



Submission on Review of Queensland's Off Road Motorbike Noise Laws

Thank you for your invitation to provide information on the use, community concern and enforcement issues associated with off-road motorbikes in Queensland.

It should be noted that Scenic Rim Regional Council, as a result of the recent local government reforms and amalgamations, administers three separate Planning Schemes and three separate sets of local laws (which are based on the constituent local government areas that previously applied to the Council area). To simplify the reporting requirements, and associated response, it is intended only to provide information that relates to the former Beaudesert Shire portion of Scenic Rim Regional Council (with Ipswich City Council and Boonah Shire Council comprising the remaining constituent components).

It should also be noted that, anecdotally, the bulk of complaints received by the former Beaudesert Shire Council related to the use of off road motorbike noise in the northern suburbs of the Shire (predominantly rural-residential areas such as Jimboomba, Mundoolun, Yarrabilba, Chambers Flat and Greenbank) which now reside within Logan City Council boundaries. Scenic Rim Regional Council no longer has access to the complaint information in these areas.

To assist your consideration of Council's submission, responses to the requested issues have been referenced against relevant subheadings (below).

Local Laws

Council does not have any specific local law provisions that address nuisance (including noise and dust) associated with the use of off road motorbikes on private property.

Local Law No 9 (Public Health) (the Local Law) has general noise nuisance provisions, whereby it is an offence under s5 to do any act or omit to do any act which causes a nuisance, with s6 specifying that noise nuisance is a nuisance for the purposes of the Local Law. Noise nuisance is defined by the local law as:

"noise nuisance" means noise which in the authorised person's opinion is likely having regard to the following factors to cause unreasonable irritation, annoyance or distress to the occupants of residential premises or unreasonable interference with lawful activities on residential premises in the neighbourhood of the premises from which the noise is emitted:

- a. *the intensity of the noise; and*
- b. *the type and characteristics of the noise; and*
- c. *the extent the noise is likely to interfere with the usual enjoyment of the residential premises at the time of its emission; and*
- d. *the character of the neighbourhood (including its topographical features) and the kinds of noises that would normally and reasonably be expected in the neighbourhood; and*
- e. *whether noise suppression measures could reasonably be taken in*

the circumstances."

A maximum penalty of \$3,750.00 is provided for the commission of an offence under the Local Law. Council has the ability to issue a Penalty Infringement Notice (PIN) for this offence.

Based on advice about the enforceability of the Local Law due to its subordination to all State Laws (with provisions of the *Police Powers and Responsibilities Act 2000* (the Act) specifically drafted to address noise nuisance from off road motorbikes), the former Beaudesert Shire Council did not attempt to apply the Local Law to off-road motorbike noise.

Scenic Rim Regional Council does not currently intend to revise this position.

Local Law No 8 (Parks and Reserves), however, was utilised to regulate off-road motorbike noise nuisance on a number of occasions. Local Law No 8 provided that vehicles are not permitted to be used on Council controlled parks and reserves where signage is erected to prohibit their use.

Beaudesert Shire Council conducted a number of joint weekend patrols with the Queensland Police Service of Council-controlled parks and reserves during 2006 and 2007. A number of PINs were served to riders of off-road motorbikes for offences under Local Law No 8 (Parks and Reserves), however details are limited based on the transfer of the vast majority of these areas to Logan City Council.

Scenic Rim Regional Council would consider future joint patrols with the Queensland Police Service, however, as provided later in this submission, complaint data does not warrant such action at this time.

Complaint Information

As discussed above, limited information is presently available as a result of the recent local government reforms. However, Council has received four complaints since 15 March 2008 as follows:

- 15 April 2008 – Tamborine Village – motorbike noise on a rural-residential property;
- 22 April 2008 – Aratula – motorbike noise on a rural-residential property; and
- 16 June 2008 (two complaints) regarding the use of a large cattle property at Maroon by a motorcycle club for regular off-road motorbike riding events.

The Act

The current Act (under review) provides significant legislative powers to the Queensland Police Service to provide adequate control of the noise issues with off-road motorbike use, however Council understands that the success of programs is determined by the allocation of resources.

The Act provides for a greater range of actions to be taken to alleviate the problem than would otherwise be available under a local law, including the impounding of the subject vehicle. Council suggests that the process may be improved if the need to establish two complaints within a 48 hour period was removed. Police officers may have a greater success rate if action could be taken on the first complaint, particularly where ad hoc responses to complaints occur as a result of limited Police Officer availability and resources.

Community Education

Council believe that a process of community education on the legislation and its enforcement should be done so the greater community can be empowered to assist with the desired outcomes. Local Governments would be in a good position to assist the Police with these programs.

Council welcomes any opportunity to have any additional input into the review process. If you require further information or input, please contact Mr Randall Deans or Nicholas Rossmann of Council's Health, Building & Environment team on 07 5540 5444.