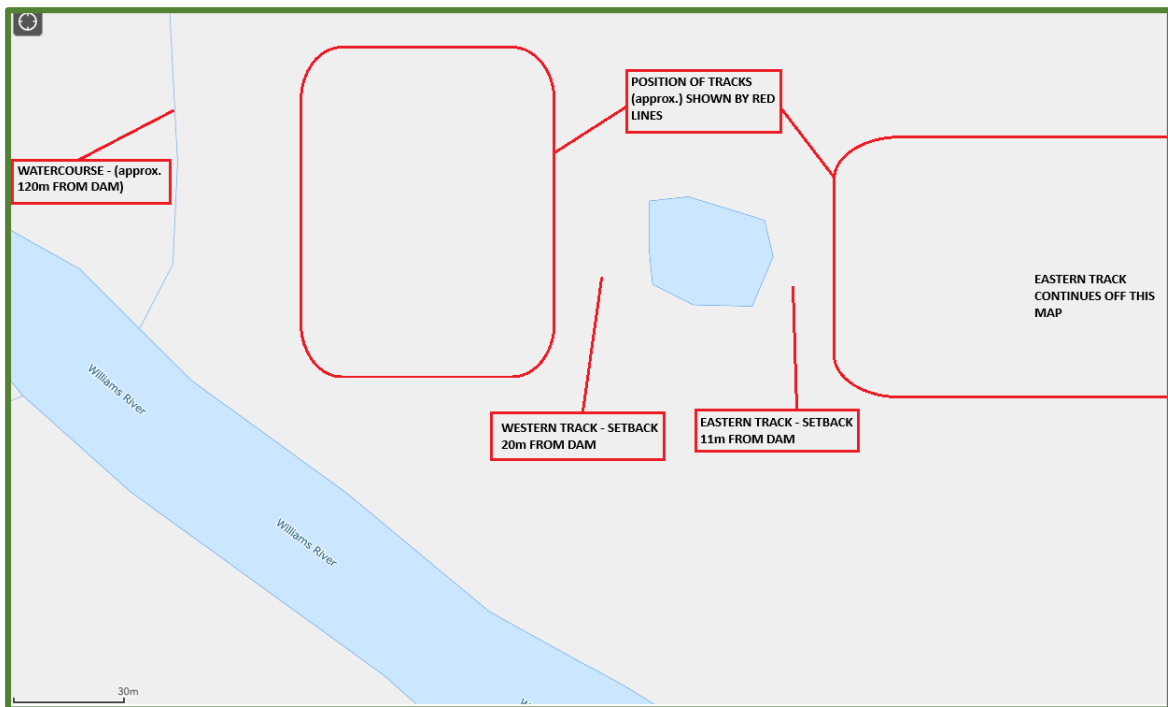
In addition to the DLEP 2014 maps, Council has advised that there is an additional map which needs to be considered in terms of Watercourses – namely the NSW Government’s Hydro Line spatial map. Watercourses are identified as “blue lines” on this Map. In this regard, the NSW Government’s Hydro Line spatial map showing the watercourses near the subject Site is provided below.

The Hydro Line Map is not specifically listed or referenced under DLEP 2014. However, we acknowledge it’s standing and we therefore address the issues raised by this Map as follows.

There is one mapped watercourse close to the motocross tracks at the W side of the Site. This watercourse is approx. 120m west of the farm dam and therefore approx. 50m W of the western track. The approximate position of the tracks (based off the DA plans prepared by a registered surveyor) relative to the dam and the watercourse, are plotted on the maps below.



NSW Government Hydro Line Spatial Map – Showing Subject Site. Note the Watercourse in relation to the Dam at the Western Side of the Site and the Scale of the Drawing (at bottom left).




Zoom-In of the above Hydro Line Spatial Map – Showing the position of the dam (reference point), the Motocross Tracks and the Mapped watercourse at the Subject Site. Note the Scale of the Drawing (at bottom left).

In summary, we confirm that (other than the Williams River itself, the site's W boundary):

- there are no watercourses within the site on the DLEP 2014 *Riparian Lands and Watercourses Map*;
- there is one mapped watercourse within the site on the NSW Government's Hydro Line spatial map.

Particular Issue	Planning Response
1. The development is located in close proximity to two mapped	Noted. The above maps show that there is only one mapped watercourse (within the site) as well as the Williams River itself (which forms the site's western boundary).

Particular Issue	Planning Response
<p>watercourses as well as the Williams River.</p>	<p>The western track is some 83m from the Williams River (measurement noted on the DA plans). The western track is also approx. 50m from the watercourse within the site (as shown on the NSW Government Hydro Line Spatial Map)</p>
<p>2. The abovementioned mapped watercourses have not been considered in the application. Additionally, the plans accompanying the application show a well-defined drainage line in the middle of the loops of the eastern track. These watercourses/drainage line drain to the Williams River.</p>	<p>The western track has been constructed clear of the Watercourse within the site (west of the farm dam).</p> <p>The “drainage line”, as referenced in Council’s letter, shown in the middle of the loops of the eastern track is acknowledged. However this “drainage line” is extremely shallow.</p> <p>According to the surveyed spot levels (provided by Terry Survey & Development Consulting) as shown on the DA plans, this “drainage line” has a maximum depth of 390mm (TB9.28 v BB8.89) at the E end of this drainage line.</p> <p>Whilst we acknowledge the existence of this “drainage line” (in the middle of the loops of the eastern track), we also wish to note that this “drainage line” drains into the farm dam (western side of the site) rather than draining directly into the Williams River. Therefore any sediment runoff or the like would be captured in the farm dam (which would act as a “filter”) and not directly into the Williams River.</p>
<p>3. The unstabilised nature of the proposed earthworks/ tracks are likely to result in impacts on water quality due to erosion and sedimentation loss from the site.</p>	<p>Noted and agreed. As discussed throughout this response, we would be willing to accept appropriate and reasonable consent conditions to stabilise the earthworks that have been undertaken.</p> <p>Such conditions may include the provision of turf/landscaping to the edge/s of the tracks (ie including all surrounding areas and batters) – to stabilise the tracks and help prevent further sediment runoff from the tracks.</p> <p>This will be an adequate and appropriate means of resolving this issue.</p>
<p>4. The SEE appears to misrepresent the height of constructed banks and, therefore, the exposed soil area and erosion risk. The description of the earthworks in the SEE (elevations up to 1.3 metres on the eastern track), does not appear to reflect natural ground levels as indicated by the plan accompanying the application.</p>	<p>Further clarification of the constructed height/s of the motocross tracks, based on the plans submitted with the DA, are provided as follows.</p> <p>Note: The DA plans were prepared by a registered/practicing surveyor, whose professional standards require them to prepare plans that are correct and accurate (in terms of surveyed levels etc)</p> <p>Below this Table is the Flyover Photo (April 2024) of the constructed tracks, showing the locations of the greatest changes to original ground levels (mostly by filling). The heights of the tracks based on the survey levels on the DA plans at these locations, are summarised below.</p> <p>It is confirmed that the maximum height/s of the tracks will be at “Location Point No 3” (on the flyover photo below).</p> <p>The height at this point will be up to 2.52m if measured to the previous level immediately adjacent to the track, or 7.97m if measured to the bottom of the batter of the filled area.</p> <p>See “General Comments” below this table for further discussion.</p>

Particular Issue	Planning Response
	<p><u>Location Point No 1:</u></p> <ul style="list-style-type: none"> • Finished Level: RL12.80 - RL13.01 • Pre-Existing Level: (approx.) RL11.03 – RL12 • Finished Height: (approx.) 1.77m to 1.82m <p><u>Location Point No 2:</u></p> <ul style="list-style-type: none"> • Finished Level: RL12.17 – RL12.75 • Pre-Existing Level: (approx.) RL11.37 – RL10.47 • Finished Height: (approx.) 1.38m to 1.92m <p><u>Location Point No 3:</u></p> <ul style="list-style-type: none"> • Finished Level: RL14.57 – RL16.42 • Pre-Existing Level: (approx.) RL13.9 (immediately adjacent to lander/tabletop) or RL8.45 (bottom of batter) • Finished Height: (approx.) 2.52m (to the point immediately adjacent to lander/tabletop) or 7.97m (to bottom of batter)
	

General Comments – Earthworks:

The following General Comments are made in relation to the earthworks undertaken at this site.

The height of the tracks has been clarified by reference to the RLs (prepared by a registered surveyor) shown on the DA plans. These show that the highest point of the tracks (marked No 3 in the photo above) will be some 2.52m to the point immediately adjacent to that lander/tabletop or 7.97m to the bottom of the batter.

The specific impacts, arising from the earthworks undertaken, are discussed below:

- (a) Visual Impact: It is acknowledged that these earthworks heights have an external visual impact (particularly visual impact to neighbouring properties either side). However, given the position of the Site relative to external roads, such external visual impact will only be limited to these immediate external properties.

In this regard, Horton CI terminates at the front of the Site (with an extension serving another 2 properties to the south) and therefore does not have any through-traffic. The nearest road with through traffic (Glen Martin Rd) is approx. 1km to the E of the site.

- (b) Sediment Control/Runoff: It is also acknowledged that the earthworks (ie the current un-stabilised nature of these) is likely to give rise to further sediment runoff. In this regard, we are willing to accept reasonable/consent conditions to address potential sediment runoff – including turfing/landscaping of the edges of the tracks and in particular the sides of the batters of all higher parts of the tracks.

- (c) Noise Impact: The use of the motocross tracks will also have external Noise Impacts. In this regard, Council has requested that this be addressed as a separate issue (see Point No 6 below).

A Noise Assessment Report has been prepared and is to be submitted under separate cover as a specific response to this issue in Council's RFI letter dated 16 October 2024.

4. Clause 6.5 Drinking Water Catchments.

Council's RFI letter dated 16 October 2024 contains an extract of the response from Hunter Water (dated 23 August 2024, and available from the NSW Planning Portal). Hunter Water was an external referral agency for this DA, and they have prepared their response to Council's external referral.

The Hunter Water response is quite lengthy and we will leave it to Council to address all of the particular items raised.

Hunter Water has provided the following concluding comments (in the *Recommendation* section of their response):

Overall, Hunter Water's assessment of the proposal is that disturbance associated with the development is in no way considered minimal and the assessment of potential impacts on water quality in the Williams River is understated. Given the proximity of both of the drainage lines (described above) to the track, the total disturbed area and the slopes involved, it is considered highly unlikely that sediment eroded from the site would not reach the river (or, regarding clause 6.2 (3)(d), adjoining properties) in high rainfall events unless additional management controls are implemented to prevent such impacts. Based on the information presented in the SEE and further interpretation of the details, Hunter Water's assessment of the proposal is that it is likely to adversely impact on water quality in the Williams River without the implementation of additional appropriate erosion and sediment controls to protect the river.

*Hunter Water therefore recommends that, **should consent be granted, conditions be imposed on the development to ensure appropriate erosion and sediment controls are implemented, in addition to the proposed returfing of some areas (as stated in the SEE), to protect water quality in the Williams River.***

Various erosion and sediment controls are available and are considered likely to be appropriate for the proposed activity if designed and installed correctly and maintained. Such controls may include upslope diversion of clean water, sediment fencing immediately down slope of disturbed areas (especially near drainage lines), establishment of stabilising vegetation on exposed banks (acknowledged as already proposed in the SEE, although not evident in photos provided in the SEE) or a combination of these and other controls as appropriate to achieve the objective of not polluting the Williams River. Particular attention should be paid to the drainage line that runs through the middle of the eastern track and the drainage line to the near west of the western track, both of which are considered by Hunter Water to present a high risk for pollution of the river but are not identified as such in the SEE. We also note that maintenance of erosion and sediment controls is important to ensure their ongoing effectiveness.

It is also noted that, irrespective of the implementation and effectiveness of respective erosion and sediment controls that might be installed, a significant area of disturbed ground will remain as a result of ongoing use of the motocross tracks and sediment laden water should not be allowed to enter the Williams River as a result of the development.

The requirement for preparation of a soil and water management plan by a suitably qualified professional would be an appropriate way to demonstrate that the proposed

controls would be effective and provide confidence around the management of this issue. Whichever approach is adopted, Hunter Water is happy to leave the details to Dungog Shire Council and does not require further information to assist determination of the DA, unless requested by Council.

Response: We agree with the comments provided by Hunter Water – in particular the comments as highlighted in **bold** above. These particular matters can be readily addressed via consent conditions to appropriately address the concerns raised by Hunter Water (and Council).

We are prepared to accept appropriate and reasonable consent conditions to address the items above.

Further to the issues raised by Hunter Water, in order to assist Council’s assessment, we provide the following detailed response to the requirements of Clause 6.5 in DLEP 2014 (see table below).

Clause 6.5 Requirement	Planning Response
(1) The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.	<p>Clause 6.5 objectives are noted.</p> <p>As stated throughout this letter, we are prepared to accept appropriate and reasonable consent conditions which will achieve the stated objective in terms of Drinking Water catchments.</p>
(2) This clause applies to land identified as “Drinking water catchment” on the Drinking Water Catchment Map .	<p>The Site is within the Drinking Water Catchment, therefore this clause applies to the Development.</p>
<p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following—</p> <p>(a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following—</p> <p>(i) the distance between the development and any waterway that feeds into the drinking water storage,</p> <p>(ii) the on-site use, storage and disposal of any</p>	<p>These are matters for Council’s consideration as part of the assessment of this DA.</p> <p>The previous comments throughout our response are re-iterated and summarised:</p> <ul style="list-style-type: none"> • The development only involves the continued use of earthworks previously undertaken (as motocross tracks). • The un-stabilised nature of the earthworks undertaken (ie batters etc) is likely to result in sediment runoff and therefore reduction in water quality – if no measures are implemented to ameliorate such impacts. <p>As stated throughout this letter, we are prepared to accept appropriate and reasonable consent conditions to address these issues.</p> <ul style="list-style-type: none"> • The continued (on-going) use of the tracks are also likely to result in further disturbance to surface levels and therefore further potential impacts. As above, we are also prepared to accept appropriate and reasonable consent conditions to address these issues. • In addition to the above matters, and to address the specific issued in Clause 6.5(3)(a)(i) to(iii), we make the following comments:

Clause 6.5 Requirement	Planning Response
<p>chemicals on the land,</p> <p>(iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,</p> <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<ul style="list-style-type: none"> ○ The tracks are a sufficient distance to ensure that any adverse impacts can be addressed (via consent conditions); ○ Any use of chemicals (most likely to be petrol/oils etc for this development) will be done in a manner which will not result in adverse impacts. Once again, we are prepared to accept suitable and appropriate consent conditions to address this issue. Such conditions may include that all motocross bikes are filled with petrol prior to arriving at the site (ie no filling on-site). ○ There will be no waste water or solid wastes generated (other than through existing waste water disposal ie toilets, sinks, showers etc for the existing dwelling).
<p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>This clause requires the consent authority (ie Council) to be satisfied in terms of (a) to (c).</p> <p>In response, we advise the tracks are sited to ensure that any adverse impacts can be appropriately managed, thus ensuring the requirements of Clause 6.5(4) can be satisfied.</p> <p>Once again, such management will require suitable and appropriate consent conditions which we are willing to accept.</p>

5. Clause 6.10 Williams River Catchment.

Clause 6.10 in DLEP 2014 contains specific requirements for the Williams River Catchment, which warrants a detailed response. This is provided in the table below:

Clause 6.10 Requirement	Planning Response
<p>(1) The objective of this clause is to protect and improve the environmental quality of the Williams River Catchment.</p>	<p>Clause 6.10 objectives are noted.</p> <p>As stated throughout this letter, we are prepared to accept appropriate and reasonable consent conditions which will achieve the stated objective protecting and improving the environmental quality of the Williams River Catchment.</p>

Clause 6.10 Requirement	Planning Response
(2) This clause applies to land identified as “Williams River Catchment Area” on the <u>Williams River Catchment Map</u> .	The Williams River Catchment Map shows that the Site is within the Williams River Catchment Area, therefore this clause applies to the Development.
(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development— (a) promotes the sustainable use of land, water, vegetation and other natural resources within the Williams River Catchment, and (b) promotes the protection and improvement of the environmental quality of the Williams River Catchment, and (c) will have any significant adverse impacts on water quality within the Williams River Catchment, and (d) is consistent with the Williams River Catchment Regional Planning Strategy published in September 1997 by the Department of Planning and Environment.	These are matters for Council’s consideration as part of the assessment of this DA. In summary, the Development (being for the continued use of earthworks undertaken, for the purpose of a Recreation Facility (outdoor)) will not conflict with these requirements. In terms of the particular requirements: (a) Subject to suitable consent conditions, the development can be consistent with the requirement to promote the sustainable use of the stated natural resources of the Williams River Catchment. (b) Suitable consent conditions can also ensure the development is consistent with the requirement to promote the protection and improvement of the environmental quality of the Williams River Catchment. (c) Suitable consent conditions can also ensure the development will not have significant adverse impacts on water quality within the Williams River Catchment. (d) As above, suitable consent conditions can also ensure that the development will be consistent with the Williams River Catchment Regional Planning Strategy.

6. Noise.

In summary, a Noise Assessment report by a suitably qualified/experienced consultant has been requested.

Response: Our Clients have engaged Muller Acoustic Consulting to prepare a Noise Assessment report (dated November 2024) – which is to be submitted under separate cover.

The Noise Assessment Report provides a full assessment of all aspects of the development, the relevant Noise Policies, assessment criteria (amenity noise levels and intrusiveness noise levels), the locations of adjoining receivers.

The Noise Assessment Report provides the following *discussion of results* (at p. 20):

Predicted noise levels from the operation of the track(s) for six (6) hours over the course of a whole daytime period (7am to 6pm) are expected to satisfy the proposed amenity noise level of 50dB LAeq(day) at all receivers. Similarly, the predicted short term noise levels do not exceed the intrusive noise level of 40dB LAeq(15min) at all receivers.

The assessment is based on the minimum applicable background noise levels. It is likely that, during the day, background noise levels could be higher than 35dBA and hence the predicted effect from the operation of the project would be further minimised.

To provide some context to the assessment, if a proposed industrial or commercial noise source were to be proposed in the same location and operate at a continuous noise level of 40dB LAeq(15min) during the daytime and 35dB LAeq(15min) during the evening and night time periods at a residential receiver, it would satisfy the requirements of the NPI.

Hence, the operation of the project is unlikely to cause intrusive noise at receivers and is unlikely to affect the acoustic amenity.

The Noise Assessment Report concludes by stating (at p.23):

The results of the Noise Assessment show that typical noise emissions from – the operation of the track for up to six hours per day would satisfy the recommended amenity noise level over the course of a whole daytime period. The operation of the track would be in sessions of one hour, with breaks of 30 to 45 minutes between each session.

Typical noise emissions would also satisfy the most stringent intrusiveness noise criteria that may be applied to an industrial development which may operate continuously. However, as the project is within private ownership and operates within the restrictions outlined in this report, the application of the most stringent noise criteria may not be applicable as noise levels satisfy the recommended amenity levels over the course of a whole daytime period.

7. Public Submissions.

Response: Thank you for providing the (redacted) submissions for us to review and respond. The issues raised in the Neighbours' submissions, and our response, are outlined in the Table in Attachment 2 (below).

Attachment 2 – Response to Neighbour’s Submissions

The issues raised in the Neighbours’ submissions, and our response, are summarised in the following table.

Notes:

1. Many of the same issues of concern have been raised by numerous neighbours. To avoid duplication, the Table will therefore focus on the general nature of each issue in preparing a planning response.
2. The submissions were redacted (names/addresses and the origins of each submission were concealed) so it is not possible to provide specific response comments on how each issue relates to/ or affects any particular property.
3. The response/s to the Neighbour’s Submissions (below) should also be read in conjunction with the responses to Council’s issues as per the letter (above).

Summarised Issue of Concern	Planning Response
Sediment runoff (during earthworks) into Williams River, affecting drinking water catchments etc	Concerns noted. However, as the subject DA seeks approval for the continued use of the constructed motocross tracks (ie no further earthworks), there will be no further sediment runoff associated with earthworks.
Sediment runoff resulting from further use of the motocross tracks.	To prevent any further sediment runoff (from on-going use) - we are willing to accept a condition requiring the area surrounding the tracks to be turfed and/or landscaped, or placement of hay bales in appropriate locations downhill of the tracks. Hay bales are known to prevent the escape of sediment (for example on building sites).
Dust emissions – affecting neighbouring properties, causing nuisance and affecting their viability for primary production etc.	To help reduce dust emissions – we are willing to accept a condition requiring regular wetting down of the tracks (eg at the end of each day they are in use).
Height of the jumps exceeds what is stated in the report (SEE).	The Site Plan (amended) as lodged with the original DA submission contains full details prepared by a registered surveyor of all reduced levels (RLs) of the 2 proposed tracks as well as the existing contours of land surrounding the tracks. These RLs contain sufficient detail for the purpose of Council’s assessment. Clarification on the height of the jumps etc has been provided above.
Noise emissions – affecting neighbouring properties, causing general nuisance and	A Noise Impact Assessment report has been requested in Council’s RFI letter 16 October 2024 – to provide a full/detailed response to noise issues.

Summarised Issue of Concern	Planning Response
specific issues such as disturbing animals/livestock, mental health issues etc.	<p>See also the Noise Impact Assessment Report as requested in Council's RFI letter.</p> <p>To further assist reducing noise impacts, we are prepared to limit the hours of use of the motocross tracks to be consistent with the <i>Noise Impact Assessment</i> dated November 2024 (by Muller Acoustic Consulting, submitted as a separate document to this additional information response)</p>
Unauthorised nature of the motocross tracks.	It is noted that the tracks were constructed without prior approval (February-April 2024). It is therefore open for Council to pursue appropriate enforcement action/s as they see fit.
Inaccurate information in DA submission – eg location of tracks not accurately shown on the DA plans; adjoining properties (eg dwellings) are closer than stated in the SEE.	<p>The DA plans were prepared by a registered surveyor benefiting from a site visit to accurately show the position of the tracks relative to each other within the site, and from site boundaries.</p> <p>The SEE was prepared with the best/most up-to-date information available in terms of air photos etc to determine location of improvements on adjoining properties.</p>
Exhaust emissions/fumes from the motor bikes.	The development proposes a low number (max. 12) of motorbikes. As above, we are prepared to accept a consent condition to limit the use of the tracks. The motorbikes would produce relatively low levels of exhaust emissions/fumes which would disperse rapidly into the atmosphere, and would unlikely be discernible to any adjoining property.
Poor emergency vehicle access.	The Site has all-weather access directly from a public road, which would be suitable if/as required by emergency vehicles.
Reduction in local property values.	The NSW Land and Environment Court has held that impacts of a development on local property values is not a valid matter for consideration in DA assessment.
Property is too small/narrow to provide adequate setbacks between the tracks and neighbouring properties.	Dungog Council's planning controls do not provide minimum setbacks for this type of development. A Merit Assessment is therefore required. The tracks have a (minimum) 4.5m setback from any adjoining property – which will be sufficient to provide landscaping to minimise visual impacts.
Visual Impact – the motocross tracks are not consistent with the scenic outlook/quality of the turfed/grazing paddocks which surround the site.	<p>As above, we are prepared to accept suitable condition/s for turfing landscaping around the tracks (to minimise sediment runoff associated with the use of the tracks). This will also address concerns regarding visual impacts.</p> <p>With the provision of such landscaping, the tracks will not be readily visible from ground level and therefore visual impacts are able to be resolved via condition/s.</p>

Summarised Issue of Concern	Planning Response
Acid sulfate soils – the site is identified as being affected by Class 1, 4 and 5 Acid Sulfate Soils.	As this DA is only for continued use (of earthworks already undertaken) with no further excavation proposed, there will be no further impact in terms of acid sulfate soils.
Flora/fauna impacts. Neighbours have cited examples of particular fauna species including koalas, white bellied sea eagles, platypus, kangaroos, possums, parrots, kookaburras etc	The subject (and surrounding) site/s have mostly been cleared of significant vegetation and consists of grassed paddocks used for grazing. Although it is noted that there would have been some observations of particular local/native fauna, these sightings are likely to be sporadic/isolated and irregular compared to what would be observed in woodland areas. It is unlikely that the continued use of the tracks would have significant fauna impacts because the site/adjoining sites are not close to any significant areas of native vegetation. Further, many of the local/native fauna species are nocturnal, so the regular movements of such fauna would be at night and not affected by the continued use of the tracks which will occur during daytime only.
Traffic impacts.	The constructed tracks are only intended to be used by the family/friends of the site owners. Therefore most of the users of the tracks will reside at the site. Any external persons (eg friends/extended family) will be minimal in number so the related traffic will also be minimal.
Impacts on natural watercourses within the site.	See comments in the main body of this letter (above).
The tracks are not only for private use – they have been used for the general public/motocross clubs for example on Anzac Day 2024.	As above, the constructed tracks are only intended to be used by the family/friends of the site owners. We would be willing to accept a consent condition/s to this effect (that the tracks are not to be used by the general public or for any organisation/club).
Development conflicts with the main purpose of this area (primary production-zoned land).	The RU1 Primary Production zoning of the land permits a broad range of land uses (subject to development consent) including some which are not strictly related to primary production. One of these land uses that are permitted with consent in the RU1 zone is a <i>Recreation Facility (Outdoor)</i> (as defined in DLEP 2014). As per our DA submission, the Development fits within this definition and is therefore permitted with development consent.
Approval of this DA would set an undesirable precedent.	This is not considered to be a valid ground for concern. Each development/site has it's own unique set of circumstances which are not readily transferable between other developments/sites. Each development proposal is considered on it's own merits having regard to the circumstances at each site. What may be suitable at one site may be unsuitable at another site.

Summarised Issue of Concern	Planning Response
<p>The has plans to expand the tracks with further construction/excavation, more jumps etc, additional tracks, and/or including on-site camping.</p>	<p>These concerns are unfounded. There are no plans/proposal to expand the development proposal beyond what is presented in the current DA.</p> <p>Any “<i>further earthworks</i>” to be undertaken in future would only be for the purpose of minor re-shaping of jumps or on-going maintenance of the tracks. Our clients (property owners) will ensure that any such “<i>future earthworks</i>” are of such a minor nature that they can be undertaken as <i>exempt development</i> (as per State Environmental Planning Policy (Exempt and Complying Development Codes) 2008).</p>
<p>Flood impacts.</p>	<p>See comments in the main body of this letter (above). See also the Flood Impact Assessment Report submitted in response to Council’s RFI letter.</p>
<p>Inconsistent with the objectives of the RU1 Primary Production zone.</p>	<p>Refer to the original DA submission in terms of commentary regarding zone objectives. This is a difference of opinion between the submitters and our DA submission.</p>
<p>There are additional motocross tracks in use at the site (not only the area shown on the DA plans).</p>	<p>The current Development is only for the continued use of the existing tracks shown on the plans submitted with the DA.</p> <p>There is an additional very small track closer to the house (E side of the property) – however that small track fully complies with the definition of “<i>exempt development</i>” as prescribed in SEPP (Exempt and Complying Development Codes) 2008 (ie the extent of earthworks associated with that small track did not exceed 600m above or below existing ground levels – therefore it did not require development approval). This status was verified at a site inspection by Council officers (Darren Kearns) in July 2024.</p>
<p>Impacts on natural watercourses not adequately addressed.</p>	<p>See comments in the main body of this letter (above).</p>
<p>Contamination of the Williams River – by petrols/oils etc used by motocross bikes.</p>	<p>These are valid issues of concern, but can be readily addressed via consent condition/s (eg requiring such petrol/oils etc to be stored in suitable containers, in suitable buildings etc).</p>
<p>SEE is incorrect when it states the site was previously vacant of any buildings or vegetation – the site was covered in grass/pasture.</p>	<p>It is clarified that the site was previously covered with a grass/pasture surface (prior to the earthworks that formed the motocross tracks) – however there were no significant trees or shrubs.</p>