

June 10, 2021

Dear Mayor and Council,

I am writing regarding the proposed Lindsay ATV route. The ORV Task Force and Council were given advice against increasing ATV access on roads.

**Dr. Bocking, Medical Officer of Health, HKPR**, sent her comments into the ORV Task Force and then reported directly to Council on June 1st. The essential points were that in Kawartha Lakes, there were 602 emergency department (ED) visits, 55 hospitalizations and those patients aged 10-39 accounted for 74.3% of ED visits.

ED visits increased from 119 in 2018 to 141 in 2019; ATV-related hospitalizations, in other words, serious accidents - was 5 times greater than the rest of Ontario in 2019; and ATV –related hospitalizations in CKL increased from 33.3% in 2015 to 60.9% in 2019 of total HKPR ATV hospitalizations. HKPR Comments, Table 7, p.10

Dr. Bocking reported that when ATVs are allowed on roads, there are higher rates of fatalities and serious injuries for ORV riders on roadways compared to off-roadways; it increases the risk of collisions with other motor vehicles; and that design characteristics, particularly ATVs, make them unsafe on roadways.

The majority of ORV-related ED visits occur on the weekend (Friday to Sunday), and almost all are related to recreational use of ORVs. Accidents involving ORVs are classified as non-traffic accidents unless the contrary is stated, which may under-report ATV related traffic accidents.

**Dr. Bocking: “Restricting ORVs to trail use only would be the preferred best practice from a public health standpoint”.**

**Public Works** stated that “Public safety should be considered paramount.” The Director advised that experts recommend against use of ATV/ORVs on asphalt roads (<https://atvexpertwitness.com/dangers-of-asphalt-riding-or-driving/>); manuals for ORVs and ATVs recommend against use on roads; and that ATV design puts them at heightened risk of accidents on roads. The Director noted that there were no established criteria for a safety review; and that the shorter wheel base, puts them at increased risk due to surface discontinuities (potholes). He also noted that there were no criteria for a pilot.

The Director asked about the capability of police to “actively” enforce ATVs on the roads; enforcement costs; additional maintenance and reporting requirements by public works; communication and education; and advised that all costs need to be put before Council before a decision is made.

The Director of Public Works also asked that the Task Force seek comments from Insurance and Risk Management and the City’s insurer before any recommendation was brought to Council.

Public Works remains of the opinion that a decision should be deferred and reviewed in conjunction with the relating master plans.

Public Works warned that **ATV incidents on municipal roads would increase** and noted that **the City had a Duty of Care**.

**Insurance and Risk Management** provided comments by the City’s Insurer:

“A claim or poor claims experience related to ORV use will however have a direct effect on future premiums. Due to the City’s high self-insured retention (deductible), the costs incurred to investigate and defend any such claim(s) would largely be the responsibility of the City. If the ORV owner was uninsured or has insufficient liability limits, joint and several liability would apply which would further expose the City to increased costs, claims expense and future premium increases.”

Insurance and Risk Management also cited the City’s Duty of Care to ensure compliance with the legislated Minimum Maintenance Standards (MMS) and the need to review and determine what standards are applicable to areas travelled by ORVs; increased inspection and maintenance obligations and costs; a risk assessment, communications and training, bylaw requirements; and the need to consult with all stakeholders. These matters need to be completed before Council adopts any recommended routes.

**Costs** for insurance and risk management, maintenance, and enforcement, have not been discussed in any informed way to date. Council's responsibility to protect public health and safety, along with any potential costs must be considered before a final decision is made.

**Notice** of the proposed route, decided by the ORV Task Force on May 20<sup>th</sup> and the Committee of the Whole on June 1<sup>st</sup>, has never been delivered to property owners along those roads. Most people who will be affected directly by these proposed ATV routes, still do not know that Council is even considering turning these roads into an ATV route.

There may be no requirement to notify residents for this particular type of bylaw amendment, but compare it to planning matters, where every property owner within 120m would get notified and they would have the opportunity to respond. Council is required to act in a fair, transparent and accountable manner in all cases. Giving people no notice, is not fair, transparent or accountable. Providing notice to those who will be affected is a show of good faith, demonstrates confidence in your recommendation and ensures a full discussion of any potential risk factors.

**The City has a Duty of Care.** It cannot act like it is not aware of the increasing ATV accident and hospitalization rate and information provided by HKPR and staff. Council must consider the health and safety of the general public first and foremost. The entire route through Lindsay reads like a list of risk factors.

Bill 107 did not affect Kawartha Lakes. If the municipality is not listed in Ontario Regulation 08/03, they are not affected. This point is also made in the [Insurance Risk Management attachment 1 \(232 KB\) \(pdf\)](#), p1, para 2 & 3. The City is not compelled to change the bylaw, so there is no legal justification for adopting a bylaw that puts people at risk.

**What will happen when there is an accident?** How does Council defend a decision to choose to allow more ATVs on roads in Lindsay when they know from the MOH that ATV accidents and hospitalizations are increasing in Kawartha Lakes; that the CKL ATV hospitalization rate is 5 times higher than the Ontario rate; that there is an increased risk of more ATV incidents and a risk to others on the roadway; and they have been warned against ATVs on roads by HKPR, Public Works, experts and manufacturers. It is not defensible.

This proposed ATV route goes against every bit of educated, informed and expert advice that Council has been given. The recommendation to allow an ATV route in Lindsay, even as a pilot, should not be supported.

Thank you for your consideration.

Heather Stauble