

MOTOLAND

11/02/2022

M E M O R A N D U M

TO: GENERAL MANAGER PRS – PETER TABULO

FROM: MANAGER ENVIRONMENTAL HEALTH– PETER CLIFTON

RE: ASSESSMENT OF RESPONSE TO ENVIRONMENTAL PROTECTION ORDER  
MOTOLAND PTD LTD  
62 COAL ROAD, CHUWAR

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1. Background:

Community nuisance appears to have partly been triggered by a significant increase in use of earth moving and watering machinery during track reconfiguration works towards the end of 2021 (occurring throughout the entire week and extending into night-time hours, in some instances) and intensification of the use of track by motor bikes.

EPO 18 November 2021:

Under the *Environmental Protection Act 1994* (the Act) an environmental protection order (EPO) was originally issued on 18 November 2021, amended on 29 November 2021 and again on the 15 December 2021, to Motoland Pty Ltd by the administering authority. The administering authority is the Chief Executive of the Ipswich City Council (Council).

This EPO was issued on the following grounds:

- to secure compliance with the *Environmental Protection (Noise) Policy 2019*; and
- to secure compliance with noise standards under s. 440Q of the Act; and
- to secure compliance with depositing prescribed water contaminants in waters under s. 440ZG of the Act; and
- to secure compliance with the General Environmental Duty (GED) under s. 319 of the Act.

Council authorised officers have conducted a review of the reports provided on the 24 January 2022 to Council by Motoland in response to the EPO and have made the below recommendations.

2. Recommendations:

Council issues a new EPO to Motoland with the following requirements:

- a. By 20 February 2022, Motoland Pty Ltd, must engage a suitably qualified person (e.g. acoustic engineer) who must conduct continuous sound monitoring of all the

activities on site for 18 months and submit to Council the findings of the sound monitoring, every three months or when otherwise requested by Council.

Sound monitoring must include (but not limited to) a sound level meter and a noise logger from the boundary at the following locations (but not limited to) listed below:

139 Robin Street, Chuwar

26 Coal Road, Chuwar

2 Blackwall Road, Chuwar

- b. By 11 May 2022 Motoland Pty Ltd shall have completed the installation of the control measures recommended identified in the acoustic report submitted by Motoland Pty Ltd, (Noise Impact Assessment (Report 27401.0002R01V01 dated 24 January 2022 and prepared by Trinity Consultants Australia), taking in consideration the changes and requirements below:

- (1) From 14 February 2022 and until the installation of the control measures required above have been completed and deemed appropriate by Council, the number motorbikes operational at any one time shall be restricted to 20 on the main track.
- (2) Erect a 5.0 metre high acoustic barriers along the southern property boundary (26 Coal Road, Chuwar) and in addition along the western property boundary (139 Robin Street, Chuwar) as generally indicated in blue as below.



- (3) An Operational Works application for the two acoustic barriers is to be lodged with Council and approved prior to the commencement of construction.
  - (4) The acoustic barriers are to:
    - Be continuous and gap free; and
    - To be constructed of a material with a surface density not less than 12 kg/m<sup>2</sup>.
  - (5) Motoland Pty Ltd must lodge the necessary Operational Works application not later than the 11 March 2022 and the construction of the acoustic barriers must be completed by 11 May 2022
- c. From 14 February 2022, Motoland Pty Ltd, must comply with the revised operational timeframes when conducting earthworks:

- A person must not carry out earthworks in a way that makes an audible noise on a business day or weekend, before 8.00a.m. or after 5.00p.m; and
- From 8.00a.m. to 5.00p.m, cannot make a noise of more than 5dB(A) above the background level from the closest sensitive receptor.

This change in operational timeframes is pursuant to s. 493A of the Act.

- d. From 14 February 2022 Motoland are to stop using the existing large water truck, tractor and D3 dozer as recommended in the Noise Impact Assessment that makes recommendations for utilising a quieter watering truck, prohibiting the use of the tractor and D3 dozer from the intermediate and beginner tracks, utilising the posi-track (in preference to the D3 dozer and tractor) on all tracks.
- e. From 14 February 2022, Motoland Pty Ltd, must comply with the revised operational timeframes which correlate to the noise standard under s. 440T of the Act.

An occupier of the premises must not use, or permit the use of, the pump on any day-

- Before 7a.m, if it makes an audible noise; or
  - From 7a.m. to 7p.m, if it makes a noise of more than 5dB(A) above the background level; or
  - From 7p.m. to 10p.m, if it makes a noise of more than 3dB(A) above the background level; or
  - After 10p.m, if it makes an audible noise.
- f. From 14 February 2022, Motoland Pty Ltd, must comply with the revised operational timeframes which correlates with the noise standards under s. 440X of the Act. The timeframe for motorcycling activity being undertaken is as follows:
    - A person must not undertake motorcycling activity in a way that makes an audible noise on a business day or weekend, before 8.00a.m. or after 5.00p.m; and
    - From 8.00a.m. to 5.00p.m, cannot make a noise of more than 70B(A)(leq) at the boundary closest sensitive receptors.
  - g. From 14 February 2022, Motoland Pty Ltd, must comply with the revised operational timeframes which correlate to the noise standard under s. 440T of the Act.

An occupier of the premises must not use, or permit the use of, the pump on any day-

- Before 7a.m, if it makes an audible noise; or
  - From 7a.m. to 7p.m, if it makes a noise of more than 5dB(A) above the background level; or
  - From 7p.m. to 10p.m, if it makes a noise of more than 3dB(A) above the background level; or
  - After 10p.m, if it makes an audible noise
- h. Motoland must:
    - (i) By 14 March 2022, have a suitably qualified person (e.g. environmental consultant) to undertake at least 3 days of inspections (at least 3 hours per

inspection) of the site under dry conditions (no rain event has occurred 48 hours prior to the inspection) to determine the impact of dust from motorcycle activity on all surrounding properties.

- (ii) By 20 March 2022 a dust monitoring report must be submitted by the suitably qualified person to Council which demonstrates the impact of dust per inspection, the corresponding weather conditions per inspection, the level of motorcycle activity per inspection and recommendations for controlling dust on site.
- (iii) The installation of the control measures recommended by the environmental consultant will be considered by Council upon receiving of the report. The relevant timeframe required for the installation of such control measures will be directly proportional to the type of control measures recommended and corresponding application requirements. Therefore, timeframes allocated to this specific requirement will remain in force until further notice from Council.

3. The facts and circumstances forming the basis for these recommendations:

a. Noise:

Council officers have reviewed the Noise Impact Assessment (Report 227401.0002R01V01 dated 24 January 2022 and prepared by Trinity Consultants Australia), submitted in response to Council's EPO (Ref 211006-000044 dated 15 December 2021) and provide the following comments:

The Noise Impact Assessment describes the site as operating as follows:

- Main Track: Saturday & Sunday 8am-3pm
  - Beginner and Intermediate Track: Friday to Sunday 8am-3pm
  - Earthworks and Watering to tracks mostly required on Main track. Intermediate and Beginner mostly only require less than 1hr on a Friday and Saturday afternoon.
  - Water truck approved for use 7am-7pm.
  - Earth working equipment 6:30am-6:30pm.
- a. Council officers have concerns that the limited amount of noise monitoring conducted during motocross activities has potentially informed an incomplete set of recommendations which may not adequately manage the noise nuisance at the nearby sensitive receivers within the surrounding community.
- b. In relation to earthworks and water truck noise associated with the normal use of the site the Noise Impact Assessment makes recommendations for utilising a quieter watering truck, prohibiting the use of the tractor and D3 dozer from the intermediate and beginner tracks, utilising the posi-track (in preference to the D3 dozer and tractor) on all tracks and constructing a 5m high noise barrier along the southern site boundary (adjoining 26 Coal Road). In addition to these recommendations if the operator has the need to undertake major track reconfiguration works in future forewarning the surrounding community of upcoming works could assist with the management of noise nuisance.

- c. In relation to motorcycle noise the site activity logs presented for Friday 14th – Sunday 16th January provides an indication area of use within the site and, for Saturday 15th and Sunday 16th January 2022 (when the main track is operational) the logs provide an indication of the intensity of use by listing the numbers of motorbikes using each track (this, however, is only listed for the morning hours). This activity intensity information assists greatly when interrogating the noise monitoring data recorded at the adjacent sensitive receiver locations.

A very limited concurrent noise monitoring dataset is presented for the three identified assessment locations for periods when the intensity of motorbikes using the tracks is 'high' (as identified by the reader from the spread of track usage data presented in Tables 5.4-5.5). This is stated to be owing to malfunctions in noise loggers or adverse weather conditions. The recommendations for 139 Robin Street appear to be based on approximately 30minutes only of noise monitoring during this 'high' usage intensity.

The greatest level of noise emission from the site is expected to occur when, in addition to the intermediate and beginner tracks, the main track (permitting larger and more powerful bikes) is operational. It appears that the maximum number of motorcycles utilising the premises during any of the noise investigation monitoring was between 56-63 vehicles (35 of which were on the main track) and this occurred on the morning of Saturday 15th January 2022. On Sunday 16th January significantly fewer motorcycle numbers were present on all tracks with a maximum of 13 listed on the main track. Section 7.1.3 states that 35 bikes on the main track represents typical works-case scenario. The report would benefit from additional usage data to confirm whether the observed 63 motorcycles operating on the site (35 of which were on the main track) represents a 'worst case' scenario for the entire site. This limited usage data, and the limited corresponding noise monitoring data (particularly at 139 Robin Street) creates concern in relation to the adequacy of the recommendations made to manage noise nuisance within the surrounding community.

- d. The noise impact assessment makes recommendations for acoustic controls, involving a noise mound located on the southern site boundary (to shield impacts to 26 Coal Road) based on the limited noise monitoring data set. It is acknowledged that the Noise Impact Assessment presents a correlation between measured LAeq vs Number of motorbikes on the Main track for the 26 Coal Road location and states that if the number of bikes on the main track were to increase above 35 noise levels will not necessarily increase. The report would benefit from a similar analysis of measured LAeq and number of bikes on the main (and other) tracks adjacent to the 139 Robin Street receiver, and further investigation into the need for noise management solutions for this receiver. There is currently insufficient noise monitoring data presented for 139 Robin Street, for periods where significant motorcycle activity is occurring on the tracks, to be able to adequately ascertain the need for noise management controls.
- e. A concern is raised in relation to the noise assessment methodology referenced in Section 5.3, which states that wind is not considered to be a feature of the area and the assessment has therefore been undertaken during calm conditions. It is suggested that an analysis of the gradient winds for the daytime assessment period

(the period relevant to the operation of the site), when undertaken separately for each of the summer, autumn, winter, and spring season (in accordance with the methodology required by the Planning for Noise Control Guideline) may show winds to be a feature of the area for a certain portion of the year. If this is the case, noise impact levels from the use at nearby sensitive receivers could be 2-3 dB(A) greater than the modelled (and monitored) noise levels presented in the report. The recommended noise management measures would therefore require review to ensure their efficacy in achieving the required level of compliance with the assessment goals.

- f. The proposed noise barrier / mound adjacent to the 26 Coal Road boundary is in a location mapped as core Koala Habitat. Clearing of koala habitat to create a barrier, if an application were lodged today in the absence of this existing use, would be prohibited development under the koala provisions of the Planning Regulation 2017. However – because there's an existing DA (prior to when the koala provisions took effect) the koala provisions will not apply. Refer image below which shows green core koala habitat mapping and the green proposed noise mound/barrier location.



With the land being in a koala priority area containing mapped koala habitat the question of whether the prior approval may be used to exempt the koala provisions would rely on whether a layout was included in the original approval. In the absence of a layout it would be challenging for council to prove the existing approval didn't allow for clearing but if it did have a layout that didn't show clearing in these locations then the provisions may apply – unless the clearing met the exemptions.

#### Exemptions

Owing to the lots being more than 5ha the owner may clear 10m from the boundaries under the exemptions. They may also clear a one-off area of 500m<sup>2</sup> to remain exempt. I've done some rough calculations and the below image represents

areas that cumulatively remain less than 500m<sup>2</sup>. This image doesn't include the 10m boundary setback clearances that may also be cleared for each lot.

In short, if the installation of the mound does not exceed these parameters it would comply with koala provisions, irrespective of whether the original approval contained a layout or not.



b. Dust/air quality:

Dust sampling was not undertaken as per the EPO requirements which is technically a breach of the EPO. Trinity consultants claim that there were too many rain events yet according to the BOM, there were several consecutive days over several periods where there was no rain, this appears to be a missed opportunity.

c. Erosion and sediment control (ESC):

Plan submitted in response to the EPO is sufficient to address the requirements of the EPO

#### Assessment officers:

Peter Clifton, Environmental Health Manager from Ipswich City Council – Authorised Officer under the Environmental Protection Act - with more than 25 years' experience in noise, air quality and environmental and public health issues.

Jane Kilgour, Environmental Planning Manager from Ipswich City Council – Authorised Officer under the Environmental Protection Act - with more than 20 years' experience in noise, air quality and environmental and public health issues.

Karen Roberts, Senior Environmental Planner from Ipswich City Council – Authorised Officer under the Environmental Protection Act - with more than 20 years' experience in noise and air quality.

Lee Mason, Senior Environmental Officer from Ipswich City Council - Authorised Officer under the Environmental Protection Act - with more than 10 years' experience noise, air quality and environmental and public health issues.

#### Conclusion

While the report submitted had a number of deficiency when it came to data collection, it is considered that there was sufficient information provided, together with Council's own data collected and observations of the operations over the past months, for Council to propose a number of recommendations when it comes to noise abatement, through the need to construct two noise attenuation mounds as well as change the equipment to be used on the site and the hours of operation. Other matters such as dust nuisance need to be further monitored and the issue of water erosion and sediment control seems to have been adequately addressed.



Peter Clifton

Manager Environmental Health Officer