



Committee Report

To:	Warden McQueen and Members of Grey County Council
Committee Date:	September 24, 2020
Subject / Report No:	PDR-CW-33-20
Title:	Use of Side by Side ATVs on the CP Rail Trail
Prepared by:	Sarah Johnson
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	Owen Sound, Meaford, Chatsworth, Grey Highlands, West Grey, Southgate
Status:	Recommendation A adopted by Committee as presented per Resolution CW172-20; Endorsed by County Council October 22, 2020 per Resolution CC84-20

Recommendation

Option A

1. That Report PDR-CW-33-20 Use of Side by Side ATVs on the CP Rail Trail be received for information; and,
2. That the request to have larger All Terrain Vehicles (ATV's) and Side by Sides (SxS's) up to a maximum width of 65 inches on the CP Rail Trail and in Harkaway Forest, be refused as the request does not meet the criteria as per the approved Recreational Trails Master Plan; and
3. That staff assist the interested parties to find alternative routes to connect trails for ATV's and SxS's greater than 54 inches.

Option B

1. That Report PDR-CW-33-20 Use of Side by Side ATVs on the CP Rail Trail be received; and,
2. That the request to have larger All Terrain Vehicles (ATV's) and Side by Sides (SxS's) up to a maximum width of 65 inches on ATV approved trails, be supported in principle pending:

- **appropriate project funding,**
- **public consultation,**
- **review of request with County insurer, and**
- **complete assessment of the project with accurate costing.**

Executive Summary

This report discusses the pros and cons of increasing the width of wider vehicles (ATV or Side by Side - SxS) on the CP Rail Trail and within the Harkaway Forest Tract. The recently adopted (2019) Recreational Trails Master Plan provided for vehicles up to 54”.

To further consider wider SxS’s along the CP Rail trail, significant trail upgrades would be needed. These upgrades include grading and surfacing the trail base, widening of gates, signage where areas are not able to be widened (bridges, a few areas on the trail itself), with an estimated cost of over \$900,000. Additional consultation should also occur with other trail user groups that utilize these trails

Background and Discussion

At the July 23rd Committee of the Whole meeting a delegation from the Dufferin Grey All-Terrain Vehicle (DGATV) Club requested that the County consider permitting a wider vehicle (ATV or Side by Side - SxS) on the CP Rail Trail and within the Harkaway Forest Tract, where they currently have agreements with the County. The current permitted width for ATV vehicles on the CP Rail Trail is 54 inches and the DGATV Club is requesting an increase to 65 inches.

DGATV has made a similar request of the County back in 2016 which came before the Planning and Community Development Committee from DGATV as well as other local ATV Clubs requesting various permissions including, but not limited to,

- allowing ATV’s on certain County roads
- the allowance for SxS’s on the trail,
- extension of the use of ATV’s into Owen Sound from Sunny Valley Road,
- widening of the gates to allow for larger vehicles (up to 65”)
- allowing wardening to be permitted prior to and after the ATV season
- extending the season to align with road permissions, and
- ATV access into certain County Forests

As a result of the requests made, as well as other user type requests for the County Forests and the CP Rail Trail, the Planning and Community Development Committee

deferred all requests and directed staff to complete a *Recreational Trails Master Plan (RTMP)*. The *RTMP* is designed to comprehensively address requests when they come in and give clear guidance to staff and Council when considering proposals of this nature.

The *RTMP* was completed and approved on November 28, 2019. It implemented criteria or evaluation questions that allow staff to assess each request on an individual basis. The three criteria are:

1. Is the new use consistent with the long-term preservation of the forest and land?
2. Is the new use compatible with existing uses and infrastructure in the area where it is proposed?
3. Is enforcement an issue and does the County have the resources to provide adequate enforcement for the protection of the forest/trail if this new use is allowed?

Many of the requests made by DGATV in 2016 were able to be accommodated based on these criteria or modified in some capacity to be accommodated as identified in Report [PDR-CW-44-19](#). For example, the request to extend the trail into Owen Sound from Sunny Valley Road was not able to be accommodated entirely as part of the CP Rail Trail falls under the jurisdiction of the Niagara Escarpment Plan (NEP) and preliminary conversations with Niagara Escarpment Commission (NEC) staff indicated that new motorized uses would not be permitted in this area. Staff therefore recommended a modification to this request and proposed to extend the trail to Grey Road 18, which allowed riders to access the amenities at Rockford (food, gas) as well as road access for Grey Road 18, but remain outside of the NEC area; DGATV agreed with this modification.

The allowance of SxS's was also considered, up to the maximum width of the widest permitted ATV, which is 54" because that is what the gates, trail and infrastructure (culverts, bridges) can currently accommodate. DGATV were pleased with the allowance of SxS's on the CP Rail Trail; however, due to the industry and the direction the sport is moving, the restriction of size on the vehicles was significant for what is currently being used by some of their members. This is why DGATV brought forward their most recent request. Tourism staff have confirmed that they receive a fair amount of inquiries asking where these vehicles are permitted and if County properties can accommodate this use.

The request to accommodate wider SxS vehicles was evaluated by staff using the criteria listed above (from the *RTMP*). A detailed description of each criteria is provided as follows:

1. *Is the new use consistent with the long-term preservation of the forest and land?*

Recolour Grey under Section 8.8 states that,

“the CP Rail Trail should be preserved for existing and future transportation uses including the potential re-introduction of a rail service to the County. Should rail not return the County will continue to maintain and improve the CP Rail Trail as a key trail connection with the overall complete transportation system as well as a key connection in the overall Province-wide cycling network.”

The CP Rail Trail is also part of the Ontario Trails Network.

The new use of larger vehicles would require significant trail upgrades including widenings of gates, trail surfaces, bridges, culverts, etc. In some areas the trail cannot be widened due to steep slopes or other infrastructure barriers. The existing gates are designed and intended for vehicles no greater than 54” to prevent larger vehicles accessing the trail which was an issue prior to the installation of the gates.

As noted by DGATV, there are gates where larger vehicles can fit, but this is due to the gates having to be installed to accommodate the geography of the area or to avoid interference with utilities present (i.e. cable/fibre, etc.) and not for the accommodation of a larger vehicle. There are also known locations where ATVs opt to go around the gates, therefore accommodating larger sizes. This is problematic because it creates rutting to the trail, which can be a hazard to users (both motorized and non-motorized) as well as sediment transfer to both the trail and the road crossing. It promotes the illegal use of larger sized vehicles and increases the ability for trespassing. That said, the increase in size, would result in the need to modify the opening size of the gates. A 65 inch vehicle would require a gate width opening of 69 inches. 65 inches would be the maximum size of a vehicle but it would require a recommended minimum of 2 inches for clearance on either side, bringing the need for the opening to be no smaller than 69 inches.

This widening of the gates essentially makes them obsolete in preventing trespassing by other non-permitted vehicles. Non-permitted vehicles (i.e. trucks, cars, etc.) have greater ability to damage the trail as it is not designed for these users (speed, structure, etc.) and with more access for more vehicles types it increases the ability for trespass onto private property. The average width of a car is 72-78 inches but compact vehicles (i.e. Honda fit, which is 67 inches) could easily make it through widened gates.

Currently, during the ATV season we have the OPP patrolling portions of the Trail once a week for violations related to the Highway Traffic Act (speeding,

careless driving). West Grey Police also patrol occasionally with the DGATV Club, as they do not have the ability to patrol alone (only one ATV and one officer and they need two officers for patrolling). However, staff, as well as contract staff, do not have the ability to patrol the trail, nor do they have the qualifications to enforce. As a result of staffing limitations and the limitations for the OPP, there is a potential loss of protecting our own property and our neighbour's properties that abut the CP Rail Trail. Therefore, the new use would not be consistent with the long-term preservation of the land.

2. *Is the new use compatible with existing uses and infrastructure in the area where it is proposed?*

As noted in both the presentation by DGATV and in the above evaluation, upgrades to the trail, additional signage, and related infrastructure (gates, bridges) would be required in order to accommodate the larger vehicles. The trail is currently a single lane trail, the travelled portion of the trail averages 3.24 metres in width, it is shared with all different types of users of all different skills and abilities.

To grade and widen the trail (where possible) to the maximum width of 12' (from the standard 8') is estimated to cost \$15,045.05 per KM. With approximately 62 KM of trail from Grey Road 18 to Dundalk, this would cost \$932,793.10 in total for trail grading surfacing and compacting. This value is calculated as a desktop exercise, it is based on the cost of grading for sections of the trail in the years 2014, 2016 and 2017. The costing does not include things like tree clearing, earth excavation, rock removal, compaction etc. that may be needed in the project scope of trail widening. These prices are rough estimates:

Year	2014	2016	2017	Average
Kilometres	3.9	2.5	5	
Project Cost	\$ 29,500.00	\$ 34,150.00	\$ 44,330.00	
2.4 m (8')	\$ 7,564.10	\$ 13,660.00	\$ 8,866.00	\$ 10,030.03
3.66 m (12')	\$ 11,346.15	\$ 20,490.00	\$ 13,299.00	\$ 15,045.05

It is also worth noting that this does not take into consideration the increased cost of maintenance that would result annually.

Modification of the gates is estimated to cost \$300 per gate, if a gate needs to be replaced or installed in a new location it will cost \$1700, (again, this is a desktop exercise that was completed in an best case conditions scenario). There are currently 66 gates between Grey Road 18 and Dundalk, 8 of those gates would currently meet the 69 inch requirement (this includes 2 that are 68 inches); 52 would need to be modified, 12 need to be replaced or installed for the first time

(i.e. there are 6 locations where new gates would need to be installed), with a total estimated cost of \$36,000. The existing gates, for the most part can accommodate a vehicle up to the width of 56" wide except in 3 locations where only 54" is the maximum width.

Along the trail there are also 7 bridges and 5 other areas (totaling 5.3km) that cannot be widened to 12 feet.

- 1.8 km of the trail has water on each side with no railing between Highway 10 and Sideroad 10
- 100 metres steep section on both sides of the trail between Sideroad 10 and Sideroad 20
- 0.5 km section between Sideroad 20 and Highway 10
- 1.1 km steep slopes between Chatsworth Road 24 and Robson Road
- 1.8 km is tight with a steep slope between Highway 4 and 170 Road

All of these areas would require warning signs at an estimated cost of \$200 per location, (\$2400 total). It is also possible that signage may not be sufficient in these areas, especially in the stretches longer than 1 km, as the ability to see if another user is coming could be challenging. These areas may be more appropriate to avoid all together. An evaluation of the cost to widen these areas was not completed, as it would be cost prohibitive, recent projects like Culvert 21 (total project cost \$700,000) for example, would not be able to be modified to accommodate 2 lanes or the expanded width without substantial costs. It was determined that signage would be the best option in these locations, however this has not yet been evaluated by the County's insurance provider to determine if this is sufficient to manage the potential risk.

There are also inherent safety concerns that come along with multi-use trails, specifically the interaction with motorized uses and non-motorized uses. Staff are hesitant to support wider SxS's on County properties, as with larger vehicles, the likelihood increases of non-motorized trail users incurring greater impact should there be a collision. Without completing the required upgrades to the trail network to accommodate these larger vehicles inherent safety concerns would arise. It is also arguable that the larger vehicle increases incompatibility with the other user types that are on the trail. Currently, if an ATV meets a user on the trail they are to pull over and let them pass. With a wider vehicle there is less space to move over and the other user to get by. If Committee wishes to proceed with allowing the larger size, public consultation should be considered with other trail user

groups. Having larger and more vehicles in sections of the trail that pass-through settlement areas may also add further potential for an incompatible use with neighbouring development.

Modifications would be a necessity to accommodate this request and would mean that the proposed use is not compatible with the existing infrastructure. Required upgrades to the infrastructure is estimated to be at minimum, (in best case scenario conditions), greater than \$900,000.

3. *Is enforcement an issue and does the County have the resources to provide adequate enforcement for the protection of the forest/trail if this new use is allowed?*

The types of complaints staff receive regarding ATV use generally fall under: trespassing on private property, noise, rutting, excessive speed, dust generation, or being on the trail in areas where the use is not currently permitted.

In the past, we have had GSCA contract staff monitor known problem areas, but they have limited resources to extend this service beyond occasional instances. We currently do not have the staff resources or contract staff resources with the qualifications to enforce any regulations. That said, we have recently had assistance from local police services in this regard, but they are limited to when they can go out on patrol and they focus on speeding and careless operations. ATV Club Wardens are generally out 2+ times during the week, they are not to enforce, they are meant to educate and assist, they do not have the qualifications to enforce law of any kind, and the County would not want to put any volunteer or any user group in a potentially dangerous situation. Conclusion: Based on the above criteria evaluation, these three tests are not able to be met without significant upgrades to the existing trail and without increased enforcement though either additional contract staff resources or increased police service presence. Therefore, staff do not support the wider vehicle request at this time.

Significant Changes to the Highway Traffic Act occurred in December 2015 in which SxS's as an Off-Road Vehicle (ORV) were introduced as a permitted vehicle on roads provided the municipality has a by-law in place permitting these uses. The by-law is required to stipulate the hours and months to which ORV's are permitted on the roads.

Grey County had a number of requests from the Club in which they sought permission, but instead of allowing for only select roads the County allowed for these vehicles (through by-law) to be on all County roads (with a few exceptions in specific areas).

Currently, there is a shift with the *Highway Traffic Act* to allow these types of vehicles on the roadways. Due to the increase in size, it may be more appropriate that these larger vehicles are directed to the roads as opposed to trails, in this scenario they are still able to access the amenities that they desire as well as getting to and from various other trail locations. The increased size results in compatibility issues with other users as well as the existing infrastructure.

Grey County Transportation Services staff have confirmed that today, ATV use has not had a negative impact on the County road network. If the intention is to consider the request, in addition to public consultation, there should be discussions with the local municipalities to discuss their experiences with the permissions given on the local road networks.

Required Trail Upgrades

The CP Rail Trail bed currently varies from 2.3 metres (7.5 feet) to 5.5 metres (18 feet) with the average being 3.24 metres (10.6 feet). In order to permit 65 inch SxS's a recommended minimum 3.7 metres (12 feet) trail corridor (trail bed) width is required.

As noted above in the Background and Discussion section, Question 2, there would be significant upgrades required to accommodate this use Staff could look into this costing further should Committee desire. These bridges/structures would simply have to be signed as a single lane or reduced width only. The total estimated cost to upgrade the trail infrastructure would be greater than \$900,000.

In addition to the cost for the infrastructure, it is also necessary to consider the need for additional staff to be trained in by-law enforcement or contracting this service. Currently the County does not have a by-law in place that lists permitted uses, discussion with local Police services is ongoing and staff are investigating if they are able to provide further assistance. If it is the intention to move forward with increased enforcement, we will need to move forward with such a by-law.

ATV Trails outside of Grey County

Staff also completed research regarding other municipalities and what they permitted with regard to their trail infrastructure and what Grey County currently has for trail infrastructure.

Currently the average width of the travelled portion of the Grey County CP Rail Trail is varied, 2.3 m to 5.5 m (average 3.24 m).

Bruce County, which allows for 65" ATV's and SxS's has gates that allow for this size. The existing rail bed on the main line is consistently 3.6 m to 4.3 m

Other comparators accommodated the larger vehicles, however they were predominantly, if not solely for ATV/SxS use, so although it was a good resource to determine widths and infrastructure needs, it was not a good comparator as a multi-use recreational trail.

Emergencies and Response Times

Many of the lower tier fire departments have a larger SxS in their fleet to assist in emergencies. Of noted concern by DGATV, was the smaller gates impeding response times in the event of an emergency on the trail. Specifically, the time taken to open a gate.

Staff recently have updated all the locks on the CP Rail Trail and have given each emergency responder organization a key for the new locks and had conversations with fire department staff regarding the effect of opening a gate in the event of an emergency. All of the departments that we spoke to had no concerns with the time needed to open a gate in the event of an emergency. In most cases they would take roads to get to the closest access point and only have one gate to open, if they were unable to drive around it. A few years ago, signage was added to help people identify where they were located along the CP Rail Trail so that they can relay this information to emergency responders. This helps emergency responders more accurately pinpoint the location of the emergency allowing them to get to the emergency as quick as possible.

Development and the CP Rail Trail

In settlement areas such as Markdale and Dundalk for example there may be desire for a shift towards directing motorized uses to roadways instead of trails that are in these areas. Dundalk, for example, is seeing significant population growth and a greater demand for recreational infrastructure. Increased amounts of pedestrian traffic may result in a push toward separating motorized and non-motorized uses. This is already in effect in Owen Sound, where we see higher amounts of non-motorized users and therefore have directed ATV traffic to roadways.

With the changes in the Highway Traffic Act and Off-Road Vehicles Act it, it would indicate that these types of vehicles are being recognized more as being appropriate for use on the roadways.

In addition to this, initial conversations with the County's insurer have indicated that they would be encouraging this trend of reducing the motorized uses in the urban areas where there is an increased use of the trails by non-motorized users.

Accessibility

The Accessibility component of the wider vehicle on the trail is also a concern. When a person of limited ability meets a vehicle on the trail, if using a mobility aid (scooter, walker, etc.) the ability for them to move off of the travelled portion of the trail may be difficult and in some cases not possible. It is noted that the CP Rail Trail is not considered 'accessible' however, it does have users that access the trail in certain areas with mobility aids.

Staff completed research into those with limited accessibility and interaction with a larger vehicle on the trail and without widening the trail they would not be compatible. There is a resource group that is available for various accessibility-based questions. It's called the Ontario Network of Accessibility Professionals (ONAP) which is largely comprised of accessibility coordinators that work for municipalities and schools/colleges/universities. ONAP have indicated that, at minimum, to have these types of users on the trail there should be pull over areas along the trail (i.e. widening) a certain distance apart (i.e. every 30 metres for recreational trails and paths).

With regard to the discussion for those with limited mobility using SxS's as a way to use the trail, it was not common knowledge within those members of ONAP that responded. It could be something unique to the area, but it was not known by respondents as a common way for those with limited ability to access a trail.

Contributions

DGATV has been an excellent partner to work with and staff appreciate the relationship that has been built with the Club over the last number of years.

In 2009 DGATV along with the local Snowmobile Club raised funds for a portion of the cost to replace a bridge on the CP Rail Trail, north of Markdale. This project cost approximately \$17,500.

In 2015 the Club applied for funding with the National Trails Coalition, in order to update the gates along the CP Rail Trail. The funding model didn't allow the County to apply, and so at staff's suggestion DGATV applied. DGATV was successful in obtaining the funding and completed the project under the supervision of staff. The total cost of the project was estimated to be \$37,500 and awarded funding was \$15,000, the Club paid the remaining \$22,500.

In addition to the projects that DGATV has done with the County, their community involvement is significant, with organization of fundraising events multiple times in a season. They donated \$6000 to the Culvert 21 project. They are a wonderful asset to the community and to the County.

Options and Considerations

Staff recognize that this request is significant for DGATV and its membership. Without the ability for DGATV's trails to accommodate larger vehicles alternative routes need to be created for certain members, based on the types of vehicle. This is challenging for all involved.

There are options that Committee can consider:

Option	Pro	Con
A	Keep the permissions as they are today and assist DGATV to find alternative routes on local and County Roads to complete and connect their trails with other Clubs	<ul style="list-style-type: none"> • No additional costs for upgrades or ongoing maintenance • No additional staff resources required • no evaluation by insurance auditors to determine if coverage can be obtained
B	Allow ATV's and SxS's up to a width of 65" for the entire trail from Grey Road 18 to Dundalk.	<ul style="list-style-type: none"> • Significant expense required to complete upgrades • Enforcement becomes an increased issue • Trail compatibility concern from a safety perspective, with non-motorized and motorized users • Trespass by other vehicles • Evaluation by insurer will be required

Although County staff are sympathetic to the current direction that the ATV and SxS industry is moving with regard to the type of vehicles on the market and the type of vehicles being used by their membership, based on the existing infrastructure, the cost to upgrade and the limitations with enforcement, staff are recommending that the larger vehicle not be permitted at this time and the maximum vehicle size remain at 54".

It has been demonstrated that there are alternatives to using the CP Rail Trail, and there are significant costs and increases in potential risks to the management of the trail and to the other users should the maximum width of the vehicle increase above 54". Therefore, it seems appropriate that the County maintain the maximum limit for size of vehicle to be 54" based on the current conditions of the trail and based on current contract staffing resources regarding enforcement.

Legal and Legislated Requirements

Preliminary conversations with the County's insurer indicated that if the County wishes to allow for this larger use, it will result in a re-evaluation by the underwriters to determine if the County's insurance would cover it, or if premiums would need to be increased.

Financial and Resource Implications

There is an estimated cost of greater than \$900,000 for the infrastructure upgrades, but as mentioned this is based on best case scenario conditions and in all likelihood the costing for infrastructure upgrades would be much higher than this estimate. There would also be the need to have additional staff available to be qualified to provide enforcement on the properties.

The requirement of reassessment for the use by the Insurance underwriters and potential increase of insurance premiums should be taken into consideration.

Public consultation would be recommended by staff as well as consultation with local municipalities specifically the by-law they have in place for road access by ATV's and SxS's and the impact that this increased vehicle width may have on their road network.

Relevant Consultation

- Internal (Transportation Services, Legal, Economic Development/Tourism, Clerks)
- External (Chatsworth FD, Dundalk FD, Grey Highlands FD, OPP (Chatsworth), Ontario Network of Accessibility Professionals, Marsh Insurance, Grey Sauble Conservation Authority Contract Staff)

Appendices and Attachments

[PDR-PCD-21-16 Request for ATV's on County Roads and Extending the access to the CP Rail Trail](#)

[Planning and Community Development Committee Minutes - June 21, 2016](#)

[Addendum to PDR-PCD-21-16](#)

[PDR-PCD-31-16 Request for ATV's in the County's Camp Oliver and Glenelg Klondyke Forest Tracts](#)

[PDR-CW-44-19 Recreational Trails Master Plan](#)