

11.2.2 USE OF PERSONAL WATER CRAFT ON MOORE RIVER

LOCATION: GUILDERTON
FILE: LAW/25
AUTHOR: MICHAEL PIMM – SENIOR RANGER
REPORT DATE: 8 MARCH 2009

COUNCILLOR FEWSTER DECLARED AN IMPARTIALITY INTEREST IN THIS ITEM AS HE IS THE OWNER OF A PERSONAL WATER CRAFT.

OFFICER INTEREST DECLARATION

Nil.

BACKGROUND

At its Forum of 3 March 2009, Council considered a Discussion Paper which was prepared at the request of the Guilderton/Caraban Ward Councillor Brady, in relation to Personal Water Craft (PWC) use, commonly known as jet skis, on the Moore River.

On 14 December 2008, Councillor Brady requested that Council initiate the formal process whereby the Moore River would become closed. A copy of the email is attached as **Appendix 1**.

Subsequently, on 9 January 2009, Council's Senior Ranger and Councillor Brady met with Officers from the Department for Planning and Infrastructure (DPI) at Guilderton in relation to the use of PWCs on the Moore River.

DPI Officers advised that they were undertaking a review of the recreational use of waterways between Perth and Geraldton. The results of this review would then be considered by the Minister. As a result of this review, DPI **may** legislate to prohibit PWCs from the Moore River, but no firm undertaking to do this or timeframe was proposed.

At the abovementioned meeting, DPI Officers recommended that Council should create a Local Law to prohibit PWCs from traversing its property around the confines of the Moore River, that is to prohibit the launching of jet skis from Council's boat ramps as shown on the map attached as **Appendix 2**.

Obviously, Council would be unable to make a determination that prohibits the launching of PWCs from private properties that have boundaries along the Moore River – for example the land owned by the Roman Catholic Archbishop of Perth, Lot M802 or John Forehan's land. If anyone (apart from the owner of the land) did launch a PWC from private property along the River, he/she would be trespassing in the first instance and would be subject to the 5 knot speed limit imposed by DPI.

A new Local Law does not need to be created as the provisions of the Shire of Gingin's Local Government Property Local Law 2004 (LGPLL 2004) Division 2 Section 2.8 (e) contains provisions to achieve the desired result. For LGPLL 2004

Division 2 Section 2.8 (e) details refer to the Statutory Environment section of this Agenda item.

This new determination would work in conjunction with and in addition to any new legislation implemented by DPI to achieve the desired aim of banning the use of PWCs on the Moore River.

As a consequence of Council's Forum deliberations, the following Consensus Forum Outcome resulted:

That Council:

1. *Support the proposition that Personal Water Craft be prohibited from the Moore River;*
2. *Make a determination under Section 2.1 of the Shire of Gingin's Local Government Property Local Law, 2004 in respect of the above proposition that the launching of Personal Water Craft be prohibited from Shire Reserves 21473, 25006 and 26561 and the Barragoon Road Reserve.*

Consistent with Council's Forum protocols, the abovementioned Consensus Forum Outcome is re-presented for formal Council deliberation.

COMMENT

The Moore River already has a 5 knot speed restriction imposed by DPI. PWCs are designed to be operated at speeds far in excess of this speed restriction. These high speeds compromise the safety of other user groups including other boaters, swimmers, canoeists and kayakers. Additionally, the wash created by the watercraft disturbs the banks of the river, causing erosion and silting problems.

PWC motors create a loud noise which has a negative impact on the amenity enjoyed by residents and user groups and quite likely the wildlife in the area. This loud noise is exacerbated by the echoing effect created by the valley-like topography along the Moore River.

The seasonal use of the Moore River for recreation has been steadily increasing each year and the negative effect of jet skis on other user groups has become more and more evident. The prohibition of this type of watercraft would affirm, reinforce and strengthen the current legislation in relation to speed restrictions and ensure that the vast majority of the community will continue to enjoy the river with minimal detrimental effect on the environment.

Council would need to supply and erect appropriate signs to notify users of the prohibition of jet skis from Council land. There would need to be three signs, one for each of the boat ramps along the river at a total cost of approximately \$450.

The policing of this section of the Local Law would be undertaken by Council Rangers and an offence under the proposed regulation would attract a \$100 infringement.

STATUTORY ENVIRONMENT

Shire of Gingin Local Government Property Local Law 2004

Part 2- Determinations in respect of Local Government Property.

Section 2.8 Activities which may be prohibited on specified local government property

2.8 (1) *A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property -*

- (a) smoking on premises;*
- (b) riding a bicycle, a skateboard, roller-blades, a sand-board or a similar device;*
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;*
- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;*
- (e) taking or using a boat, or a particular class of boat;**
- (f) the playing or practice of -*
 - (i) golf, archery, pistol shooting or rifle shooting; or*
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;*
- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and*
- (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.*

POLICY IMPLICATIONS

Nil.

BUDGET IMPLICATIONS

Three new signs would need to be purchased to inform the public that PWS are prohibited from Shire Reserves 21473, 25006 and 26561. Shire Staff estimate the cost of these signs, including installation, would be in the vicinity of \$1,000. Council's current Budget allocation for signs is sufficient to cover these costs.

STRATEGIC IMPLICATIONS

Nil.

VOTING REQUIREMENTS – SIMPLE MAJORITY

RECOMMENDATION

It is recommended that Council, consistent with the Consensus Outcome from its Forum of 3 March 2009:

1. Support the proposition that Personal Water Craft be prohibited from the Moore River;
2. Make a determination under Section 2.1 of the Shire of Gingin's Local Government Property Local Law, 2004 in respect of the above proposition that the launching of Personal Water Craft be prohibited from Shire Reserves 21473, 25006 and 26561 and the Barragoon Road Reserve.

RESOLUTION 09.0060

Moved Councillor Brady that Council, consistent with the Consensus Outcome from its Forum of 3 March 2009:

1. **Support the proposition that Personal Water Craft be prohibited from the Moore River;**
2. **Make a determination under Section 2.1 of the Shire of Gingin's Local Government Property Local Law, 2004 in respect of the above proposition that the launching of Personal Water Craft be prohibited from Shire Reserves 21473, 25006 and 26561 and the Barragoon Road Reserve.**

CARRIED UNANIMOUSLY

APPENDIX 1

From: Dean Brady [deanbrady@bigpond.com]
Sent: Sunday, 14 December 2008 9:09 PM
To: Meryl
Subject: Fwd: PWC's (jet ski's) on the Moore River
Follow Up Flag: Follow up
Flag Status: Red

Begin forwarded message:

From: Dean Brady <deanbrady@bigpond.com>
Date: 14 December 2008 9:04:43 PM
To: mnolan@gingn.wa.gov.au
Subject: PWC's (jet ski's) on the Moore River

Dear Meryl

This is a formal request to see if we could start the process whereby the Moore River becomes closed to PWC (personal watercraft or jet ski's) should this prove acceptable.

Until recent times there have been signs at the Guilderton boat ramp, the Silver Creek launching area and, possibly, the Woodridge boat ramp stating that no PWC are allowed on the river. Not all these signs remain in place today, and more to the point, an increasing number of people have become aware that neither the river, nor any part thereof, is officially closed to PWC and are willing to assert their rights to use such craft on the river (the 5 knot speed restriction is another issue).

It is clearly possible for all or part of the river to be closed to PWC by the Department for Planning and Infrastructure (DPI). Below are two examples from the DPI's "Restricted Area's of Navigable Waters" relating to the Blackwood and Swan Rivers.

CLOSED WATERS (PWC)

395 Blackwood River - All of the waters of the Blackwood River upstream of the Alexander Bridge boat ramp are closed to navigation by personal watercraft. (GG: 27/11/1998)

CLOSED WATERS (PWC)

30 Personal Watercraft (PWC): Swan River - All waters of the Swan River upstream of the Maylands boat ramp. (GG: 8/05/1998)

31 Personal Watercraft (PWC): Swan River - All waters of the Milyu, Pelican Point and Alfred Cove Marine Parks on the Swan River. (GG 12/5/98)

Having regard to the nature of the river and it's size, and comparing it to those parts of the Blackwood and Swan Rivers closed to PWC, along with similar arrangements on other waters not referenced here, it would appear to me that we should seek that **all of the Moore River be closed to PWC by DPI.**

I make the following points in support of my request;

1 Elsewhere in the DPI's regulations on PWC where they are allowed on rivers within Western Australia at all times, apart from launching and retrieval, they must operate at least 45 metres from the riverbanks. This is clearly impossible on most, if not all, of the Moore River.

16/02/2009

2 Given there is a 5 knot speed restriction on all the waters of the Moore River there can be few, if any, legitimate needs to use such craft.

3 Consistently the community, broadly conceived, has requested that PWC's be banned from the river for reasons of safety, amenity to other users and to the benefit of the environment. I suggest here has rarely been a study, workshop, plan or meeting that has not resolved to have PWC's banned from the river.

I hope I have provided enough information for you to proceed.

Dean Brady

Ps Find below the DPI's current regulations relating to waters within the Shire of Gingin.

Gingin (S)

METROPOLITAN (NORTH)

5 KNOT SPEED RESTRICTION AREA

1104 Moore River: All those waters of the Moore River (GG: 10/10/2003)

CLOSED WATERS (PWC) - UNLESS WATERSKIING or TRANSITING

1051 BEERMULLAH LAKE: All water ski areas and water ski take off areas are closed to (GG: 15/11/2002)

navigation of Personal Watercraft unless conducting water ski operations or transiting directly through the area.

WATER SKI AREAS

197 Beermullah Lake: All those waters of the lake commencing at a point on the foreshore (GG: 11/09/1992)

50 metres east of the eastern prolongation of the access road PROVIDED HOWEVER that water skiing is prohibited within 60 metres of the foreshore except at the designated landing and take-off area extending west along the foreshore for 400 metres from the starting point and further prohibited east of a line drawn at 154 degrees true at a point 60 metres from the foreshore and 600 metres south of the starting point and FURTHER PROVIDED that this water ski area has been set aside for use by the Western Australian Water Ski Association (Inc) and is under the control of the Beermullah Water Ski Club and that water skiing may only be conducted between the hours of 1000 and Sunset on Sundays and Public Holidays between 1 December and 31 May annually only. Water skiing shall cease to be conducted at any time the maximum water level of the lake falls below 1.6 metres.

APPENDIX 2

APPENDIX 2

MOORE RIVER RESERVES
PERSONAL WATER CRAFT LAUNCHING PROHIBITION

