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Our Ref: KT/MR – 151/2/4-1P4
Your Ref: CMC Review
Date: 6 August 2008

CMC Review of Motorbike Noise Laws
Attention: Nadine Seifert
GPO Box 3123
BRISBANE QLD 4001

Dear Nadine

Re: REVIEW OF OFF-ROAD MOTORBIKE NOISE LAWS

Reference is made to the current review of the off-road motorbike noise laws being undertaken by the CMC. As your know in March 2008 Caboolture Shire Council, Pine Rivers Council and Redcliffe City Council amalgamated into Moreton Bay Regional Council.

On 5 August 2008 a report was submitted to Council responding to the review of off-road motorbike noise laws. Please find attached a copy of the report and Council recommendations on this issue.

Should you wish to discuss this matter further please don't hesitate to contact Mr Kelvin Tytherleigh on 3480 6914.

Yours faithfully



JOHN RAUBER
CHIEF EXECUTIVE OFFICER

Enclosure

REPORT

CORPORATE SERVICES
Corporate Governance

TO: CO-ORDINATION COMMITTEE

SUBJECT: CMC Review of Queensland's Off-Road Motorbike Noise Laws

FILE REFERENCE: 151/2/4-1 P4 (KT)

Responsible Officer: Interim Director Corporate Governance, (Kelvin Tytherleigh)

Report Date: 5 August 2008

1. Executive Summary

The Crime and Misconduct Commission are currently seeking submissions on the review of the off-road motorbike noise laws.

2. Background

As of July 2008, new laws were introduced into the *Police Powers and Responsibilities Act 2000* (Qld) to deal with noisy off-road motorbikes. The new provisions require that the Crime and Misconduct Commission (CMC) review the effectiveness of the laws and prepare a report.

3. Explanation of Item

On 2 July 2008 discussions were held with officers from Caboolture, Pine and Redcliffe districts in relation to the off-road motorbike noise laws at the request of the Corporate Services Committee. It was recommended at this meeting that Moreton Bay Regional Council put forward a submission to the CMC on how to better Police off-road motorbikes.

Each district receives numerous complaints relating to off-road bikes in parks, reserves and private property. The responsibility of Policing off-road bikes is shared by Police and Council. Shared patrols are or have been partly effective as both parties have limited powers.

Council's are dependant on Police to assist Local Laws Officers to resolve trail bike issues and similarly, the Police are dependant on Council's assisting them with signage, fencing and use of Local Laws. This report provides responses to the following 5 issues raised in the review.

Issue 1. How is off-road motorbike issues managed in local communities?

Both Police and Council Local Law Officers attend to complaints relating to off-road motor bikes. Police may attend to off-road bikes for noise nuisances or for being on a road (unlicensed and unregistered).

- Police attend because of noise issues or from a request by Council officers for assistance.
- Council Officers attend because a vehicle may be on a park or a reserve illegally.

Currently, Police that attend a noise complaint relating to off-road bikes arrive at the site of the complaint. Police are then required to hear the noise before taking further action.

If the Police officer attending the complaint does not hear the noise from off-road motor bikes, the complaint is then referred to Council to deal with the matter. The Police then leave the subject area of complaint.

- Police cannot chase and cannot take normal patrol vehicles or motor bikes off-road.

- The Police have indicated they are under resourced and do not see trail bikes as a priority. To tackle this problem some Council districts have supplied Police with trail bikes for patrols of bush land.
- Police that go off road are required to be certified in the use of off-road motor bikes.

Issue 2. Could improvements be made to the way in which complaints are responded to?

Yes, there is more to the off-road motor bike issue than just noise. A review of what constitutes an off-road motor bike nuisance should happen prior to drafting changes to the Police Powers Act. For example should the nuisance be restricted to noise or should it include environmental damage, dust, litter etc.

Legislators may need to look past the one piece of legislation (Police Powers Act) currently under review. There are 2 ways that legislation could be approached.

- 1) One way would be to make numerous changes to the Police Powers Act to allow Police more power to act on trail bikes on reserves; or
- 2) Make minimal changes under the Act but give Police power to act under Council Local Laws.

The latter would be more difficult as not all Council's have an adequate Local Laws relating to Reserves. It would require;

- Council making Police Authorised Officers to be able to use Local Laws relating to reserves.
- Training Police on Local Laws and logistics for Infringing or prosecuting offenders via the Local Government.
- Council's assistance in funding of some patrols. These patrols may also require assistance from Council officers. Although this does happen in some areas not all Council's may be in a position to support such patrols.
- Possible changes to the Council's Local Law.

Issue 3. What are the concerns of local communities relating to off-road vehicles?

- **Safety** to members of the public taking a walk or walking their dog, Safety of riders and Safety of officers. (*Appendix G and H*)
- **Nuisance** to those attempting to enjoy a park or reserve or interference with recreational fishing because of trail bikes speeding through or past persons on a reserve.
- **Vandalism** of fences, signs and gates. (*Appendix A*)
- **Damage** to tracks and bushland. Some areas with gouged tracks become breeding areas for mosquitoes.
- **Noise** and other nuisances to residence. (*Appendix C*)
- **Environmental impact** on waterways. Dust caused by trail bikes whether visible or not can cause untold damage to biology needed to allow fish, prawns and crabs to

breed. TSS (Total Suspended Solids) level over 50 mgs per Litre cause the biology in the waterway to die.

- **Turbidity** levels can have devastating effects on aquatic life and can lead to fish kills in hot weather due to water overheating. It can also damage recreational fishing, lead to weed infestations, transport nutrients, cause lack of oxygen in the water. Cause public health issues from increased algal blooms and reduce recreational opportunities.
- Numerous reserves have **Acid Sulphate Soil**. Vehicles in these areas can change a whole environment. Acid Sulphate is brought to the surface by vehicles traversing over affected areas. Acid Sulphate reacts with oxygen it causes sulphuric acid, this has a similar but more devastating effect on waterways causing large fish kills and leaving ground water undrinkable to wild life. Expensive neutralization of the affected soil is required, using lime. (*Appendix K*)
- **Fires** being lit by rider's, has been an issue for Police, Fire Brigades and Councils. Some of these fires cause risk of injury to people, animals and to homes and sensitive vegetation. (*Appendix B*)
- **Injury to wildlife** is a concern. There have been reports of wildlife being herded or even shot which is not uncommon or struck by off-road vehicles.
- **Wildlife** being driven from their reserve habitat and onto main roads happens regularly. The result of large animals on roads, have been the cause of serious accidents and usually resulting in the death or euthanasia of the animal. (*Appendix O*)
- Lastly, the **community** want quick action and Police to have power to deal with off-road bikes and other vehicles such as 4WD's. (*Appendix L and M*)

Issue 4. Do the new laws provide the Police or Courts with sufficient power to deal with noisy off-road motorbikes?

No. The legislation focuses on one issue (noise) however the extent of the problem is far greater and includes those items already mentioned. Legislation should deal with vehicles on a reserve and noise should be a separate issue.

It is considered that legislation should deal with vehicles on a reserve whether registered or not, rather than noise on its own, the noise nuisance will be abated as part of any action against the rider/driver.

Legislation should include;

- **4WD's** as Council and Police receive calls about 4WD's illegally entering reserves, causing issues similar to that of trail bikes demonstrating often dangerous hoorn behaviour. On many occasions the consumption of alcohol is involved.
- Juveniles (under 17 years old) - **Parents should be infringed** for allowing a child to be in control of an off-road bike without supervision and or knowingly allowing for the child to be in control of an off-road bike that is unregistered, uninsured and unlicensed. A parent may also be responsible for damage caused by this activity.
- **Impounding** time frames to be increased so as to become more effective deterrent.
- **Parents to attend** any impounding of off-road bike being ridden by a juvenile.

In a trial that began 1 July 2007 and completed on 1 December 2007, Police impounded just over **1500** motor vehicles:

- **1462** people lost their vehicles for **48 hours**
- **39** lost their vehicles for **3 months**
- **4** had their vehicles **permanently forfeited**

Issue 5. Are there other issues that impact on dealing effectively with noisy off-road motorbikes?

- Most riders caught offending, re-offend and therefore a strong deterrent is required.
- **Education** is a must. Talks in schools which could be conducted by Police and possibly Council's to educate young people about safety, the environment and impact of their activity on residents. (*Appendix J*)
- **Viable bike riding facilities/alternatives** are needed as most would ride legally if they had somewhere to go. A CPR Committee made up of officers from Council's and other interested parties examined the issue of off-road bikes on reserves.

A report titled ***The Regional Trail Bike Facilities Plan*** on the locations riders could use for registered and non registered bikes was published in September 2005.

[http://svc026.wic027p.server-web.com/Regional Trail Bike Facilities Needs Plan.pdf](http://svc026.wic027p.server-web.com/Regional_Trail_Bike_Facilities_Needs_Plan.pdf)

- **Parents** need to be better advised of their responsibility and powers of authorities to take action against a parent who knowingly allows their child to ride a bike on a reserve or other public land. (*Appendix E, and M*)

Summary

- Police should have more power under the "*Police Powers Act and Responsibilities Act 2000*" to respond to off-road **motor bikes and 4WD's**. Legislation should not be specific to responding to only noise but also being able to respond to off-road bikes being on a reserve generally.
- Police should have **Authorisation to Act under a Local Law**.
- Police should be able to **impounded unregistered off-road bikes and registered off-road bikes under the control of a juvenile in the 1st instance for 48 hours** and issue infringements or take other action under the Local Law for Reserves.

On each occasion a **parent or guardian** must attend the site of the offence to pick up a child and speak with Police as part of education and enforcement.

- Increasing the time a vehicle can **be impounded in the 2nd instance from 48 hours to 7 days** to act as a deterrent in re-offending.
- **Infringements for being on a Reserve** as well as for noise should be issued.
- **Parents should be infringed**, for allowing a child to be in control of an off-road bike without supervision, and or knowingly allowing for the child to be in control of an off-road bike that is unregistered, uninsured and unlicensed. A parent may also be responsible for damage caused by this activity.
- A **partnership** with Local Council's will allow better Policing and a better line of communication between officers from both bodies.

4. Strategic Implications

4.1 Legislative/Legal Implications

There are no legal legislative/legal implications.

4.2 Corporate Plan / Operational Plan

Council uses a variety of mediums to effectively consult, educate and communicate with residents and stakeholders.

4.3 Policy Implications

There are no material policy implications.

4.4 Delegated Authority Implications

There are no delegated authority implications.

4.5 Financial Implications

There are no material financial implications.

4.6 Consultation / Communication

In the preparation of this report consultation was undertaken with council staff from all three districts.

5. Conclusion

This report, compiled by Council officers to be provided a submission to the Crime and Misconduct Commission in response to their review.

Appendix A



Appendix A - Fence damaged by 4WD



Appendix B - Fire Started by riders in reserve



Appendix C – A group of 5 riders caught riding on a reserve



Appendix D – Bikes vary in size from Large



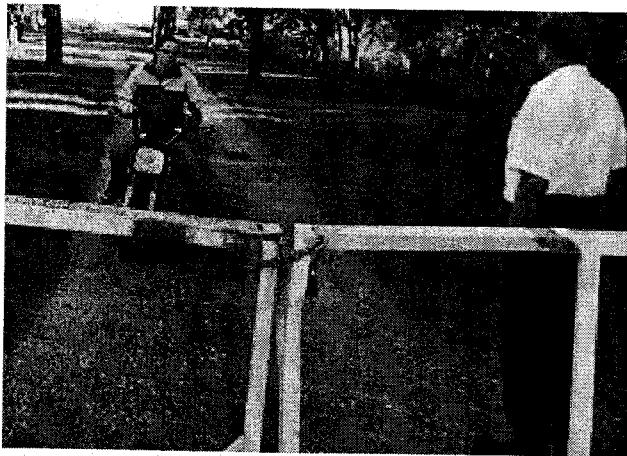
Appendix E – Small size bikes. This young rider travelled 6 kilometres to get to the reserve and was doubling another person without a helmet.



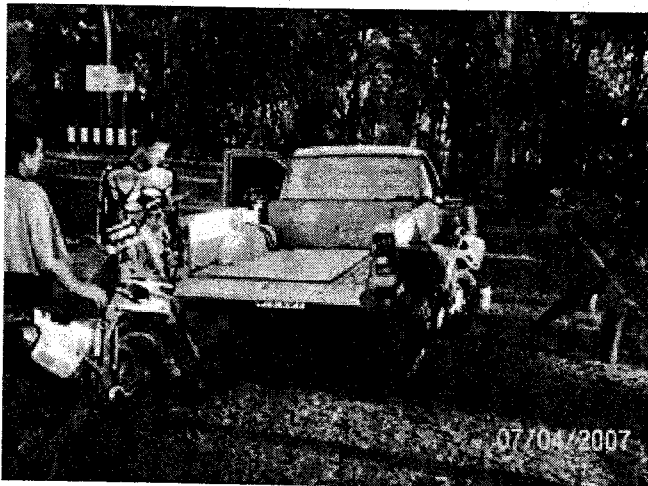
Appendix F – Off-road vehicles vary in type



Appendix G – These bikes were being ridden across a clay target shooting course



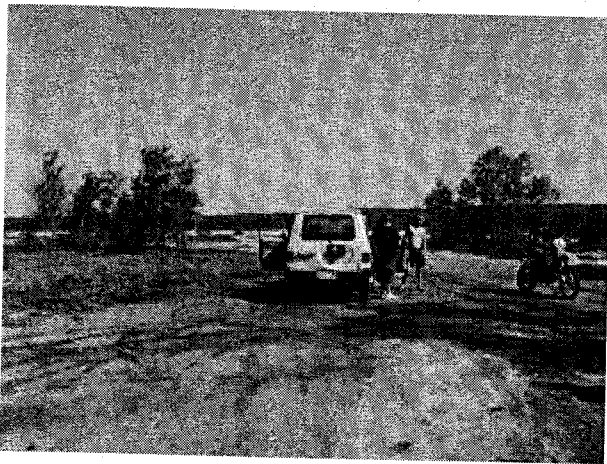
Appendix H – Rider without a helmet



Appendix I – Riders travel from one area to the next. In the background is a sign saying no riding of trail bikes in Environment Reserve.



Appendix J – Signs are often ignored or damaged, this conveys an environmental message as well as advising that vehicles and motor bikes are not allowed on the reserve.



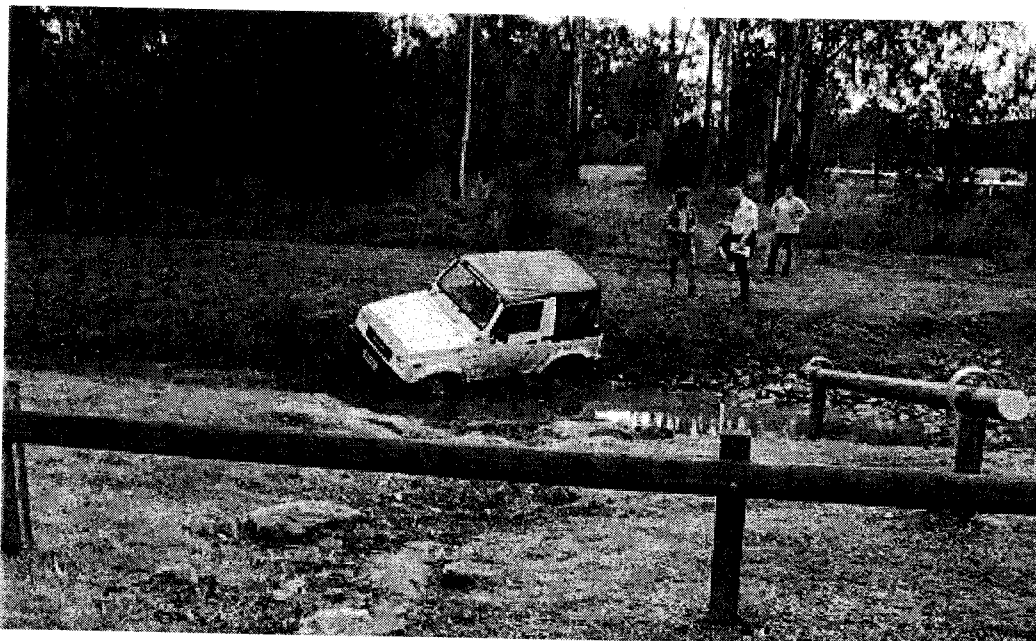
Appendix K – This 4WD has damaged fencing to enter reserve. This wetland area has acid sulphate soils.



Appendix L – Council Officer and Police speak with juvenile riding on a park and doing 'donuts' on a sporting field



Appendix M – Parents and Children illegally riding on reserves



Appendix N – Police and Council Officers deal one of the many vehicles illegally accessing a reserve.



Appendix O – Kangaroos and Koalas are struck by vehicles, after being driven onto roads by off-road vehicles.