

**Control of Vehicles
(Off-road Areas) Act 1978**
Presented to “Shore Lines – Coastal and
Marine Law and Policy” Seminar
Albany, Western Australia, 21 February 2003

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February 2003

Control of Vehicles (Off-road Areas)

Broadly speaking before *Control of Vehicles (Off Roads) Act 1978* Act unlicensed vehicles used as follows on >

- private land with owner's permission
- managed/leased Crown land only with manager's/lessee's lawful permission
- unallocated/unmanaged Crown land, with lawful permission of Minister for Lands, unless has delegated powers
- Crown land = offence to construct roads or tracks, remove or damage any plants without the permission of Minister for Lands: up to \$10,000 penalty

Now add new player = *Control of Vehicles (Off Roads) Act 1978*

Control of Vehicles (Off-road Areas)

Control of Vehicles (Off-road Areas) Act 1978

*Control of Vehicles (Off-road Areas)
Regulations 1979*

Land Administration Act 1997

Local Government Act 1995

Local government by-laws

Control of Vehicles (Off-road Areas) Act 1978

Minister for Housing and Works; Local government and Regional Development; The Kimberley, Pilbara and Gascoyne

Minister for Planning and Infrastructure

Advisory Committee

Authorised Officers

Local Government

Third parties

Control of Vehicles (Off-road Areas) Act 1978

- To prohibit the use of vehicles in certain places**
- To make provision for the use of vehicles otherwise than on a road**
- To provide for areas where the use of off-road vehicles shall be permitted**
- For the registration of off-road vehicles for related purposes**

Control of Vehicles (Off-road Areas) Act 1978

The Act, section 3

Interpretation Act 1984

Case law

Control of Vehicles (Off-road Areas) Act 1978

A *vehicle* is a *vehicle* that is propelled by an engine or other mechanical source of power

Control of Vehicles (Off-road Areas) Act 1978

An off-road vehicle means a vehicle which is not:

- licensed
- deemed to be licensed; or
- the subject of a permit granted, under the Road Traffic Act 1974

Control of Vehicles (Off-road Areas) Act 1978

“permitted area” = an area declared by the Minister and specified in a published notice

A permitted area:

∄ may apply in relation to vehicles generally or specifically, or by class of vehicle

∄ does not have effect where prohibited under any other Act or law of the State or of the Commonwealth

Control of Vehicles (Off-road Areas) Act 1978

“prohibited area” = an area declared by the Minister and specified in a published notice

A prohibited area may apply to:

- ∅ vehicles generally
- ∅ vehicles when used as specified
- ∅ vehicles of specified class or kind
- ∅ some specified classes or kinds of vehicles or in specified circumstances

Control of Vehicles (Off-road Areas) Act 1978

Cannot drive or use any vehicle the subject of a declaration in a prohibited area unless permitted

Control of Vehicles (Off-road Areas) Act 1978

To prohibit the use of vehicles in certain places

To make provision as to the use of vehicles otherwise than on a road

To provide for areas where the use of off-road vehicles shall be permitted

For the registration of off-road vehicles for related purposes

Control of Vehicles (Off-road Areas) Act 1978

To create offence provisions for certain activities

A person may not drive or use an off-road vehicle other than:

~~on~~ private land by consent; or

~~on~~ land comprised within a permitted area

Control of Vehicles (Off-road Areas) Act 1978

The Minister:

- declares permitted and prohibited areas over Crown land and if in the public interest over private land
- appoints members of Advisory Committee
- causes to declarations to be published

Control of Vehicles (Off-road Areas) Act 1978

Advisory Committee:

- ∄ advises the Minister generally**
- ∄ advises the Minister about submissions**
- ∄ consults with bodies and persons**
- ∄ receives directions of general nature from Minister**
- ∄ must give effect to a lawful Ministerial direction**
- ∄ carries out duties as required by the Minister**
- may bring matters to the Minister's attention**

Control of Vehicles (Off-road Areas) Act 1978

Advisory Committee must have regard to views of:

- any affected local government**
- the inhabitants, by reason of proximity likely to be affected by the proposals**
- the Departments of Conservation and Environment**
- any other public authority that in the opinion of the Committee has an interest in the land likely to be affected by the proposal**
- any person or body who or which in the opinion of the Committee has an especial interest**

Control of Vehicles (Off-road Areas) Act 1978

Local governments:

- administer and enforce Act
- may make by-laws and administer and enforce

Proceedings for offences instituted by:

- any person aggrieved
- any employee of a local government
- other authorised officer

Control of Vehicles (Off-road Areas) Act 1978

An authorised officer is:

- any member of the Police Force, or
- an appointed person who must be:
 - * an inspector, Environmental Protection Act
 - * a forest officer, Forests Act
 - * a wildlife officer, Wildlife Conservation Act
 - * a ranger, National Parks Authority Act
 - * an honorary warden, Aboriginal Heritage Act
 - * an inspector or honorary warden, Waterways Conservation Act
 - * a fisheries officer referred to in the Fish Resources Management Act
 - * a warden, Road Traffic Act
 - * a prescribed officer of a public authority

Control of Vehicles (Off-road Areas) Act 1978

Authorised officers:

- may seize and take possession of number plates
- may without warrant stop, seize and detain any vehicle
- may issue infringement notices

Control of Vehicles (Off-road Areas) Act 1978

Third parties:

- must be consulted about proposals for permitted and prohibited areas
- may refer proposals to EPA
- may complain to the Minister or to an authorised officer
- prosecute if aggrieved person