



**USE OF TRAIL BIKES &  
OTHER OFF-ROAD  
VEHICLES IN THE SHIRE OF  
CHITTERING**

## BACKGROUND

The use of trail bikes in residential or rural/residential areas has become an increasing problem within the Shire in recent years. Many people believe that trail bikes can be ridden indiscriminately on their property or on other land such as public open space, road verges or government land. This is not the case as there are several laws that either restrict use or disallow use in certain areas. These laws have been established in order to control the nuisance effects of trail bikes and other off-road vehicles such as excessive noise, dust, danger to people and damage to environmentally sensitive areas. The following is a brief summary of the laws that you should be aware of in relation to the use of trail bikes and other off-road vehicles.

## CONTROL OF VEHICLES (OFF-ROAD AREAS) ACT 1978

This Act prohibits the driving and use of off-road vehicles without a permit:

### 6. *Driving and using off-road vehicles*

*(1) A person shall not drive or use an off-road vehicle in any area to which this section applies otherwise than:*

*(a) on private land by consent; or*

*(b) on land comprised within a permitted area, unless permitted to do so pursuant to section 8(4) or deemed to have been permitted to do so pursuant to subsection (5) of that section.*

*Penalty: \$500.*

## ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997

Regulation 14 allows the use of specified equipment (meaning any item of equipment which requires the constant presence of an operator for normal use) to be used on residential premises. However, this is subject to the following conditions:

- (a) the specified equipment is used in a reasonable manner;*
- (b) the specified equipment has not been used -*

- i) in the case of equipment other than a musical instrument, for more than 2 hours since the beginning of a relevant day;*
- ii) in the case of a musical instrument, for more than one hour since the beginning of the relevant day;*
- (c) the noise resulting from the use of the specified equipment on those premises, having regard to the duration of the noise emission, the frequency of similar noise emissions from those premises and the purpose for which the equipment is used, does not unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier of premises receiving the noise; and*
- (d) the specified equipment is used –*
  - i) between 0700 hours and 1900 hours on Monday to Saturday inclusive; or*
  - ii) between 0900 hours and 1900 hours on a Sunday or public holiday.*

## **RIDING TRAIL BIKES AND OFF ROAD VEHICLES ALONG STRATEGIC FIRE-BREAKS**

Note that strategic fire-breaks must be maintained in good condition to allow access for firefighters and as escape routes for residents. Damage to strategic fire breaks by trail bikes and off-road vehicles could cause a risk to lives. Riding on fire-breaks on Total Fire Ban days also increases the risk of bushfire.

## **USE OF TRAIL BIKES AND OFF-ROAD VEHICLES ON COMMONWEALTH LAND (e.g. RAAF Land Muchea)**

The RAAF land in Muchea is a prohibited area. The *Crimes Act 1914* – Section 89 prohibits trespassing on Commonwealth land:

- (1) A person who, without lawful excuse (proof where of shall lie upon him or her), trespasses or goes upon any prohibited Commonwealth land shall be guilty of an offence. (Penalty \$1,100)*
- (2) Where a person is found upon prohibited Commonwealth land, a constable, a protective services officer or an authorized Commonwealth officer may request the person to furnish his or her name and address to the constable or officer and, if the person fails to comply with the request, he or she shall be guilty of an offence. (Penalty \$1,100)*

## USE OF TRAIL BIKES AND OFF-ROAD VEHICLES ON STATE GOVERNMENT LAND

(e.g. Department Of Parks And Wildlife Conservation Areas, Water Catchment Areas)

Generally, trail bikes and off-road vehicles are not allowed in such areas unless in designated Off Road Vehicle (ORV) areas. The designated ORV areas are:

- **Gnangara - Gnangara Rd (pine plantation)**
- **Kwinana - Thomas Rd, Medina**
- **Lancelin and Ledge Point - 2 separate areas**
- **Pinjar - opposite Barbagallo Raceway**
- **York - small MX circuit**
- **Karratha - 2 separate areas**

To ride in the designated ORV areas your vehicle needs to have ORV registration (if not road registered). More information can be gained from the Recreational Trailbike Riders Association of WA via their website:

**<http://rtra.asn.au/>**

For residents that live in the northern parts of the Shire, a suitable alternative area is at Dirt Bike Heaven near Mogumber (in the Shire of Victoria Plains). Note that fees apply. Residents that live in the southern parts of the Shire such as Muchea or Maryville Downs may consider the Pinjar or Gnangara sites.

## USE OF UNLICENSED VEHICLES DRIVERS ON PUBLIC ROADS

This is an offence under the *Road Traffic Act 1974*. A carriageway/roadway covers the area from fence line to fence line, including the verge and footpaths. Offenders will be reported to the police.

Riding trail bikes and off- road vehicles on public open space, parks and reserves

This contravenes the *Control of Vehicles (Off-road Areas) Act 1978* and *Environmental Protection (Noise) Regulations 1997* (Regulation 6 – Regulation of noise from public places).

## COMPLAINTS HANDLING AND ASSESSMENT

If the operation of a trail bike or other off-road vehicle is considered to unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier then an offence can occur under Regulation 7 for which an Infringement Notice can be issued which carries a modified penalty of \$250 (first offence) or \$500 (ongoing offences). Alternatively, the matter can be taken to court and may be subject to much higher penalties (and court costs) if convicted.

In assessing whether the use of trail bikes, quad bikes, off-road vehicles etc. is reasonable or unreasonable, consideration will be given to factors such as:

- How many days of the week does it occur?
- How many vehicles are involved?
- Is the activity stop/start throughout the day or undertaken in 1 or 2 time periods?
- How loud are the vehicles?
- Do they have efficient silencers?
- What distance are the vehicles being operated to neighbours?
- Have there been any complaints?

Shire officers will try to arrive at a mutually agreeable solution in order to allow the activity to occur. This may involve negotiating with neighbours as to the acceptable times of the day and length / frequency of the activity (e.g. only 1 hour per day may be considered acceptable providing it is between certain times and on designated areas of the property).

Remember, nobody has the right to unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier so a lot depends upon being considerate to your neighbour and being prepared to compromise. In some situations, particularly in built-up areas with smaller lots, the exemption under Regulation 14 will not apply and operators of trail bikes etc. will be subject to the normal noise provisions of the regulations.



## FOR MORE INFORMATION

Enquiries to Glenn Sargeson,  
Principal Environmental Health Officer

Shire of Chittering  
PO BOX 70, BINDOON WA 6502  
Phone: 9576 4614  
[chatter@chittering.wa.gov.au](mailto:chatter@chittering.wa.gov.au)  
[www.chittering.wa.gov.au](http://www.chittering.wa.gov.au)