



# **USE OF TRAIL BIKES AND OTHER OFF-ROAD VEHICLES**

IN THE SHIRE OF GINGIN



[gingin.wa.gov.au](http://gingin.wa.gov.au)



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## Background

The use of trail bikes in residential or rural/residential areas is an ongoing problem within the Shire of Gingin. 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 in the Shire of Gingin.

### ***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;

**Environmental Protection (Noise) Regulations 1997  
(continued)**

- (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
- (b) 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 firebreaks**

The *Crimes Act 1914* – Section 89 prohibits trespassing on Commonwealth land:

- (1) A person who, without lawful excuse (proof whereof 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 authorised 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 (motorbikes only)** - two separate areas

**Pinjar** - opposite Barbagello Raceway

**York** - small MX circuit

**Karratha** - two separate areas

To ride in either of the two Shire of Gingin designated ORV areas (Lancelin and Ledge Point) your vehicle needs to have **ORV registration** (if not road registered) and the rider must be a minimum of 8 years old.

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. Further details are available at:

<https://rtra.asn.au/dirt-rider-heaven/>

## **How to register an off-road vehicle**

The Vehicle will need to conform to the prescribed safety and noise requirements of the Control of Vehicles (Off-road Areas) Act 1978.

You must be aged at least 18 years old to register an off-road vehicle.

Applications for an off-road vehicle registration **must be submitted in person** at a Driver and Vehicle Services centre or regional agent.

### **You will need to provide:**

- Completed off-road vehicle registration form VL141, which must include:
- Make of the vehicle.
- Year of manufacture.
- Engine number.
- Primary and secondary colour of the vehicle.
- Proof of identity.
- Payment of required fees and charges.

To download and complete the registration form, visit: <https://www.transport.wa.gov.au/licensing/register-an-off-road-vehicle.asp>

## **Use of unlicensed vehicle/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 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 is considered to unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier or if it affects a noise sensitive premises (which includes a home, motel, caravan park, or nursing home) then an offence can occur under Regulation 7 of the *Environmental Protection (Noise) Regulations 1997* for which an Infringement Notice can be issued, and 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 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?
- Does the activity stop/start throughout the day or is it 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 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 and 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 much depends on 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.

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## Contact Us

If you have any queries or require more information please contact the Shire's Rangers Department:

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