

CITY OF COCKBURN



ADDENDUM TO

ORDINARY COUNCIL

AGENDA PAPER

FOR

THURSDAY, 12 MARCH 2015

19.1 (OCM 12/3/2015) - NOTICE OF MOTION - MAYOR HOWLETT - PROPOSED AMENDMENTS TO THE CONTROL OF VEHICLES (OFF ROAD AREAS) ACT AND REGULATIONS (025/004; 112/007) (D GREEN)

RECOMMENDATION

That Council

- (1) call on the State Government to review/create specific legislation on the use of off-road vehicles (trail bikes, quad bikes etc.) to:
 1. Require compulsory registration of those vehicles;
 2. Establish/increase the range of penalties that apply for a breach of the law;
 3. Provide Rangers and other authorised officers with increased powers to 'police' the unauthorised use of trail bikes, quad bikes etc.
- (2) write to Brookefield Rail requesting that they take immediate action to:
 1. Fence and maintain that fencing along the railway reserves that they control in the Perth Metropolitan area in order to restrict access to unauthorised persons; and
 2. Install and maintain suitable signage at intervals along the railway reserve advising of the restricted access and outlining penalties that may apply for a breach.
- (3) submit the matter as an Agenda item for the next WALGA South West Metropolitan Zone Meeting.

COUNCIL DECISION

Background

Mayor Howlett provided the following Notice of Motion on 4 March 2015:

That Council:

- (1) *call on the State Government to review/create specific legislation on the use of off-road vehicles (trail bikes, quad bikes etc.) to:*

1. *Require compulsory registration of those vehicles;*
 2. *Establish/increase the range of penalties that apply for a breach of the law;*
 3. *Provide Rangers and other authorised officers with increased powers to ‘police’ the unauthorised use of trail bikes, quad bikes etc.*
- (2) *write to Brookefield Rail requesting that they take immediate action to:*
1. *Fence and maintain that fencing along the railway reserves that they control in the Perth Metropolitan area in order to restrict access to unauthorised persons; and*
 2. *Install and maintain suitable signage at intervals along the railway reserve advising of the restricted access and outlining penalties that may apply for a breach.*
- (3) *submit the matter as an Agenda item for the next WALGA South West Metropolitan Zone Meeting.*

The following information was provided by Mayor Howlett in support of the motion:

The episodes of off road vehicles creating problems for residents within the District culminated in a public meeting being held at Visco Park, Yangebup on Saturday, 27 February 2015.

The Hon Francis Logan, MLA, Member for Cockburn was in attendance together with representatives from WA Police and Cockburn Elected Members (Councillors Steve Portelli, Lyndsey Wetton, Philip Eva and Kevin Allen and myself) and a large number of the local community.

It was evident that the community is demanding action to have the riders of a variety of off ride motorised vehicles stopped from creating mayhem in their community.

Damage to local parks, placing community members at risk by their unlawful behaviour, noise and other activities that take place on local and main roads, railway reserve land and other localities are all causing concern and need to be addressed wherever possible by those in authority

Submission

N/A

Report

The issue of off road vehicles (in particular trail bikes) has been a constant issue for residents in the growth areas of the district for many years now. This has resulted in an increase in the number of calls to Rangers, Co – Safe and Police for action to be taken.

The relevant controlling legislation is the Control of Vehicles (Off Road Areas) Act 1978. When enacted, this legislation had as one of its primary intentions, the identification and promotion of suitable land and facilities across the state to be gazetted and utilised for the purpose of recreational use for (usually unlicensed) motor vehicles, including trail bikes. This outcome hardly eventuated with only a small number of local authorities choosing to do this, as it soon became apparent that there were a number of problems associated with this process, not the least of which was damage to the natural environment.

Even those authorities which have identified suitable areas for the purpose of providing facilities for off road vehicles are finding that many people do not utilise them for various reasons, such as distance from their residence, unavailability of suitable transport for their vehicles to the gazetted sites or too much competition for space at these areas. Accordingly, there is a growing tendency for people to seek their own areas to satisfy their needs which is more convenient for them.

Unfortunately, this usually involves the creation of nuisance noise interfering with people`s amenity, particularly in the quickly developing urban fringe areas, such as Cockburn. There is also a growing trend of trail bike users, who are typically teenage or young adult males, who participate in the activity. This becomes a particular problem when the bikes are ridden (illegally) from a property and along public roads to their destination point, which could be a nature reserve or makeshift track at a nearby location. Generally, the mufflers of these bikes are not fitted with a suitable noise control device and create excessive noise. People who report these incidents generally are not able to identify the offender, because they quickly disappear from sight on the way to their destination. Once reported, it is virtually impossible for Police or Rangers to intercept the offender/s, either because they are no longer in the area, or are operating in an inaccessible area.

Even on the rare occasions where the offenders are identified or detained, the legislation is very lenient in its penalties. Effectively, authorised officers (including police) can only issue \$50 - \$100 infringements for offences against the Act or Regulations. It is only where damage to property can be established when more forceful

penalties can be administered and restitution sought. There is no capacity to seize and detain / destroy vehicles, unless they have been abandoned and / or the owner is not known, under the current statute. Given this low discouragement factor, it is unacceptable for this situation to remain and the legislation should be amended to reflect the contemporary expectation of the wider community that the threat of seizure and detention of vehicles should provide a reasonable deterrent for would be offenders who continue to flout the current laws.

Given this is state government legislation that has obviously not been seriously reviewed for many years, it is timely that the government be urged to overhaul the statute to make it reasonable for compliance to be enforced where there are circumstances which warrant intervention.

As this is a matter which affects many parts of the metropolitan area (and beyond), it is suggested that the WA Local Government Association be encouraged to support this position and demonstrate its importance.

Strategic Plan/Policy Implications

Growing City

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.

Community & Lifestyle

- Safe communities and to improve the community's sense of safety.

Leading & Listening

- Effective advocacy that builds and manages relationships with all stakeholders.

Environment & Sustainability

- To protect, manage and enhance our natural environment, open spaces and coastal landscapes.

Budget/Financial Implications

N/A

Legal Implications

Control of Vehicles (Off Road Areas) Act 1978 and Regulations 1979 refer.

Community Consultation

A community rally was held in Yangebup on 28 February 2015, the primary purpose of which was to raise attention to continual trail bike usage in the area and allegations of damage being caused to the grass surface of Visko Park, for which the City of Cockburn is the responsible authority.

Any amendments to state legislation will require adequate opportunity for widespread community feedback to be provided.

Attachment(s)

N/A

Advice to Proponent(s)/Submissioners

N/A

Implications of Section 3.18(3) Local Government Act, 1995

Nil.