



Off-road Vehicles and Local Government

Endorsed by WALGA State Council

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1.0 Executive Summary

For decades the use of off-road vehicles (ORV) has raised concerns for Local Governments and their communities. In Western Australia and other jurisdictions in Australia the impacts of ORV use are well documented and centre primarily on community safety, environmental, economic and social impacts. Most recently, the WALGA South East Metropolitan Zone, other peri-urban and regional Local Governments have highlighted their concerns by raising with WALGA a call to action.

While conversation and reports tend to focus on the negative impacts of ORV use, some Local Governments and user groups have pointed to the opportunities ORV use may invite. Opportunities include economic development through tourism, environmental conservation (through effective operation of ORV Permitted Areas rather than illegal use in unapproved areas), and the potential for social cohesion and other physical health benefits to users (despite the high risk of the activity).

Concerns have historically been discussed in context of trail bike use, however the definition of an ORV extends to quad bikes, beach buggies and other vehicles, including road licensed vehicles such as four wheel drives when used in off-road locations, especially in coastal regions.

In 2008, WALGA established a position supporting the recommendations of the *WA State Trail Bike Strategy 2008* (a Strategy prepared by trail bike user groups, funded by State Government). The WALGA Advocacy Statement sought changes to the management of unlicensed trail bikes due to the adverse impact on the environment and community amenity. The *WA State Trail Bike Strategy 2008* is focussed on trail bikes and does not take into account the full scope of ORV. That said, the impacts of trail bike use and the recommendations of the strategy do have application to broader ORV uses.

It is fair to say that there has been little progress achieved toward the *WA State Trail Bike Strategy 2008* recommendations and the impact of illegal use of ORVs on our community remains an ever increasing public safety, amenity and environmental risk.

Purpose

This paper:

- Identifies key stakeholders and their responsibilities and roles
- Considers relevant ORV data
- Examines WALGA Local Government survey results regarding ORV use and its impacts on Local Government
- Considers ORV user perspectives
- Uses the above context to inform recommendations to improve the management of ORVs in WA for Local Governments and their communities.

This paper recommends that WALGA advocates for State Government to:

- 1. Conduct a review of current legislation to align registration and licensing of ORVs with other vehicle types and users.**
- 2. Allocate funding for feasibility studies to identify suitable sites for new ORV Permitted Areas throughout the State, which considers environmental values, future land use planning impacts, public safety, amenity and environmental issues and Local Government risk and liability issues.**
- 3. Develop and implement, in collaboration with WALGA and ORV stakeholders, educational resources and training suitable to the specific needs of ORV users, stakeholders and Local Governments. Resources should include; guidance on compliance and enforcement arrangements aligned with the *Control of Vehicles (Off-road Areas) Act 1978* and other relevant legislation, user and Permitted Area operational safety, signage standards, insurance and liability mitigation strategies.**
- 4. Develop and implement, in collaboration with ORV vendors, resources and practices that ensure ORV buyers are informed at the point of sale about ORV registration, regulation and restrictions applicable to ORV vehicle use and consequences of non-compliance.**
- 5. Consider and consult on the regulation of the vendor's role in providing information to buyers regarding ORV registration, regulation and restrictions.**
- 6. Develop and implement, in collaboration with stakeholders and industry representatives, resources to educate and raise community awareness about the proper use of ORVs, ORV permitted and prohibited areas, and the consequences of non-compliance.**
- 7. Ensure that the WA Police Force and the Department of Biodiversity, Conservation and Attractions allocate resources to address unlawful ORV use 'hot spots', in consultation with Local Government law enforcement.**

This paper was prepared by the WALGA Community team with valued input from the Department of Local Government, Sport and Cultural Industries, Department of Biodiversity, Conservation and Attractions, user groups and the WALGA Governance and Roads teams.

The paper was circulated for comment to Local Government through WALGA e-newsletters LG News and Councillor Direct on the week of 3 September, and was available on the WALGA website at this time. The paper was also sent to key stakeholders who had previously been involved in ORV consultation at this time. A six week consultation period was provided to create an opportunity for the paper to go through the Council process in Local Government, and for all interested parties to have time to comment. WALGA State Council endorsed the recommendations of this paper on Wednesday, 5 December 2018.

The Local Governments who provided a comment to the paper:

- Shire of Esperance – the Shire has an established ORV Working Group, which is a formal Committee of the Council. The ORV Working Group provided comments to the paper.
- Shire of Gingin
- City of Greater Geraldton
- Shire of Murray
- Town of Port Hedland – Officer Comments
- Peter Nash, Regional NRM Facilitator, South West Group

2.0 Background

In 2007, WALGA surveyed Local Governments seeking feedback on the draft *WA State Trail Bike Strategy*. The strategy was funded by State Government and developed by user representative groups:

- Department of Sport and Recreation;
- Department of Parks and Wildlife;
- Department for Planning; and
- Department of Local Government and Communities.

The survey feedback resulted in the following position statement endorsed by WALGA State Council in 2008:

“The Local Government sector advocates for changes to the current management of unlicensed trail bikes due to their adverse impact on the environmental and community amenity, in line with the WA State Trail Bike Strategy 2007.”

Despite the release of the *WA State Trail Bike Strategy* in 2008, it has never been formally endorsed nor its recommendations funded by State Government. Very few initiatives have been implemented; meanwhile, Local Governments across Western Australia continue to invest substantial public resources in managing the impacts of illegal ORV use.

In 2016, WALGA's South East Metropolitan Zone highlighted concerns with the limited progress to address community issues arising from illegal ORV use and requested WALGA to review and advocate for the *WA State Trail Bike Strategy 2008* to be updated with specific advocacy on the issue of unlicensed ORV as a 2017 State election priority. In response, WALGA contacted the then Department of Local Government and Communities (DLGC) seeking clarification on the status of the *WA State Trail Bike Strategy 2008*.

The DLGC distributed a Ministerial [Circular No 02/2017](#) (Ref 57-00701) in January 2017, detailing options for controlling illegal off-road vehicle use under the *Control of Vehicles(Off-road Areas) Act 1978* (i.e. controlling use in Permitted Areas) as well as other legislation relevant to illegal ORV use, including:

- *Conservation Land Management Act 1984* and regulations;
- *Land Administration Act 1997*;
- *Metropolitan Water Supply, Sewerage and Drainage Act 1909* and Bylaws 1981;

- *Road Traffic Act 1974* and subsidiary legislation;
- *Motor Vehicle (Third Party Insurance) Act 1943* and Regulations 2009; and
- Local Government Local Laws (where applicable to land under the care, control and management of the relevant Local Government).

This list of legislation serves to highlight the ‘*cobbled together*’ legislative framework under which Western Australia is attempting to effect control of illegal ORV use; demonstrating the confusing, incomplete and ineffective regulation of a prevalent recreational activity, which when undertaken illegally has substantial implications for the environment, public safety and local community amenity.

In April 2017, the DLGC and WALGA hosted a workshop to further inform Local Governments of enforcement options under current legislation and to scope issues and share ideas on potential solutions. WALGA circulated workshop feedback to the sector and in July 2017 wrote to the Minister for Local Government requesting a meeting to discuss the sector’s issues and to seek support for determining a way forward. WALGA did not receive a response from the Minister.

In July 2017, WALGA and DLGSC met with representatives from the South West Group, Department of Biodiversity, Conservation and Attractions (DBCA) and City of Kwinana who provided a comprehensive presentation on their experiences with successful operation of Permitted ORV Areas. The South West Group is a voluntary regional organisation of councils, comprising six member Councils in the South West Metropolitan Region including City of Cockburn, Town of East Fremantle, City of Fremantle, City of Kwinana, City of Melville and City of Rockingham. These Local Governments correspond with the membership of the South East Metropolitan Zone.

The South West Group partner and collaborate with the State and Commonwealth Government, industry, business and community on activities that benefit and facilitate further economic development in the South West Metropolitan Region.¹ The South West Group have been investigating off-road vehicle issues and potential solutions for a number of years, including research into best practice examples across Australia.

WALGA’s South East Metropolitan Zone, Growth Alliance Perth and Peel (comprising ten Local Government CEOs representing the Cities of: Armadale, Cockburn, Gosnells, Kalamunda, Kwinana, Mandurah, Rockingham, Swan and Wanneroo and the Shire of Serpentine - Jarrahdale), and the Pilbara Regional Road Group (representing the City of Karratha, Town of Port Hedland and the Shires of East Pilbara and Ashburton) have also reiterated concerns regarding ORV use, particularly relevant to community safety matters.

Local Governments continue to seek advice from WALGA regarding the progress of the State Trail Bike Strategy recommendations.

¹ South West Group website. Retrieved on 29/06/18 from www.southwestgroup.com.au

Following a meeting between the DLGSC, DBCA, WALGA, user groups and Local Governments in November 2017, WALGA wrote a further letter to the Minister for Sport and Recreation, the Hon Mick Murray MLA requesting a meeting and subsequently provided the Minister with further detail on ORV licensing and registration issues. The group chose to involve the Minister for Sport and Recreation due to his interest in ORV from a recreation perspective, and commitment to meeting with the Recreational Trail Bikes Association with regard to ORV issues. WALGA did not receive a response to this letter. WALGA and DLGSC also convened a field trip for Local Government and State Government representatives to visit ORV sites at Pinjar and Medina to gather further information.

In addition, WALGA developed and distributed a survey to all Local Governments requesting feedback on the impacts of ORV use in their communities to provide current evidence. This feedback has informed the development of the recommendations contained in this paper.

WALGA acknowledges the value that the *WA State Trail Bike Strategy 2008* and *Back on Track Implementation Plan* have contributed to holistic and comprehensive recommendations to address trail bike use and regulation in the community. It is unfortunate that these recommendations have not as yet gained traction with successive State Governments.

WALGA also recognises the substantial work of user groups, such as Track Care WA, which aim to mitigate environmental damage caused by ORV use.

The issues faced by Local Government however, go beyond trail bike use and include other recreational vehicles such as; quad bikes, licensed four wheel drives, dune buggies and any other motorised vehicles used illegally in off road environments (especially in coastal areas). Illegal use of ORVs has detrimental impacts on the environment, public safety and community amenity and incurs substantial Local Government cost for enforcement, and also the protection and repair of land and infrastructure community assets.

WALGA continues to liaise closely with the Department of Local Government, Sport and Cultural Industries and Department of Conservation, Biodiversity and Attractions representatives regarding ORV issues, seeking to work towards sustainable and effective outcomes in collaboration with Local Government members and ORV stakeholders.

2.1 What is an Off-road Vehicle?

For the purpose of this paper, in Western Australia the *Control of Vehicles (Off-road Areas) Act 1978 (WA)* defines an off-road vehicle as any vehicle which is not licensed, deemed to be licensed or the subject of a permit granted under the *Road Traffic (Vehicles) Act 2012 (WA)*.

The Department of Transport website describes ORV as including any vehicle that is not primarily designed for on-road including:

- Trail bikes
- All-terrain vehicles (ATVs)
- Forklifts and mobile plant

- Golf carts
- Non-compliant tractors
- Non-compliant utility vehicles
- Quad bikes²

Outside of this, Western Australian legislation provides that road licensed vehicles, such as four wheel drives, are permitted to use designated Permitted Off-road Areas.

3.0 Roles and Responsibilities

3.1 Control of Vehicles (Off-road Areas) Act 1978

The control of vehicles in off-road areas in Western Australia is regulated under the *Control of Vehicles (Off-road Areas) Act 1978* and is administered by the Department of Local Government, Sport and Cultural Industries (DLGSC).³

The *Control of Vehicles (Off-road Areas) Act 1978*:

- prohibits the use of off-road vehicles in certain places
- makes provisions as to the use of off-road vehicles otherwise than on a road
- provides for areas where the use of off-road vehicles is permitted
- provides requirements for the registration of off-road vehicles.

Importantly, the *Control of Vehicles (Off-road Areas) Act 1978* currently only operates in certain areas of the State (Permitted Areas); and provide the Governor with the authority to extend operation of the Act to other areas. It is recognised that issues with ORV use most often occur illegally and outside these permitted areas of operation.

The *Control of Vehicles (Off-road Areas) Act 1978* regulates the illegal use of ORV inside designated Prohibited Areas, but does not provide for the regulation of illegal ORV use outside of prescribed Prohibited or Permitted Areas.

Through the consultation process, Local Governments commented that they would like to see the *Control of Vehicles (Off-road Areas) Act 1978* apply across Western Australia to increase its effectiveness and provide the same opportunity to control ORV areas to all Local Governments.

3.2 Permitted Areas

Permitted areas are established under the *Control of Vehicles (Off-road Areas) Act 1978* and are where registered ORVs, as well as licensed on road vehicles, are allowed to be operated. Private land can only be declared as a Permitted Area with written authority of the owner. Restrictions may be placed on the type of off-road vehicle that can use a specific Permitted Area; for example, it may be restricted to motorcycles of a certain size and noise output.

² Retrieved on 04/07/18 from <https://www.transport.wa.gov.au/licensing/license-an-off-road-vehicle.asp>

³ Retrieved on 09/02/18 from <https://www.dlgs.wa.gov.au/AdviceSupport/Pages/Off-road-vehicles.aspx>

The current publicly available, approved Permitted Areas, respective land managers and vehicles permitted in these areas are:

- Gnangara, Department of Parks and Wildlife, motorcycles and quad bikes of all engine capacities.
- Pinjar, Department of Parks and Wildlife, Motorcycles and quad bikes (not side by sides).
- Lancelin and Ledge Point, Shire of Gingin, Motorcycles and quad bikes of all engine capacities, four wheel drives and buggies. The area boundaries are marked with orange buoys. Tracks leading from the area (e.g. to Wedge Island) are restricted to full road registered vehicles only.
- Medina ORV Area, Department of Planning, Lands and Heritage, Motorcycles and quad bikes of all engine capacities.
- York, Shire of York, Motorcycles and quads only.
- Karratha, City of Karratha. All off road vehicles.

Under the *Control of Vehicles (Off-road Areas) Act 1978*, it is possible to apply to the DLGSC to create a Permitted Area.

The process includes the proponent developing a proposal, which should include information about the area. This is submitted to DLGSC for consideration by the Advisory Committee.

The proposal would need to contain:

- Area and land description, including vesting/ownership;
- Plan for management of the area;
- Proposed plans for development (including signage), access and facilities;
- Any proposed restrictions under the act (e.g. restricted to trailbikes, no four wheel drives); and
- Information on potential noise levels.⁴

Local Governments are able to take part in this process if they wish to create a Permitted Area within their jurisdiction.

3.3 Prohibited Areas

The *Control of Vehicles (Off-road Areas) Act 1978* provides that all vehicles, including licensed on-road vehicles, may be forbidden from designated Prohibited Areas, whether or not the land is private, if the Minister for Local Government is of the opinion that public interest requires the Prohibited Area to be established. Proposals for the establishment of new Prohibited Areas can be submitted the Minister. The Minister cannot establish a Prohibited Area over private land without the consent of the owner and occupier, unless the Minister is satisfied that for public interest reasons of the:

- need to protect livestock or preserve wildlife;
- environmentally sensitive nature of the land;
- proximity of the land to residential development; and

⁴ Discussion with Department of Biodiversity, Conservation and Attractions, 17/8/18

- provisions of any town planning scheme.⁵

A person who is the owner or occupier of land declared a Prohibited Area or worker for such a person has the right to use a vehicle on that land. Prohibited Areas may be declared so that they apply to limited classes of vehicles.

Similar to creating a Permitted Area, a proponent can develop a proposal to create a Prohibited Area, which is then submitted to DLGSC for consideration by the Advisory Committee. The proposal should include:

- Area and land description, including vesting/ownership
- Any site management plans and restrictions
- Justification for establishing a prohibited area.⁴

The option to create a Prohibited Area within their jurisdiction can be considered by Local Governments who wish to have a greater level of enforcement over areas of land.

3.4 Advisory Committee

The *Control of Vehicles (Off-road Areas) Act 1978* provides that an Advisory Committee is constituted and is responsible for providing advice and recommendations to the Minister for Local Government in relation to the use of land by off-road vehicles, including the declaration of permitted areas and prohibited areas. The Committee shall comprise of seven permanent members for a period not exceeding three years. Appointments to the Committee are approved by the Minister and membership is in accordance of section 21(1) of the *Control of Vehicles (Off-road Areas) Act 1978*.

The make-up of the Advisory Committee includes:

- a Chair, Mrs Julie Knight (DLGC) ;
- two members selected from a panel of names submitted to the Minister by WALGA, Cr Michael Aspinall (Lancelin), Cr Ross Paine (Busselton);
- two members selected from people with (in the opinion of the Minister) appropriate experience in the operation of off-road vehicles, Mr Mark Haffenden, Mr Steven Dobson;
- one member selected from people with (in the opinion of the Minister) appropriate experience in the operation of four wheel drive vehicles, Mr Steven Grossmith; and
- one member nominated by the Minister (to whom the administration of the Conservation and Land Management act 1984 is committed), who in the opinion of the Minister has appropriate experience in environmental matters, Mr Stuart Harrison, Department of Biodiversity, Conservation and Attractions.⁴

Deputies:

Local Government - Cr Peter Feasey (Kwinana)

Four Wheel Drive - Mr Nathan Crossley

Off road Vehicles - Mr Geoffrey Couper, Mr Michael Cramb

Department of Biodiversity, Conservation and Attractions - Mr Brett Fitzgerald.⁴

⁵ *WA Control of Vehicles (Off-road Areas) Act*. Retrieved on 9/2/18 from [https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrcmp_29413.pdf/\\$FILE/Contr ol%20of%20Vehicles%20\(Off-road%20Areas\)%20Act%201978%20Compare%20%5B05-b0-01%5D%20-%20%5B05-c0-00%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrcmp_29413.pdf/$FILE/Contr ol%20of%20Vehicles%20(Off-road%20Areas)%20Act%201978%20Compare%20%5B05-b0-01%5D%20-%20%5B05-c0-00%5D.pdf?OpenElement)

3.5 Licensing and Registration

3.5.1 Registered and Licensed vehicles

Off-road vehicles may be licensed for use on road reserves, under the *Road Traffic (Vehicles) Act 2012*; or registered for use in Permitted Areas, under the *Control of Vehicles (Off-road Areas) Act 1978*.

The Department of Transport is responsible for the administration of vehicle licensing (on-road use) and registration of ORV (Permitted Area use), through the Department's Vehicle and Licensing Services.

ORV Registration

ORVs registered through the Department of Transport under the *Control of Vehicles (Off-road Areas) Act 1978* are required to comply with the following:

- ORVs must be registered with the Department of Transport.
- A person must be aged 18 years or over to register an ORV.
- All registrations for ORVs expire on 30 September each year.
- If the registration for an ORV is expired more than 15 days, owners are required to return the vehicle plates and apply for a new ORV licence.
- A registered ORV must display off-road vehicle plates.
- A registered ORV may only be used:
 - On private land with the consent of the owner; or
 - In Permitted Areas covered by the Act.
- Permitted Areas currently include Gnangara, Pinjar, Lancelin, Ledge Point, Medina, York and Karratha.
- Use of a registered ORV outside of an ORV Permitted Area, on a road reserve, or on public or private land without the consent of the owner or occupier or in a Prohibited Area is an offence.
- ORV Registration fee is currently \$25 for a new registration, and \$15 annual renewal.⁶

Local Governments who provided comment to this paper have stated their strong support of mandatory ORV licensing and registration. To date, issues such as difficulty with policing, licensing and registration due to the different legislative parameters which apply when using ORVs in different areas, have prevented this from occurring.

Off-road Vehicle Account

All ORV registration fees are directed to the 'Off-road Vehicles Account' (ORV Account) which is held by the Department of Local Government, Sport and Cultural Industries. The

⁶ Department of Transport. *License an off-road vehicle*. Retrieved on 16/08/18 from <https://www.transport.wa.gov.au/licensing/license-an-off-road-vehicle.asp>

account is administered under the Act and funds are apportioned as directed by the Minister for Local Government; Heritage; Culture and the Arts, with approval of the Treasurer. In 2017, the Minister approved the following priorities for the expenditure of funds held in the ORV Account:

1. Information on the location of ORV areas, including building awareness on where the Control of Off-road Vehicles Act applies and the location of permitted and prohibited areas.
2. Information to assist Local Governments with the administration of the Act, including processes required to be undertaken to have the Act apply to their district, to prescribe ORV areas and to prohibit areas from ORV use.
3. Increasing registration numbers/compliance.
4. Suitable of potential ORV areas.
5. Increased rider safety initiatives,
6. Management of existing permitted areas, including the provision of funding to maintain permitted ORV areas.⁷

Local Governments can apply to the Off Road Vehicles Advisory Committee to spend funds from the ORV account on projects which meet the criteria of these priorities. As more ORVs are registered, it is anticipated that more money will be available for Local Government to access within the ORV Account, and therefore spent on the management and improvement of ORV Areas. This could create an increased incentive for people to register their ORVs.

Conditional (restricted use) vehicle licence

If there is a genuine reason for an ORV to access public roads, an application is required to be submitted to the Department of Transport's Driver and Vehicle Services, Vehicle Safety and Standards Branch. A conditional (restricted use) vehicle licence will only be issued to an ORV if the following criteria are met:

- There is a legitimate need to access one or more public roads (even if it is only for the purpose of crossing).
- Access can be performed safely.

Applicants must be 18 years of age or over and vehicles must pass a roadworthiness inspection before a conditional (restricted use) vehicle licence can be issued.

Licensed ORVs

Road licensed vehicles, under the Road Traffic (Vehicles) Act 2012, do not require a separate off-road vehicle registration and can operate on road reserves and in ORV Permitted Areas.

Use of a licensed ORV on public land or private land without the consent of the owner or occupier or in a Prohibited Area is illegal.

⁷ Ministerial Briefing Note – Priorities for expenditure of funds held in the Off-Road Vehicles Account established under the Control of Vehicles (Off-road Areas) Act 1. Provided by the DLGSC

Unlicensed and Unregistered ORVs

ORVs are not required to be licensed or registered if they are restricted to use on private property with the consent of the property owner or occupier.

Use of unlicensed and unregistered ORVs in a Permitted Area or Prohibited Area or on public land or private land without the consent of the owner or occupiers is illegal.

The Town of Port Hedland created an agreement with local fuel suppliers to discourage the ORV users from using public roads. Suppliers have signed an agreement with the Town that bans the sale of fuel to ORVs that are not being carried on a vehicle. Any ORV that is driven to the establishment will be prevented from refuelling and the occurrence reported to Town Rangers or Police. This action alone has seen a positive change for the community by lowering ORV street usage.⁸

The following table provides a guide for ORV registration requirements.

Table 1 – Guide to vehicle and driver licence and registration requirements⁹

Private Property	ORV Area	Events	Public Roads & Trails
Drivers licence not required		Drivers licence required	
No registration			
ORV registration			
Class B Conditional Registration			
Class A Full Road Registration			

3.6 Other regulatory matters relevant to ORVs

Motor Injury Insurance

Motor Injury Insurance (MII) does not apply to registered, unregistered or unlicensed ORVs.¹⁰

Local Government

Local Governments are responsible for administering and enforcing the *Control of Vehicles (Off-road Areas) Act 1978*.

⁸ Comment from Town of Port Hedland Officer, 2018.

⁹ So where can ride? Your Guide to Legal Off Road Riding in Western Australia

¹⁰ Retrieved on 09/02/18 from <https://www.dlgs.wa.gov.au/AdviceSupport/Pages/Off-road-vehicles.aspx>

Local Governments may appoint authorised officers under s.38(3) of this Act and further, the Minister may also appoint, by gazettal, Council Members as authorised officers. Authorised officers may fulfil specified functions prescribed within the Act.

Section 38(11) provides powers for Authorised Officers to, without warrant, stop, seize and detain any vehicle referred to in the Act, where the authorised officer believes that any vehicle has been used or driven in contravention of a provision of this Act and the vehicle appears to be neither licensed, under the *Road Traffic (Vehicles) Act 2012* or not registered under the *Control of Vehicles (Off-road Areas) Act 1978* and the identity of the responsible person, or a driver of the vehicle cannot be established to the satisfaction of the officer.

Whilst Local Governments have the authority to appoint authorised officers for the purpose of giving effect to the *Control of Vehicles (Off-road Areas) Act 1978*, Local Government are not the appropriate first responders for dangerous and high risk situations which are often evident for the enforcement of ORV matters.

WA Police Force however have specialised training and expertise to enable them to effectively and safely pursue vehicles and stop/detain offenders.

WA Police Force and Local Government enforcement is further complicated when jurisdictions overlap, land owner/occupier identity is uncertain, and legal authority is unclear.

In addition to the *Control of Vehicles (Off-road Areas) Act 1978* other legislation provides State and Local Governments with powers that may be applicable in specific circumstances to ORV uses and ORV areas, including:

- *Civil Liability Act 2002 (WA);*
- *Land Administration Act 1997 (WA);*
- *Environmental Protection (Noise) Regulations 1997*
- *Bushfires Act 1954*
- *Road Traffic Act 1974*
- *Occupiers Liability Act 1985 (WA);*
- *Local Government Act 1995 (WA);and*
- *Local Government Local Laws;*

This legislation is not however, drafted to specifically deal with the issues arising from illegal use of ORVs in public or private land, presenting legal and administrative complexities which are prohibitive to the effective control of illegal ORV uses.

Duty of care requirements may arise according to/under common law principles of negligence. Duty of care measures for Local Governments includes signage, management, inspection and maintenance of off-road areas.¹¹

¹¹ Local Government Insurance Services. *LGIS Off-road vehicle area guidance notes for Western Australian Local Government*. Provided by LGIS.

In addition, Local Governments take interest and are increasingly involved in economic development, community safety, and the health and well-being of their communities and appropriately regulated recreational ORV use is recognised as providing community benefits.

Information about permitted/prohibited areas for ORVs can be obtained on request from the relevant Local Government and the DLGSC.¹²

Local laws

The *Control of Vehicles (Off-road Areas) Act 1978* provides Local Governments with the power to make Local Laws for the purposes permitted by the Act.

A review of the DLGSC's Local Laws Register indicates that no such local laws have been made.

The *Control of Vehicles (Off-road Areas) Act 1978* also provides for the Governor to make Regulations which operate as Local Laws and for the Governor to make Model Local Laws. Neither of these powers has been exercised.

Local Governments also have powers under the *Local Government Act 1995* to make Local Laws relevant to the control of activities on land under the care, control and management of the Local Government. These Local Laws allow Local Governments to enforce where land is used for prohibited activities or without required approvals.

Local Laws do not apply to private land or land controlled by other State or Federal Government agencies.

Local Government Insurance Services (LGIS)

LGIS is a not-for-profit industry based self-insurance scheme owned by WA Local Governments and offers a coordinated and holistic approach to risk management, claims management and injury management.¹³ In response to Local Government activity, LGIS developed a series of guidance notes to provide practical risk management considerations to the issues and concerns which cover:

- Determining Demand and Suitable Location for an Off-road Vehicle Area
- Designing and Constructing an Off-road Vehicle Area
- Signage for an Off-road Vehicle Area
- Operating an Off-road Vehicle Area.¹⁴

The landowner or occupier retains legal liability, which is a significant concern for Local Governments. Advice from LGIS suggests the actual risk may be low provided that a reasonable risk management strategy is in place. The *Civil Liability Amendment Act 2003* is

¹² Retrieved on 17/01/18 from <https://www.dlgs.wa.gov.au/AdviceSupport/Pages/Off-road-vehicles.aspx#sthash.OTHp8CSA.dpuf>

¹³ Retrieved from <https://www.lgiswa.com.au/pages/public/WhatWeDo> on 28/03/2018

¹⁴ Local Government Insurance Services. *LGIS Off-road vehicle area guidance notes for Western Australian Local Government*.

seen to provide important protection for all landowners hosting activities that have an obvious and inherent risk. There have been no successful ORV related claims since the *Civil Liability Act 2002* was introduced.

Other State Government Key Stakeholders

Western Australia Police Force

Section 38(12)(a) of the Control of Vehicles (Off-road Areas) Act 1978 empowers any member of the WA Police Force as authorised officers for the purposes of the Act. Police officers are also empowered under much broader legislation to pursue, stop and detain offenders. Police officers are provided with substantial training to support them in fulfilling these public safety roles.

The provisions of the Control of Vehicles (Off-road Areas) Act 1978 require a person driving an ORV that is involved in an incident resulting in damage to property or injury to another person to stop immediately and ensure those persons receive assistance, including medical aid, and also report the matter to police. The owner of or responsible person for or any person who had possession or control of the ORV vehicle is required to provide information to police which leads to the identity of the person driving the vehicle at the time of an incident leading to the death or injury of a person. In such situations there is the potential for interaction and co-operation between police and Local Governments.

Police may assist or work in conjunction with Local Governments and other designated government agencies in relation to matters dealing with the Control of Vehicles (Off-road Areas) Act 1978. Any operations or co-operation would be based upon the outcome of discussions and agreements reached between senior personnel from the organisations involved.

Department of Biodiversity, Conservation and Attractions

The Parks and Wildlife Service within the Department of Biodiversity, Conservation and Attractions is responsible for protecting and conserving the State's natural environment on behalf of the people of Western Australia. The Service manages the State's 100 national parks, 17 marine parks, State forests and other reserves, which collectively cover more than 31 million hectares of diverse landscapes and seascapes.

The Parks and Wildlife Service is also responsible for managing the access to, and use of, WA's natural areas for nature-based tourism and recreation, including ORVs. The Service manage two gazetted ORV areas at Pinjar and Gnangara, and work closely with stakeholder groups such as Motorcycling WA, the Recreational Trail Bike Riders Association and the WA 4WD Association to manage ORV activities on their reserves, including trail bikes.

The Parks and Wildlife Service are also represented on the *Control of Vehicles (Off-road Areas) Act 1978* Advisory Committee.

Sport and Recreation WA

Sport and Recreation (WA), a division of the Department of Local Government, Sport and Cultural Industries, develops and implements government policy and initiatives in sport and recreation, while contributing to the healthy lifestyle of Western Australians by increasing physical activity through sport and recreation and providing assistance and advice to:

- Local communities
- The sports industry, organisations and clubs
- Businesses
- Other government departments.

Its key objectives are:

- Getting more Western Australians active
- Supporting achievement
- Creating great places to be active
- Building capacity of service providers

Sport and Recreation (WA):

- Provides industry leadership and coordination for sport and recreation services state-wide.
- Establishes partnerships within the industry, across government and with other stakeholders.
- Involves clients in all aspects of service planning and delivery.
- Provides consultancy services and resource support to individuals, organisations and community groups delivering sport and recreation.¹⁵

Intersecting jurisdictions

It is important to note that intersecting jurisdictions, legislation and other variables make enforcement difficult for Local Governments and all stakeholders, and the path to a solution is consequentially complex.

Other stakeholders WALGA has engaged include:

- Local Government Insurance Services
- South West Group
- South West Catchment Council – the Regional Natural Resource Management (NRM) organisation for the South West of WA. NRMs provide support and management of Australia's land, water and biodiversity assets.¹⁶
- Recreational Trail Bike Riders Association. This Association aims to represent the interests of recreational trail bike riders, and encourage safe and responsible riding, including providing information on registration and off-road vehicle areas.¹⁷
- Track Care WA. This organisation aims to provide support to organisations, government bodies, and programs in the sustainable management and environmental protection of vehicular tracks including those of cultural & heritage significance.¹⁸
- Tending the Tracks project coordinator – the Tending the Tracks project is a collaborative initiative between the Northern Agricultural Catchments Council, the Conservation Council WA, Track Care WA and the WA 4WD

¹⁵ Retrieved on 20/01/18 from <http://www.dsr.wa.gov.au/about>

¹⁶ Retrieved on 4/7/18 from <https://nrmregionsaustralia.com.au/what-is-nrm/>

¹⁷ Retrieved on 4/7/18 from <http://rtra.asn.au/>

¹⁸ Retrieved on 4/7/18 from <http://www.trackcare.com.au/wp-content/uploads/2018/02/2018-Track-Care-WA-membership-form.pdf>

Association aimed at building a community-based capacity to assist managers in protecting the coastal environments of the northern agricultural region.¹⁹

WA State Trail Bike Strategy 2008

The *WA State Trail Bike Strategy 2008* was developed to identify the issues around trail bike riding in WA. The strategy recommends changes to improve the current situation for trail bike riders, land managers, residents and other stakeholders. While the Strategy was developed ten years ago, many of its recommendations are still relevant.²⁰

4.0 ORV user perspective

Understanding the perspective of ORV users and acknowledging this recreational activity can assist in developing approaches to improve the status quo for Local Governments and other stakeholders.

In general, there is a great deal of focus on ORV users who do not comply with regulation both outside and within designated Permitted Areas. There is likely to be a proportion of ORV users who will not comply regardless of regulation, enforcement or other measures. However there is evidence that there are users whose population would comply to regulation, if provided with opportunities for awareness and education. The following examples demonstrate that ORV users believe there is a need for more ORV Permitted Areas.

A survey conducted and reported in the *WA State Trail Bike Strategy 2008* questioned user groups (amongst other stakeholders). It highlighted findings of trail bike users which included their top four concerns as: lack of designated areas (84%), trails being closed (76%), safety (62%), and irresponsible riders (60%). The Strategy also recommended the upgrading of existing ORV areas and the development of new ORV areas in regional areas to provide greater legal access to managed settings.

In 2015, 'Off-road Vehicle Areas in the Northern Agricultural Region of Western Australia' was commissioned by the Northern Agricultural Catchments Council (NACC) with funding from Coastwest as a response to community and environmental concerns about unmanaged ORV use within the coastal zone of the Northern Agricultural Region (NAR) of Western Australia. The study incorporated the Shires of Carnamah, Chapman Valley, Coorow, Dandaragan, Gingin, Irwin, Northampton and the City of Greater Geraldton.

The study categorised its riders into 3 broad groups:

1. Riders and bikes least likely to cause legal problems and liability issues were identified as Competition Motocross and Road Registered Trail/Enduro riders.

¹⁹ Retrieved on 4/7/18 from <https://www.nacc.com.au/event/tending-the-tracks/>

²⁰ Retrieved 12/03/18 from <http://www.dsr.wa.gov.au/about/plan-for-the-future/state-trail-bike-strategy>

2. Riders causing some legal problems and liability issues, but not likely to be the cause of many resident complaints such as family groups, quads and side-by-side tourers, considerate “UnUns” – Unregistered vehicle and/or unlicensed rider, but with an awareness of and respect for others.
3. Riders representing the real problem element: no licence / no registration / no respect – they ignore the law and show no consideration to other people or the environment.

The objective is to bring as many ORV users as possible into a more desirable group.

A survey conducted as part of this study revealed that less than 25% of respondents who lived in the study area belonged to a club, and over 90% stated they usually ride with a family group.

Coastal trails, beach and sand dunes were where riders preferred to ride with only 5.7% having preference for commercial Motocross tracks.

Importantly, riders were not highly concerned that areas were illegal; however, only 25% were opposed to paying \$25 for a commercial facility.

Similarly, an on-line forum discussion convened by the Local Government Association of South Australia identified the same issue where the most common concern among riders related to the lack of accessible facilities. There was a perception among forum participants that facilities and space available for off-road motorcycle use was diminishing and that regulation of these spaces had become more restricted.

The Queensland Moto Park example, as outlined in the next section, has demonstrated that an off-road motorcycle area reduced problem riding and associated community complaints by up to 40%. It can also reinforce sustainable riding concepts such as staying on marked trails which will benefit not only the ORV areas but other managed lands. As such they play an important element in the control of trail and quad bike riding in Western Australia.

In 2017, the Shire of Manjimup received State Government funding to engage consultants to undertake a feasibility study into ORV areas within its jurisdiction. The study was prompted by user interest and the perceived need to support ORV user groups in this recreational activity. The Manjimup Trail Bike Trails Hub Feasibility Report projected a potential annual economic benefit of \$13.4 million to the region.

A trails hub is a town or destination which is widely known for its trails offering through the provision of high quality trails, strong branding, trail-user-related services, facilities and businesses, supportive governance and resourcing structure and maintenance regime. A trails hub can achieve this status through the provision and promotion of either a critical mass of complementary mixed-use trails or single use trails, providing there is a range of types suited to a range of experience levels and user types and a suitable maintenance regime in place.²¹

²¹ Shire of Manjimup. Manjimup Trail Bike Hub Feasibility Study. Retrieved on 4/7/18 from <https://www.manjimup.wa.gov.au/our-services/community-development/sportandrec/Pages/Manjimup-Trail-Bike-Hub-Feasibility-Study.aspx>

The feasibility study through literature reviews, reviews of existing facilities, and stakeholder and community engagement:

- Investigated and recommended potential sites for a trails hub; and
- Prepared concept plans, implementation plans, cost calculations and draft operational plans.²¹

In March 2018, the Council of the Shire of Manjimup endorsed phase two of the project and committed \$25,000 seed funding for the initial implementation of the Trails Hub project.

It is considered that completing the pre-stage will enable the preparation of a robust business case that can be used to seek substantial project delivery funding. With what is known about the uniqueness of the project in Western Australia, the overwhelming support of trail bike riders and the prospective economic opportunity the project provides, the potential for the Shire of Manjimup to successfully source project delivery funding is considered high.

These examples, amongst others suggest that more designated areas would assist to improve and mitigate some existing ORV issues by diverting riders from illegal activity to a managed recreational activity. The *WA State Trail Bike Strategy 2008* recommendations, and similarly the South Australian ORV Management Master Plan 2012 and the Queensland Management Plan also support this notion.

4.1 Benefits of ORV Use

ORV user and advocacy groups have identified and support a range of benefits to ORV users and their communities which are outlined below.

4.1.1 Social

- Physical and mental health benefits.
- Individual and community benefits of social cohesion.

4.1.2 Environmental

- Education on conservation.
- Signage that identifies natural and cultural heritage which may assist with conservation efforts.

4.1.3 Economic

- An increase in visitor numbers through ORV activity can contribute to economic development to benefit the wider community.

- Where there will be a cost associated with the management of ORV trails there are also economic benefits for the community. Such benefits include the support of local businesses, increased tourism and creation of employment.²²

5.0 Other Australian Jurisdictions

Other jurisdictions throughout Australia contend with similar issues around ORV use. There is currently no other state or territory that adopts the same registration, licensing and land-use regulations as WA. Each jurisdiction is quite disparate in its approach as outlined below.

Aside from licensing and registration of ORVs, a number of initiatives and approaches are being implemented across Australia with the aim of improving the management of ORVs in communities, some of which are highlighted.

5.1 Queensland

Conditional registration is available for ORVs in Queensland which allows:

- limited access to Queensland roads
- protection of compulsory third party (CTP) insurance in the event of a crash occurring on a road causing personal injury
- determination of the conditions for use to ensure safe operation of the vehicle while on a road.

When a vehicle is to be used for recreational purposes it is recommended access approvals are obtained from the land/road owner as well as the Queensland Police Service before applying for registration. Vehicles cannot be used unless access approvals are held.

There are three categories of road access allowable under conditional registration:

- limited access registration where vehicles are predominantly restricted to worksites and designated areas
- zone access registration where vehicles are allowed to travel on road for distances of 20km, 40km or 80km - depending on their areas of operation in Queensland
- unrestricted access registration where appropriate vehicles will be allowed unlimited access but may still have conditions that apply to the time of operation.

The Australasian Off-road Vehicle Association (AORVA) reports this system as unworkable for weekend riding opportunities and remains extremely complex even for those experienced commercial operators.²³

5.1.1 Queensland Moto Park

The Queensland Moto Park (QMP) is an ORV area that caters for off-road motorcycles. The land on which it operates is State Government owned while a group of Local Governments

²² Management of off Road recreation Vehicles in South Australia Discussion paper, December 2011 Retrieved from https://www.lga.sa.gov.au/webdata/resources/files/Off_Road_Vehicles_Discussion_Paper1.pdf on 05/01/2018

²³ Retrieved on 15/02/18 from <https://www.aorva.com.au/state-regulations>

(South East Queensland Council of Mayors) partnered with Motorcycling Australia, Motorcycling Queensland and the Queensland State Government to establish the facility.

QMP is leased and run by Motorcycling Queensland on a pay-its-own-way basis and employs six staff with a manager living on-site. It is open five days per week including weekends, with track maintenance done on closed days. It attracts riders from up to two hours' drive away and 50% of riders are family groups. There were 32,000 riders that used the facility in its first year, with usage now around 25,000 per year.

The facility cost \$1.2million to construct (excluding an access road to the site). These costs include: forming the trails; fencing and signage; buildings (office, manager's residence, amenities block, showers, and toilets); dam and track irrigation (dust suppression) system; track construction and maintenance machinery.

Rider fees range from \$9.90 per day per child to \$57.90 per day per adult. QMP generates approximately \$800,000 per annum through rider fees which allows the QMP to cover its annual operating costs.

The site has extensive fencing to separate riders and a one-way system of laneways to access tracks. All tracks are one-way only and protective clothing and well-maintained bikes are required and monitored by QMP. Junior riders are separated from seniors; and juniors are also restricted in what size (engine capacity) bikes they can ride. Quads bikes are separated from two wheel bikes. Tracks are opened and closed at specific times and the track rotation schedule allows junior riders to ride on all tracks. Junior riders are supervised by QMP staff at all times. The injury rate (defined as the need for an ambulance to attend) is 0.2% of rider registrations.²⁴

5.2 New South Wales

New South Wales offers conditional registration in only one location (Stockton Beach) where recreational vehicles, such as designated trail bikes and ~~ATVs~~, quad bikes, can be used. Riders do not need a current driver's licence and must be over the age of 8 years old.²⁵ To establish any ORV use in NSW National Parks and Wildlife Services or Forest NSW ORV users' needs to become an approved Lessee or contractor.²⁶

5.3 Victoria

Victoria offers a recreational registration which limits access to roads that are not freeways or arterial roads, and are outside built up areas (limited to zones of under 100km/hr).

²⁴ 2017 Discussion with Peter Nash, South West Group

²⁵ Retrieved on 15/02/18 from <http://www.rms.nsw.gov.au/roads/registration/get-nsw-registration/vehicle-sheets/recreation-vehicle.html>

²⁶ Retrieved on 15/02/18 from <https://www.aorva.com.au/state-regulations>

The person operating a vehicle must be at least 18 years of age and hold an appropriate learner permit or licence. This 2-wheeled registration system allows for access to 36,000kms of public roads, State forest and reserves.²⁷

5.4 Tasmania

Tasmania offers ORV Restricted Registration (RV) in addition to full registration and enables access to forest, beach and mountain riding around Tasmania. For quad bike registration a current car driver's licence is required and available from the age of 17.

There are nine primary tracks, 10 secondary tracks and many parks and forests in the 'Ride Around Tasmania' system which are supported by state government departments and industry.²⁸

5.5 Northern Territory

The Northern Territory only offers conditional registration for a quad bike or ATVs for work related purposes. Riding restrictions on conditional registration include speed restrictions and a current 'C' or 'R' class driver licence.²⁹

5.6 South Australia

South Australia offers a 'restricted miscellaneous vehicle' registration category that specifically includes four wheel motorbikes, and requires an explanation of the use of the vehicle including details of where the vehicle will be used, to be lodged along with an application form. Essentially this category of registration is open to registrar discretion. Application can be made for conditional registration and compulsory third party insurance. In September 2012 the South Australian Government released the 'South Australia Off-road Motorcycling Strategy and Facilities Masterplan' following a discussion paper 'Management of Off-road Recreational Vehicles in South Australia' released by the Local Government Association of South Australia in December 2011. Since then the Local Government Association of South Australia continues to experience the similar issues to WA with ORVs and is in further high level discussions on how to progress this work.

6.0 ORV Use in Context

ORVs as defined by the *Control of Vehicles (Off-road Areas) Act 1978* includes a variety of vehicles used in Western Australia. Local Governments' concerns centre primarily on unregistered ORVs and licensed 4WD vehicles that are used illegally on reserves, beaches, parks in addition to public other spaces without the consent of the land owner or occupier. The issues arising from illegal use of ORVs include community safety, amenity, environmental and economic impacts.

²⁷ Retrieved on 15/02/18 from [https://www.vicroads.vic.gov.au/searchresultpage?collection=vicroads-web&query=recreational registration](https://www.vicroads.vic.gov.au/searchresultpage?collection=vicroads-web&query=recreational+registration)

²⁸ Retrieved on 15/02/18 from <https://www.aorva.com.au/state-regulations>

²⁹ Retrieved on 15/02/18 from <https://www.aorva.com.au/state-regulations>

Notwithstanding these issues, a number of Local Governments have made comment on tourism opportunities and the potential for economic development. The Shire of Gingin commented that their ORV areas made a positive contribution to tourism in their local area brought by ORV users, and urged a balanced approach to ensure that visitor numbers to their attraction were not 'diminished by overreaction'. Potential negative impacts on the tourism and economic development of Local Governments with permitted ORV areas is not the aim of this paper's recommendations, and the amelioration of these type of negative impacts needs to be kept front of mind when designing new strategies for ORV management.

There is also evidence that supports the benefits of social cohesion and physical activity of ORV user groups in their communities.

6.1 ORV Registrations

There are an estimated 58,000 adventure, trail, motocross, quad and mini bikes being operated in Western Australia, with only 2,868 of those currently registered (less than 5%).

Motorcycling WA estimates that 90% of adult and 95% of child bike riders are not members of clubs and are recreational riders that require trails.³⁰ There is evidence that demonstrates the uptake of ORV use is on the rise and is not likely to diminish.³¹

Table 2 shows the number of ORV registrations in WA from 2014 to 2018 by category of vehicle. Although sales figures indicate that numbers of trail bikes are on the increase, registrations do not align. There is a fall in registrations across the board with the exception of off-road beach buggies which have increased marginally.³²

Table 2 – ORV registrations in WA

ORV registrations in WA 2014 - 2018					
Vehicle	Jan-14	Jan-15	Jan-16	Jan-17	Jan-18
ORV 3 wheel vehicle	56	54	54	44	49
ORV 4 wheel vehicle	2206	2109	1750	1608	1626
Off-road air cushion	3	3	3	3	3
ORV Beach buggy	126	123	120	122	132
ORV Motorcycle	1357	1273	1059	1064	1022

³⁰ Shire of Manjimup. April 2017. Retrieved on 16/03/18. *Manjimup trail Bike Trails Hub Feasibility Report*.

³¹ Retrieved on 07/02/18 from https://www.lga.sa.gov.au/webdata/resources/files/Off_Road_Vehicles_Discussion_Paper1.pdf

³² Department of Transport. 2018.

ORV other body	56	53	46	39	36
Total	3804	3615	3032	2880	2868

6.2 ORV complaints and crash statistics

In January 2017 the State Government reported that illegal trail bike complaints had risen over 90% in three years.³³

In 2018, the Road Safety Commission reported that between 2012 and 2016 there were 106 people killed or seriously injured on trail bikes, including 90 hospitalisations and 16 deaths in WA.

Needless to say there is growing concern from communities that ORV use is compromising the safety of members of the community, visitors, and ORV users, which is in addition to growing concerns about environmental, amenity and economic impacts.

Data on injury, serious injury and death is not widely reported. There is limited data relating to ORV incidents in general, with State Government agencies generally reporting on-road vehicle crashes and stolen vehicles which do not differentiate vehicle types. However there are some recent initiatives that do report ORV incidents.

6.2.1 Royal Perth Hospital Injury Data – Quad Bikes

Royal Perth Hospital has recently released collated data on quad bike injuries which revealed that between 2008 and 2017, there were 270 trauma patients admitted to RPH with significant injuries related to quad bike accidents. Analysis of the data shows:

- Injuries were mainly caused from falling from the quad bike; or colliding with a stationary object (e.g. a tree) or colliding with another vehicle (e.g. bike or four wheel drive).
- Injury locations: 46% off-road, 12% on a farm, 9% on a street/road, 3% at home, and 30% at other locations.
- Males account for 80.3% of people injured and females account for 19.7%.
- The age range of people injured is from 12 years of age to 82 years of age.
- The most common age group of people injured was 16 to 30 years followed by 30 to 45 years. Four people injured were aged over 75 years. (Figure 1)
- Riders account for 90% of people injured and pillion passengers account for 7%.
- 23% of the injuries were major trauma.
- Drug and/or alcohol use was reported in at least 24% of incidents (the use of drugs/alcohol is self-reported so it is arguably under-reported).

³³ Retrieved on 27/02/18 from <https://www.mediastatements.wa.gov.au/Pages/Barnett/2017/01/Tough-new-hoon-laws-to-come-into-orce.aspx>

- 43% of people injured were not wearing any form a safety device; a further 19% were unknown. (Figure 2)
- The average length of hospital admission was 4.5 days for minor trauma and 8.67 days for major trauma, with 74% of patients discharged home, rather than to a rehab facility.

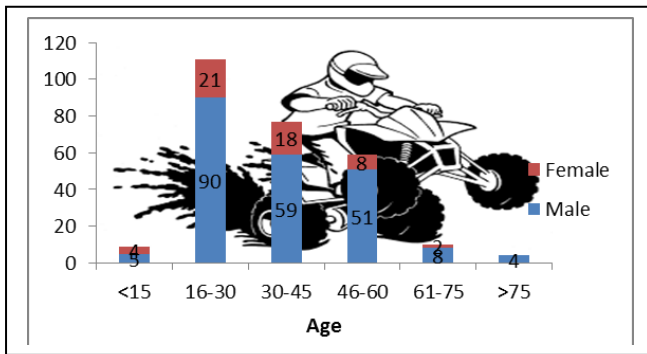


Figure 1 – Age of quad bike riders

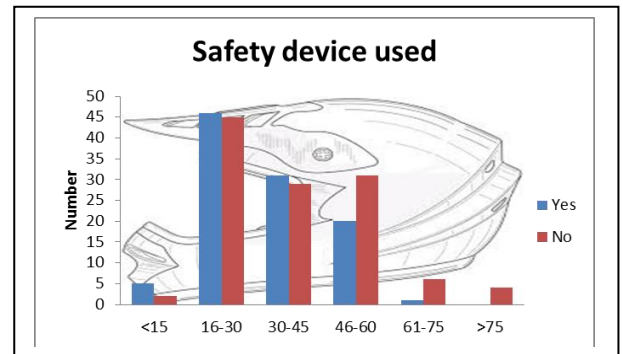


Figure 2 – Safety device used

Figure 3 shows the ten year trend of injuries from quad bike use. It is evident that from 2011 there is a steady increase in the number of injuries.³⁴

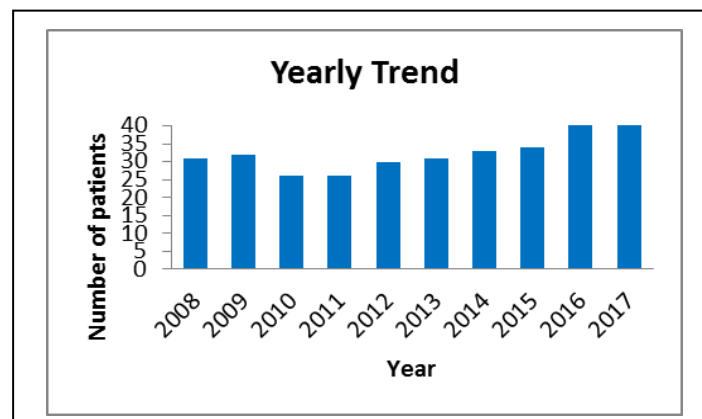


Figure 3 – Ten year trend – quad bike injuries

As well as the significant impact injury has on people and communities, a study on the economic cost of fatalities from quad bike use found that the cost to the Australian economy

³⁴ Royal Perth Hospital. 2018. *Quad bike accidents requiring admission to Royal Perth Hospital*

between 2001 and 2010 was an average of \$2.3 million per incident with a total annual cost approaching \$30 million.³⁵

Research undertaken by Monash University Accident Research Centre investigated the frequency of fatalities and hospital-treated injuries among on-road and off-road motorcyclists, the demographic profile of injured riders, causes of injury, and the nature and site of injuries. The research revealed that off-road motorcycling presents a much higher proportion of injuries in younger people than on-road riding.³⁶

The cause of injuries differs between on-road and off-road riding, with on-road injuries primarily a result of collisions with other vehicles while off-road riding injuries are usually the result of non-collision accidents i.e. falling off the bike. This is a reflection of the different risks and hazards posed by on-road and off-road riding.³⁷

6.3 Impacts of ORV Use

The impacts of ORV use are widely reported throughout literature and align with Local Government feedback.

The *WA State Trail Bike Strategy 2008* provides comprehensive detail on each of the following impacts which can be attributed to broader ORV use outside trail bikes only.³⁸

6.3.1 Social

The social impacts of ORV use include:

- damage and trespass to private and public property
- dangerous driving
- trail user conflict
- noise and nuisance
- parking issues
- irresponsible and anti-social behaviour

6.3.2 Environmental

The environmental impacts of ORV use are far reaching and are widely documented. In WA, a survey conducted to inform the *WA State Trail Bike Strategy 2008* revealed many community concerns related to environmental issues including:

- soil degradation

³⁵ Australian quad bike fatalities: what is the economic cost? Tony Lower, Kirrily Pollock, Emily Herde. *Australian Centre for Agricultural Health & Safety, School of Public Health, University of Sydney Research into the Benefit-Cost of Providing Off-Road Motorcycle Facilities in Victoria*

³⁶ An investigation of serious injury motor vehicle crashes across metropolitan, regional and remote Western Australia, Peter Palamara; Kriti Kaura and Michelle Fraser January 2013 Retrieved from <https://c-marc.curtin.edu.au/local/docs/ISIMVCMRRWA.pdf> on 30/03/18

³⁷ *Research into the Benefit-Cost of Providing Off-Road Motorcycle Facilities in Victoria*

³⁸ WA State Trail Bike Strategy. 2008. Retrieved on 05/12/17 from <http://www.tbma.com.au/stbs>

- erosion
- compacting soil
- removal of vegetation
- disruption to fauna including shorebirds
- spread of phytophthora dieback
- increased litter and dumping
- translocation of weeds and pathogens
- death or injury to fauna

6.3.3 Economic

The potential economic costs of ORV use include:

- maintenance cost of the trails in Permitted Areas
- repair of property and environmental damage on private and public property resulting from illegal ORV use
- signage
- education
- relevant levels of enforcement
- use of land owner resources to manage and enforce e.g. Local Government
- economic impact from personal injuries; loss of income, absenteeism, and public health costs.
- cost to Local Government in responding to community complaints and enforcement regarding illegal use.

It is important to note, however, that costs associated with education and enforcement will escalate if the regulation of ORV use is improved.³⁹

7.0 Local Government Survey Feedback

Over a number of years, WALGA has received Local Government feedback on the social, environmental and economic costs of ORVs to their Councils with a call to action by the Association. Most recently these have been identified by the South East Metropolitan Zone, other peri-urban Local Governments and regional Local Governments.

WALGA has undertaken a number of initiatives, including a workshop with the then DLGC in 2017; letters to the Minister for Local Government and the Minister for Sport and Recreation; and convened a working group of stakeholders to commence work with the aim of improved outcomes for Local Government.

³⁹ Retrieved on 15/02/18 from
https://www.lga.sa.gov.au/webdata/resources/files/Off_Road_Vehicles_Discussion_Paper1.pdf

In November 2017, WALGA distributed a survey to 138 Local Governments seeking advice on the impacts of ORV use to their Local Governments and communities, and seeking further strategies for WALGA to assist in improving ORV management.

WALGA received 28 responses to the survey. Survey respondents were the City of Armadale, Shire of Bridgetown-Greenbushes, Shire of Chapman Valley, Shire of Coorow, Shire of Esperance, City of Greater Geraldton, Shire of Gingin, City of Gosnells, Shire of Halls Creek, Shire of Irwin, Shire of Kondinin, City of Kwinana, Shire of Jerramungup, City of Karratha, Shire of Manjimup, Shire of Menzies, Shire of Murray, Shire of Nannup, Shire of Northampton, Shire of Pingelly, Town of Port Hedland and City of Wanneroo. Some Local Governments provided two responses.

The key findings were grouped and are summarised below and were central in developing the recommendations following. The recommendations have been developed to address common concerns across the Local Government sector and there is not a 'one size fits all' solution.

7.1 Local Government Survey Themes

1. What are the impacts of ORV use in your District?

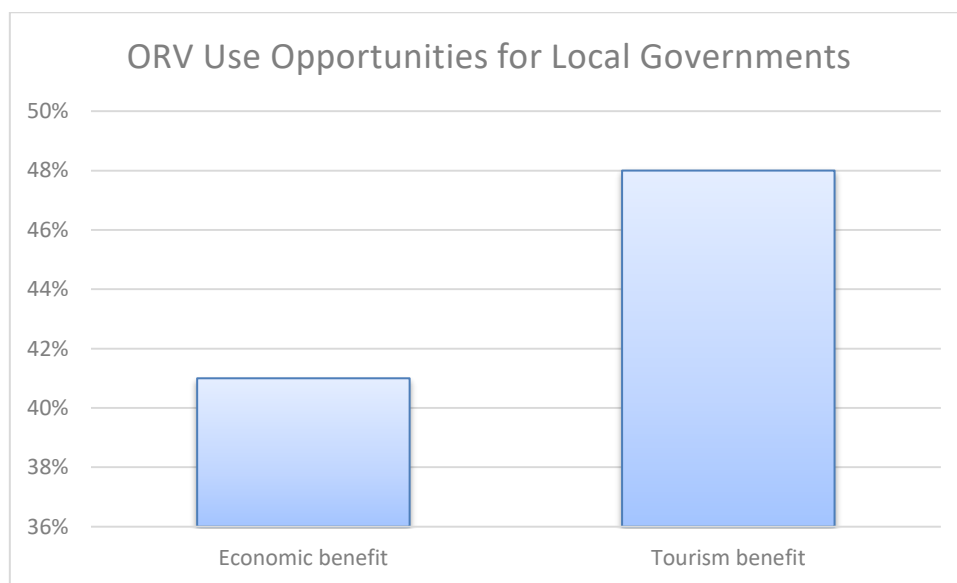


Figure 4 – ORV Use Opportunities for Local Governments

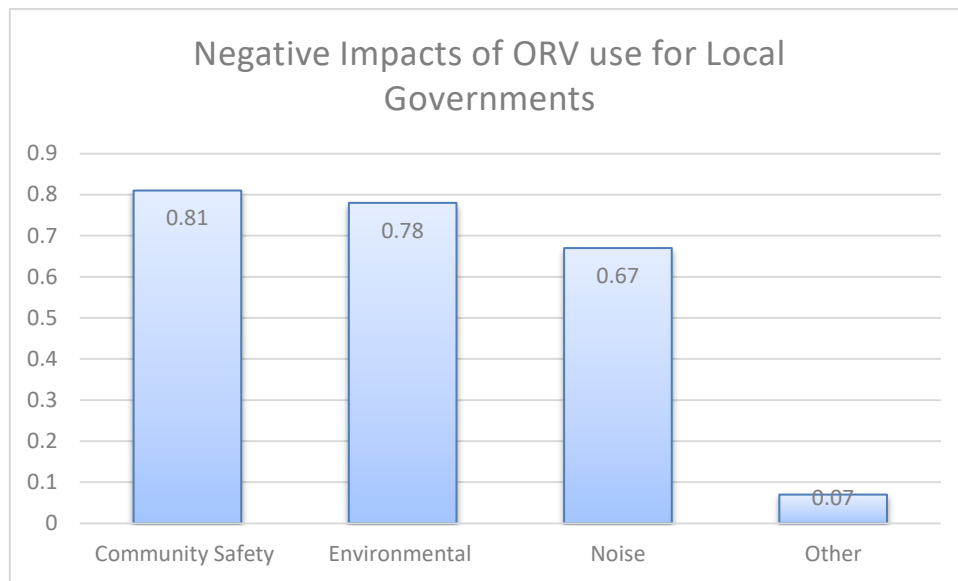


Figure 5 –Negative impacts of ORV use for Local Governments

The 'other' category (7%) included fire and criminal activity.

Figures 4 and 5 illustrate the vast majority of respondents identify community safety as the main impact of ORV use (81%), followed by environmental (78%); then noise (67%); then tourism (48%); and economic development (41%).

2. How is your Local Government addressing these issues?

The key themes around addressing the issues included:

Designated areas

- Establishing or seeking to establish ORV areas
- Welcoming ORV tourism
- Adopting ORV signage

Enforcement

- Undertaking patrols
- Responding to complaints on reserves and public places but will not pursue offenders
- Reliance on police officers to pursue and apprehend offenders
- Using covert cameras to record illegal behaviour

Education

- Creating opportunities to provide the community with information

Environmental

- Undertaking rehabilitation and dune fencing

3. What are the risks, issues and opportunities your Local Government consider most important for improved control of ORVs?

Safety

- Safety in terms of vehicles and pedestrians and rangers, visitors, residents
- Illegal behaviour
- Users getting lost on remote tracks

Environmental

- Spread of weeds
- Erosion
- Litter
- Fire management
- Structural damage
- Damage to dunes
- Noise issues

Space

- No designated areas which aggrieves the problem

Legislation

- Local Governments have no powers to address issues
- Inability to effectively enforce compliance
- Lack of enforcement options and penalties

Education

- Improved education and set agreed policies
- Be clear on where ORVs are acceptable

4. What changes to regulation or State Government policy do you consider would best support your Local Government in dealing with ORVs?

- Identify more ORV areas with Local Governments, feasibility studies, development of programs for riders
- Identify funding for ORV areas
- Address Local Government concern relating to insurance and liability
- Enforcement with higher penalties
- Improved signage and education to the public

5. Estimate how many hours per week your Local Government spend addressing ORV control, regulation, response to complaints and other related issues?

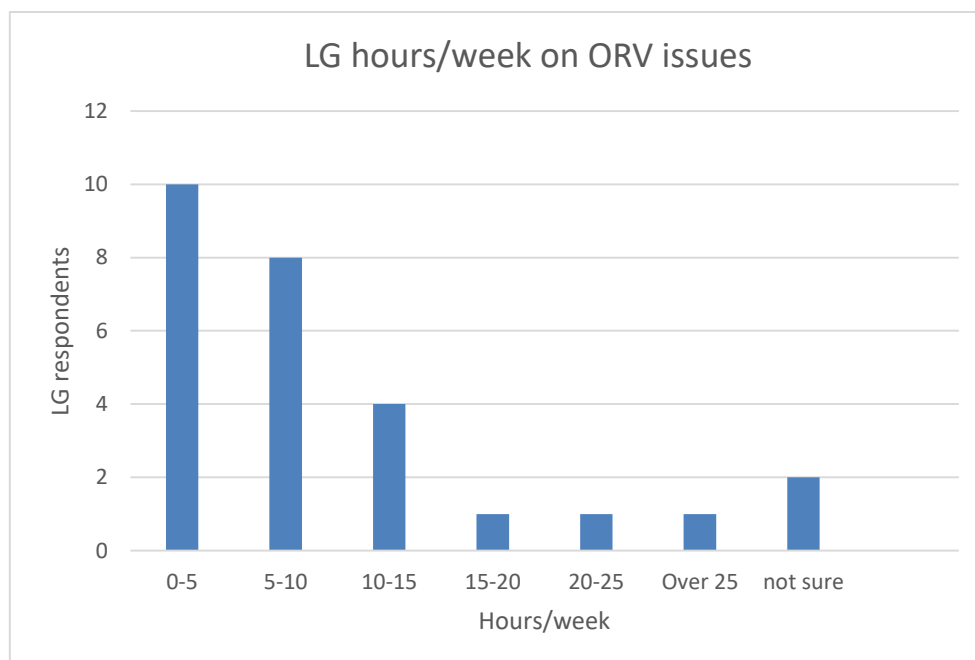
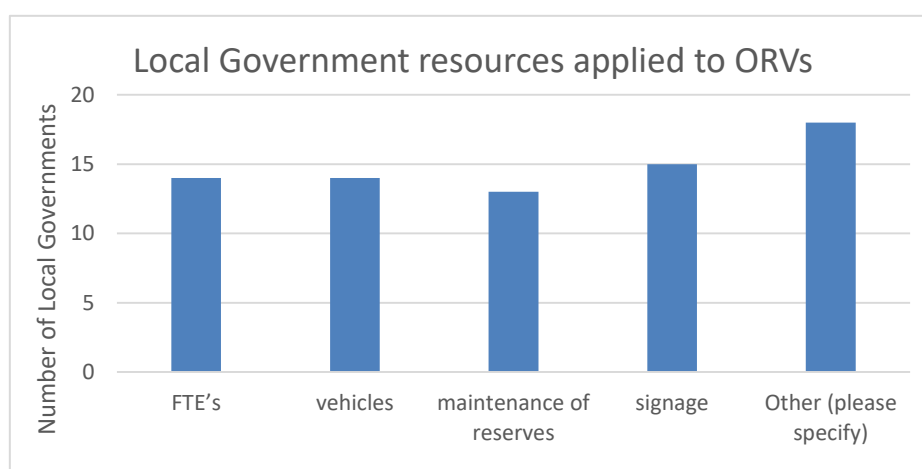


Figure 6 – LG hours/week on ORV issues

This demonstrates the majority of Local Government respondents report spending between spending 0-15 hours per week on ORV issues in their communities.

6. What Local Government resources are applied?

Figure 7 – Local Government resources applied to ORVs



The “Other” category included monitoring cameras, City Assist patrols, administrative follow-up, and community event education.

7. How can WALGA assist your Local Government?

Legislation, registration and licensing

- Mandatory licensing and registration of ORVs
- Review of the ORV Act and process of dealing with ORV issues

ORV areas

- Assistance to address ORV use in unmanaged crown land and unmanaged reserves
- Lobby for State Government funding to develop and maintain ORV areas

Education

- Development of clear procedures, enforcement tools and training for regulatory officers

Engagement

- Continue to work with stakeholders in the decision-making process.

8.0 Recommendations

The Local Government sector has identified that addressing ORV issues would contribute to improved outcomes for the sector and its communities on a number of levels including community safety, environmental, economic and social impacts. What is clear, is that in order to achieve this, there is no one solution or model, nor is there one stakeholder alone that can act to address common Local Governments issues.

WALGA State Council endorsed the following recommendations on 5 December, 2018.

In response to feedback from Local Governments and considering the broader context of ORV management and evidence to support outcomes, WALGA advocates that:

8.1 Recommendation 1

1. State Government conducts a review of current legislation to align licensing and registration of ORVs with other users and vehicles.

Prioritising mandatory licensing and registration of ORVs is fundamental to enabling State and Local Government agencies to effectively regulate the use of ORVs within and outside designated ORV Permitted Areas.

All Local Government respondents supported this recommendation. A table including comments is included below.

Local Government	Comments
Shire of Esperance	A review of the current legislation to align licencing and registration of ORV's is strongly supported by the Working Group. The current legislation does not provide enough clarity in regards to licencing and registration.
Shire of Gingin	Not provided for this recommendation.
City of Greater Geraldton	Not provided for this recommendation.
Shire of Murray	<p>The proposal for legislative changes relating to licensing and registration of ORVs detailed in Recommendation 1 are fully supported.</p> <p>Current enforcement of the Control of Vehicles (Off-road Areas) Act 1978 (the "Act") is extremely difficult due to the majority of offenders/culprits being minors and not criminally responsible for offences committed. Additionally infringements do not act as a deterrent because offences committed by persons under the age of 18 years cannot be referred to the Fines Enforcement Registry (FER).</p> <p>Unlike other legislation involving vehicle offences (i.e. Part 4, Division 2 Road Traffic Administration Act 2008, s.9.13 Local Government Act 1995, etc.) the absence of any requirement under the Act to identify who was in charge of the vehicle at the</p>

	<p>time the offence makes meaningful enforcement outcomes impossible to achieve.</p> <p>Furthermore, Police resourcing and understandably competing operational priorities means that enforcement of the ORV legislation is not always a high priority for WA Police. In most cases complaints to WA Police are forwarded to local government and this needs to be taken into account when the legislation is reviewed.</p> <p>Also during the review of the Act consideration needs to be given to –</p> <ol style="list-style-type: none"> 1. Ensuring the Act is applies throughout the State not just in promulgated areas (reference GG dated 21 December 2010 [page 6753]; 2. Simplify the legislation (plain language) to enable outcomes, objectives and offences to be understood not only by the enforcing agency, but by the general public; 3. Improve the scope of seizing, impounding and confiscation powers for ORV's found in contravention of the Act (during or after the fact) by local government officers without the need for a court order, as is currently the case under s.42 of the Act). Reference is made "Hoon Laws" under Part V, Division 4, Subdivision 2 of the Road Traffic Act 1974. Consequential amendment may be required to the Local Government Act 1995 (LGA) to deal with impounding ORV's so LGA requirements do not apply, and; 4. Significantly increase available modified penalties under the associated subsidiary legislation to provide meaningful deterrent value. <p>In January 2015 a number of local government, Water Corporation, WA Police, Parks and Wildlife representatives meet with then Minister for Local Government, Hon. Mr. Tony Simpson in Mundijong to consider ORV issues limiting enforcement. At this meeting the points outlined above were discussed along with improving education, registration and licencing requirements at the point of sale (whether new or second hand).</p> <p>Obvious frustration was very evident with the current legislation across the broad representation at this meeting and it would be reasonably expected that this view remains at this point in time.</p>
Town of Port Hedland – Officer Comment	<p>Prioritising mandatory licensing of all ORV's, exceeding 200Watt power output, would benefit Local Government and WA Police significantly allowing for the rapid identification of compliant / non-compliant vehicles at any time. The requirement to register ORV's would also enable the public to report in more detail</p>

	<p>registered ORV's that are witnessed committing offences such as entering Town or State land, damaging the environment etc.</p> <p>It is strongly recommended that the licencing/registration of ORV's be brought in line with the requirements of the Road Traffic (Vehicles) Act 2012. This would require registered vehicles to display registration plates in clear view. Failure to display registration plates would then result in vehicles being treated as unregistered thus providing a clear framework for enforcement action.</p> <p>It is recommended that a tiered registration model be adopted governing the type of licence/registration required to operate on certain land. If the vehicle is expected to only be used on private land then a basic licence/registration type should be required. If the ORV is expected to be used on State land or reserves then a higher level of licence/registration type with conditions of use should be required. This would be reflected on the registration plate allowing for easy visual identification by authorised officers, Rangers and Police.</p> <p>Further to the above comments, it is strongly recommended that legislation be adapted/modified to capture all ORV's used on public land which are not licenced/registered. The provisions of s80 O of the Road Traffic Act 1974 provides Police the ability to impound an 'unlicensed motor cycle used on road'. This severely limits the authority of Police to intervene in situations where ORV's such as quad bikes or dune buggies are used in public thoroughfares.</p>
Peter Nash, Regional NRM Facilitator, South West Group	<p>Registration of ORV's should be mandatory, not voluntary. This would generate an income stream that can be reinvested to support ORV use and would provide a means of identifying and prosecuting those using ORVs illegally or irresponsibly.</p>

Rationale behind proposed changes to legislation

Western Australian law provides for the regulation and control of vehicles and their operation in most circumstances in the community. The rationale behind current vehicle regulation is summarised as providing minimum standards for:

- Vehicle safety relevant to vehicle construction, maintenance, fixtures and fittings;
- Safe use, operation and driving of vehicles;
- The control of criminal activity and address risks to public safety and amenity via the:
 - Identification of vehicles; and
 - Identification of persons responsible for ownership, operation or driving of a vehicle.

Current legislation however, does not apply these principles consistently to all vehicle types, resulting in ORVs being almost completely uncontrolled as shown in Table 3.

Vehicle Type	Vehicle Licence / Identification Required?	Road Worthiness / Safety Requirements	Driver Licence / Ticket Required?	Use Locations Restricted?	Enforcement Agency
Cars, Trucks, SUVs, 4WD, Motorbikes, etc. <i>Road Traffic (Vehicles) Act 2012</i>	✓	✓	✓	✓ Road Reserves	DoT WAPF
Recreational Boats	✓	✓	✓	✓	DoT WAPF
Off Road Recreational Vehicles <i>Road Traffic (Vehicles) Act 2012 and Control of Vehicles (Off-road Areas) Act 1978</i>	✓ LIMITED TO ONLY Conditional Licensing OR Registration for Permitted Areas	✓ LIMITED TO ONLY where conditional Licensing applies	×	✓ LIMITED legislation does not enable effective regulation	<ol style="list-style-type: none"> 1. WAPF 2. LG – limited to LG property and Permitted Areas 3. CALM – limited to CALM land 4. Water Corp. – limited to Water Corp. land

Table 3 - Current legislation applications

The limitations for effective regulation and control of ORVs both inside and outside of Permitted Areas has been an ongoing major concern for the community and authorities for many years, contributing to negative impacts for user safety, public safety and amenity, and also illegal activity.

There is a strong argument for ORV regulatory arrangements to be amended to align with the regulatory rationale applied to on-road vehicles and recreational boats.

Regulatory Arrangements in 2018

The *Control of Vehicles (Off-road Areas) Act 1978* is:

An Act 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, and for related purposes.

The Act defines an *off-road vehicle* as meaning - a vehicle which is not licensed, deemed to be licensed, or the subject of a permit granted, under the *Road Traffic (Vehicles) Act 2012*. This includes any vehicle that is not primarily designed for on-road use.

Whilst the *Control of Vehicles (Off-road Areas) Act 1978* provides for registration of vehicles under s.28A, the registration of any vehicle is at the discretion of the owner, dependent on its proposed use, either as licensed or registered.

Once licensed or registered the vehicle is required to display the relevant number plate.

Section 34(2) of the Act prescribes as an offence, the driving or using of a vehicle licensed under the *Road Traffic (Vehicles) Act 2012* on any land (other than as per the Road Traffic (Vehicles) Act or on private land with consent) unless number plates are affixed.

Section 6 prescribes a range of offences for driving or using an ORV, which in operation includes:

- In the following land areas:
 - Crown Land.
 - Local Government property, including land under the care, control or management of the Local Government.
 - Private land without the owner's consent.
 - Prohibited Areas declared under s.16 of the *Control of Vehicles (Off-road Areas) Act 1978*.
- Creating or causing excessive noise, whether or not on private land.

Off-road vehicles and ORV users are not, however, required to be registered or licensed for use outside the above prescribed circumstances, resulting in the majority of ORV use being uncontrolled meaning the existing regulatory controls are unable to be effectively and consistently enforced.

Legal Framework Gaps

Successive State Government proposals for improving regulatory arrangements for ORV enforcement have focused on requiring a range of regulatory bodies, including Local Governments, to leverage existing land control and regulation mechanisms as shown in Table 4.

Legislation	Responsible Agency for Enforcement
<i>Conservation and Land Management Act 1984 and Conservation and Land Management Regulations 2002</i>	Department of Water and Environment Regulation
<i>Land Administration Act 1997</i>	Department of Planning, Lands and Heritage
<i>Metropolitan Water Supply, Sewerage and Drainage Act 1909 and By-laws 1981</i>	Department of Water and Environment Regulation
<i>Road Traffic Act 1974</i> and associated subsidiary legislation	WA Police Force
<i>Motor Vehicle (Third Party Insurance) Act 1943 and Motor Vehicle (Third Party Insurance) Regulations 2009</i>	Insurance Commission of Western Australia
Local Laws	Local Government

Table 4 – Regulatory mechanisms

The majority of these regulatory instruments, however, relate to offences regarding the use of land without appropriate approval. They were never contemplated or intended for the purpose of regulating vehicles, protecting users, maintaining public safety or amenity, or controlling illegal use of ORVs.

Therefore, when attempting to apply these existing regulatory mechanisms to ORV use, they are rendered incapable of effective enforcement due to:

- the inability to identify vehicles; or
- the inability to identify vehicle owners or responsible person; or
- the inability to identify vehicle drivers or operators; or
- the absence of legislative authority for the various agencies to pursue vehicles or detain/apprehend drivers or operators.

Improving ORV regulation and control

Amendments are required to existing legislation to provide for:

- The registration or licensing of any vehicle other than when used solely on private property with the consent of the property owner or occupier.
- The registered owner of an ORV is responsible for any contraventions or offences committed by a person under 16 years of age who is operating or driving the ORV at the time.
- The registered or licensed owner of an ORV is responsible for any contraventions or offences where the person responsible for operating or driving an ORV at the time the contravention or offence occurs cannot be identified.

Given the nature of offences involving ORVs (i.e. an ORV user can simply drive away from law enforcement), many of the regulatory agencies, other than WA Police, do not have the resources nor trained personnel to appropriately and safely pursue and apprehend ORV users. WA Police are key to ORV enforcement particularly in circumstances where there is evidence of serious risk to the safety of ORV users and/or the public.

8.2 Recommendation 2

2. State Government to allocate funding for feasibility studies to identify suitable sites for new ORV Permitted Areas throughout the State which considers environmental values, future land use planning, public safety and amenity and Local Government risk and liability issues.

All Local Government commenters supported this recommendation, with the Peter Nash, Regional NRM Facilitator, South West Group requesting the inclusion of 'environmental values' in the recommendation. This has now been included. A table including comments is included below.

Local Government	Comments
Shire of Esperance	The Working Group would welcome funding for feasibility studies to help identify new suitable ORV sites and would hope this funding would be available for projects across multiple land tenures and managers.
Shire of Gingin	Not provided for this recommendation.
City of Greater Geraldton	Not provided for this recommendation.
Shire of Murray	<p>The proposal for further investigation outlined in Recommendation 2 are supported, depending on timely outcomes being achieved.</p> <p>The lack of suitable areas for ORV use has been an ongoing issue for many years. The Shire of Murray actively participated in the development of the State Trail Bike Strategy (STBS) that was instigated jointly by the former Departments of Sport and Recreation and the Department of Local Government. Participation also occurred in the development of the Swan-Collie Land Use Planning study commissioned by the former Department of Environment and Conservation.</p> <p>These studies were completed in 2008 and 2010 respectively. In 2010 the Minister for Sport and Recreation confirmed that cross agency support was required to progress the report recommendations and a chair of a Joint Agency Implementation Committee had been appointed. To date no real progress has been achieved from the outcome of either study, notwithstanding the opportunity to report on this paper</p> <p>Illegal and legal ORV use transcends local and regional boundaries and the State must play the primary role in the master planning process, with input from all stakeholders to identify, develop and manage a sufficient number of approved ORV areas to effectively cater for all classes of off road vehicle use, within reasonable close proximity to the Perth Metropolitan Region or close by regional areas.</p> <p>Whilst it is acknowledged that some unlawful ORV will continue to occur irrespective of legal use opportunities being available and provided. Having legal use options provides the opportunity</p>

	<p>to educate and divert the vast majority of ORV users to approved locations, and this in turn will reduce illegal use.</p> <p>If and when more legal ORV use areas are provided framework needs to be established to enable the not for profit sector, such as the Recreational Trailbike Riders Association or other like associations or other entities to manage legal operating area on crown managed land, with the appropriate support by the State to fund insurance needs and ongoing maintenance.</p> <p>The burden for funding approved ORV areas, wherever located should not be the responsibility of local government either singularly or collectively.</p>
<i>Town of Port Hedland – Officer Comments</i>	<p>The provision of appropriate, quality recreation areas for the people of Port Hedland has remained a strong focus of the Town. Through community consultation and long term master planning that Town currently offers a variety of both specialised and mixed use recreational sites. At present that Town currently has two locations where the use of ORV's is not regulated. These are provided with the hope that the community will restrict the use of these vehicles to these sites alone.</p> <p>Unfortunately the use of ORV's in areas such as protected reserves, streets and public places continues to be an ongoing issue, and an issue that has put a significant drain on both the Town and Police resources.</p> <p>While support for the investigation of additional locations for ORV use is a good outcome of the review, a more comprehensive review on the necessities of ORV sites such as appropriate signage including conditions of use would be a better outcome for Local Governments and regulatory authorities.</p>
<i>Peter Nash, Regional NRM Facilitator, South West Group</i>	<p>Recommendation 2 currently reads "State Government to allocate funding for feasibility studies to identify suitable sites for new ORV Permitted Areas throughout the State which considers future land use planning, public safety and amenity and Local Government risk and liability issues."</p> <p>It should be amended to read "State Government to allocate funding for feasibility studies to identify suitable sites for new ORV Permitted Areas throughout the State which considers environmental values, future land use planning, public safety and amenity and Local Government risk and liability issues."</p>

Local Governments have identified the need for more ORV Permitted Areas which may assist in addressing some current issues by diverting users from illegal unmanaged areas to properly designated, managed, and legal areas. While there is likely a proportion of ORV users who will not comply regardless of regulation, enforcement and other measures, there is evidence from Local Governments, other jurisdictions within Australia, and from user

groups that suggests there is a cohort who are simply unaware and would comply with better knowledge and education around Permitted Areas and registration.

As discussed, the *WA State Trail Bike Strategy 2008* survey revealed that the primary concern reported by users was lack of facilities, with currently only Pinjar and Medina available in the metropolitan area.

WALGA acknowledges this recommendation will not be suitable for all Local Governments; however in the right setting it does have a sound evidence base. It is noted that in peri urban areas and metropolitan areas, land is far less available than in regional areas and different approaches need to be scoped, for example, shared regional facilities.

8.3 Recommendation 3

3. State Government to develop and implement, in collaboration with WALGA and ORV stakeholders, educational resources and training suitable to the specific needs of ORV users, stakeholders and Local Governments. Resources should include; guidance on compliance and enforcement arrangements aligned with the ORV Act and other relevant legislation, user and Permitted Area operational safety, signage standards, insurance and liability mitigation strategies.

All Local Government respondents supported this recommendation. A table including comments is included below.

Local Government	Comments
<i>Shire of Esperance</i>	Educational resources and training would be very welcomed and supported, currently the lack of resources and training is leaving a vacuum, and leads to misinformation around ORV's.
<i>Shire of Gingin</i>	Some basic planning and management tools relating to signage, education and sound management will allow and enable all users to continue enjoying this area for years to come. The development of a "Toolkit" encompassing sound information including educational information backed up by improved signage and education monitoring and development will allow our Dunes to be enjoyed for a lot longer - otherwise who is going to replace our growing economy from the Icon Sand Dune Attraction.
<i>City of Greater Geraldton</i>	Not provided for this recommendation.
<i>Shire of Murray</i>	The proposals outlined to broadly support compliance, enforcement and improve education and training on the various issues, as detailed in Recommendation 3 are supported.
<i>Town of Port Hedland – Officer Comments</i>	The development of community and user education would be of great benefit for all involved. If the public is fully informed about their liabilities and associated risks prior to using an ORV, the user could be held more accountable for their own action rather than the State or a Local Government.

	The development of a regulatory framework encompassing signage standards comparable to the Road Traffic Code 2000 and enforcement action similar to the provisions of the Road Traffic Act 1974 or Road Traffic (Vehicles) Act 2012 would provide a clear structure that can be easily rolled out through educational mechanisms.
Peter Nash, Regional NRM Facilitator, South West Group	Not provided for this recommendation.

Local Government survey data as well as feedback from the workshop in April 2017 recommended the development of community and user educational resources to enable better understanding of the relevant legislation, enforcement options (including appropriate advisory signage) insurance, liability and risk management issues for Local Governments.

With greater clarity of current regulation and best practice, Local Governments are best placed to make informed decisions for the future. This is an opportunity for WALGA to provide support to Local Government through capacity building.

A current literature review should be considered with the intention of updating and collating resources into a package which is complemented by relevant training for Local Government officers.

8.4 Recommendation 4

4. State Government to develop and implement, in collaboration with ORV vendors, resources and practices that ensure ORV buyers are informed at the point of sale about ORV registration, applicable vehicle use regulations and consequences of non-compliance.

All Local Government commenters supported this recommendation. A table including comments is included below.

Local Government	Comments
Shire of Esperance	A standardised resource pack, providing information at the point of sale of an ORV is supported and will help provide clear consistent advice to ORV purchasers.
Shire of Gingin	Not provided for this recommendation.
City of Greater Geraldton	Not provided for this recommendation.
Shire of Murray	Recommendation 4 is supported as one-step to raise awareness about ORV registration. Has consideration been given to applying to a means of making ORV registration compulsory for all ORV's (trailbikes, quads, pitbikes, beachbuggys etc) at the point of sale and during second hand transactions?

	Applying compulsory registration will have long term benefits for enforcement and the number of stolen bikes may be reduced by improved identification and data recording.
<i>Town of Port Hedland – Officer Comments</i>	<p>The Town's comments thus far have indicated a strong position on mandatory registration/licensing of ORV's. To ensure that this process commences at the earliest point it is recommended that ORV vendors provide clear information at the point of sale regarding</p> <ul style="list-style-type: none"> - areas where ORV's can be used legally, - information regarding registration/licensing - safe ORV operation and personal protective equipment - securing the ORV to prevent theft - where the purchaser can access additional information <p>To support the above outcome, the development of an online resource site to provide comprehensive information regarding owning and operating ORV's should be established.</p> <p>Carrying on from the topic of education at the point of sale, the Town of Port Hedland has sought a signed agreement from local fuel suppliers to ban the sale of fuel to ORV's that are not on a trailer or ute etc. Any ORV that is driven to the establishment will be prevented from refuelling and the occurrence will be reported to Town Rangers or Police. This action alone has seen a positive change for the community by lowering ORV street usage.</p>
<i>Peter Nash, Regional NRM Facilitator, South West Group</i>	Not provided for this recommendation.

Importantly it is currently not compulsory to register an ORV. While a vendor can inform the purchaser of an ORV about registration, the onus is ultimately on the purchaser to licence or register the ORV.

Again, while there is a proportion of ORV users who will not comply regardless of regulation, enforcement or other measures, there are users who are simply unaware and would comply with better knowledge and education about Permitted Areas and registration particularly in the case of trail and quad bikes.

The nominal registration fee of \$15 safe-guards ORV owners through vehicle identification, should they ever be stolen. This benefit is not always recognised by ORV owners.

8.5 Recommendation 5

5. State Government to consider and consult on the regulation of the supply chain and retailer's role in providing information to buyers regarding ORV registration, regulation, restrictions and enforcement.

All Local Government respondents supported this recommendation, with the Shire of Esperance requesting the inclusion of the supply chain in the recommendation. This has now been included. A table including comments is included below.

Local Government	Comments
Shire of Esperance	The Working Group agrees that providing this information is required but feels that regulating the retailer's role in providing information is going too far, and other players in the ORV sale like the manufacture should also play a role in providing this information.
Shire of Gingin	Not provided for this recommendation.
City of Greater Geraldton	Not provided for this recommendation.
Shire of Murray	Not provided for this recommendation.
Town of Port Hedland – Officer Comments	It is clear that education regarding the safe use and legal operation of ORV's needs to start at the point of sale. This process will not only enable owners to be fully informed from the outset but enable enforcement to be a much cleaner process with arguments such as "I didn't know about the laws" or "no one told me I couldn't ride here" becoming invalid.
Peter Nash, Regional NRM Facilitator, South West Group	<p>Motorcycle and motor vehicle dealers are licensed, which readily enables the state government to require retailers under the terms of their license to supply the customer at time of purchase with a brochure or other written information explaining the penalties for its illegal use. It could be included in or attached to the Contract of Sale. While likely to meet with resistance from retailers, this would be a more effective mechanism of ensuring the customer is supplied with the information than encouraging ORV retailers to communicate the penalties verbally.</p> <p>Despite it being illegal for anyone other than a licensed motorcycle dealer to sell new motorcycles, cheap motorcycles are often imported and sold illegally by unlicensed backyard sellers. The state government needs to clamp down on this illegal activity to ensure that the community can only buy new motorcycles from licensed motorcycle dealers who can be mandated to provide the customer with any ORV information deemed necessary.</p>

At this time, in the absence of any major community education campaign, it is considered that many ORV users are completely unaware that their recreational use is often occurring in illegal circumstances i.e. on private or public land without the owner's permission.

There are perhaps some responsible retailers who ensure prospective ORV buyers are advised of the requirements for ORV registration, regulations and restrictions affecting the use of ORV in Permitted Areas as well as the offences and enforcement arrangements where an ORV is used in illegal circumstances.

However, consistently providing this information to all prospective ORV buyers is likely to impact buyer decisions, and may cause reduced sales opportunities for retailers.

The risk of reduced sales opportunities may be a substantial disincentive for retailers to voluntarily and consistently provide the information to prospective ORV buyers.

Substantial benefits may however be obtained by ensuring buyer education before a purchasing decision is made:

- Buyers invest with full understanding of how and when they may use their ORV within the requirements of the law.
- Increase responsible ownership and reduced ORV use in illegal circumstance.
- There are no surprises for new ORV owners, when they are caught using vehicles in illegal circumstances.
- Some Buyers will chose not to purchase, once they understand the restrictions and enforcement requirements, providing a benefit through the reduction in illegal use.
- Increased community awareness of ORV responsible use requirements.

8.6 Recommendation 6

6. State Government to develop and implement, in collaboration with stakeholders and industry representatives, resources to educate and raise community awareness about the proper use of ORVs, ORV permitted and prohibited areas, and the consequences of non-compliance.

All Local Government respondents supported this recommendation. A table including comments is below.

Local Government	Comments
<i>Shire of Esperance</i>	The Working Group support the development and implementation of resources to educate and raise community awareness about proper use of ORV's and would like the resources to include safety and environmental effects of ORV use.
<i>Shire of Gingin</i>	Not provided for this recommendation.
<i>City of Greater Geraldton</i>	Not provided for this recommendation.
<i>Shire of Murray</i>	Community education on the appropriate use of ORVs and restrictions as to where and how ORVs can and cannot be used, will contribute to improved consumer decisions about their choices in purchasing ORVs and the manner in which they may or may not be able to use them. It will also assist existing ORV owners and users to recognise where their usage and behaviours may actually be offences and assist them in finding ways to avoid future offences. Broader community awareness of appropriate and illegal use, will contribute to a cultural shift for how our community engages with and identifies offenders and reports offences.
<i>Town of Port Hedland – Officer Comments</i>	Education, no matter what the subject, will always improve safety and compliance. To that end, the development of a 'one stop shop' resource for information regarding the safe, legal and appropriate use of ORV's is essential. Combining this with a wide-reaching educational campaign targeting all demographics within the ORV user base will no doubt provide a marked improvement. The Town would strongly support outcomes in this area.
<i>Peter Nash, Regional NRM Facilitator, South West Group</i>	Not provided for this recommendation.

Community education on the appropriate use of ORVs and restrictions as to where and how ORVs can and cannot be used, will contribute to improved consumer decisions about their choices in purchasing ORVs and the manner in which they may or may not be able to use them. It will also assist existing ORV owners and users to recognise where their usage and behaviours may actually be offences and assist them in finding ways to avoid future offences.

Broader community awareness of appropriate and illegal use, will contribute to a cultural shift for how our community engages with and identifies offenders and reports offences.

8.7 Recommendation 7

7. Ensure that WA Police Force and the Department of Biodiversity, Conservation and Attractions allocates resources to address unlawful ORV use 'hot spots', in consultation with Local Government law enforcement.

All Local Government respondents supported this recommendation. A table including comments is below.

Local Government	Comments
Shire of Esperance	Strongly support WA Police Force having the adequate resources to address unlawful ORV behaviour.
Shire of Gingin	Not provided for this recommendation.
City of Greater Geraldton	<p>During joint ORV operation discussions with Geraldton Police and Ranger Services, Police confirmed Police pursuit of ORV drivers would not occur due to the potential of causing injury.</p> <p>This feedback is provided to assist with potential reluctance of Police to agree to pursue ORV's as contained within the content of Recommendation 7 content.</p>
Shire of Murray	<p>Local Government Law Enforcement officers (Rangers and other authorised officers) are often the first called to deal with unlawful ORV use or excessive noise complaints. Local Government officers may need to engage several vehicles and personnel to try to locate and stop unlawful ORV users who are causing social, environmental and community asset damage.</p> <p>The very nature of ORVs however, makes difficult to track down and stop ORV users who are determined to evade law enforcement.</p> <p>It is not the role of Local Government law enforcement personnel to engage in vehicle chase and blockade tactics, nor are Local Government law enforcement personnel suitably trained for these purposes. Therefore, Local Governments will request WA Police to attend, particularly where the unlawful ORV use is causing public safety risks, substantial detriment to public amenity and / or substantial damage to the environment or community assets.</p> <p>WA Police will respond where they have sufficient available resources; however WA Police response to ORV issues in the community is often treated as a low policing priority. The result is that in some circumstances, unlawful ORV use, the public safety risks and damages to environment and community assets is unable to be controlled and offenders are not infringed or prosecuted.</p> <p>It is recommended that WA Police work collaboratively with Local Government to develop policing strategies, which can</p>

	respond to Local Government requests for assistance to address ORV illegal use 'hot spots' in a coordinated and targeted manner.
<i>Town of Port Hedland – Officer Comments</i>	<p>As a local government we understand the drain on resources that issues such as ORV regulation can place on an organisation. To that end, any outcome that sees funded and supported dedicated resources for ORV regulation within the WA Police Force would be greatly supported.</p> <p>Existing partnerships between local governments and Police, bolstered by State and Federal support, would have a dramatic effect on the occurrences of inappropriate ORV use.</p>
<i>Peter Nash, Regional NRM Facilitator, South West Group</i>	Not provided for this recommendation.

Local Government Law Enforcement officers (Rangers and other authorised officers) are often the first called to deal with unlawful ORV use or excessive noise complaints. Local Government officers may need to engage several vehicles and personnel to try to locate and stop unlawful ORV users who are causing social, environmental and community asset damage.

The very nature of ORVs however, makes difficult to track down and stop ORV users who are determined to evade law enforcement.

It is not the role of Local Government law enforcement personnel to engage in vehicle chase and blockade tactics, nor are Local Government law enforcement personnel suitably trained for these purposes. Therefore, Local Governments will request WA Police to attend, particularly where the unlawful ORV use is causing public safety risks, substantial detriment to public amenity and / or substantial damage to the environment or community assets.

WA Police will respond where they have sufficient available resources; however WA Police response to ORV issues in the community is often treated as a low policing priority.

The result is that in some circumstances, unlawful ORV use, the public safety risks and damages to environment and community assets is unable to be controlled and offenders are not infringed or prosecuted.

It is recommended that WA Police work collaboratively with Local Government to develop policing strategies, which can respond to Local Government requests for assistance to address ORV illegal use 'hot spots' in a coordinated and targeted manner.

8.7.1 Additional Local Government Feedback

Although strong support for the majority of the recommendations was indicated, the Shire of Gingin urged caution with heavy restriction, enforcement and policing, as the benefits of ORV tourism are vital to their region's economy.

The Shire of Esperance expressed concern about the use of ORVs on beaches, and sought clarity about the legislative requirements that they can operate and be controlled under.

Peter Nash, Regional NRM Facilitator, South West Group, commended WALGA for considering the broadest definition of ORV's (e.g. to include registered vehicles used in off-road locations) in this paper. Irresponsible use of 4WD's causes major environmental damage and poses significant risks to human safety.

Peter Nash went on to comment that segregation of 4WD's, dune buggies and side-by-sides from motorcycle riding areas in designated ORV areas is essential for the safety of motorcycle riders, especially children and novice riders, and is essential if more riders are to be encouraged to ride in designated ORV areas. Providing fit-for-purpose, safe ORV areas has significant potential to reduce illegal ORV use in parks and reserves. He also suggested that the opportunity to make environmental gains should be thoroughly investigated when planning to invest in new ORV areas, or in upgrading existing underdeveloped ORV areas.

Peter Nash also cited existing examples (for example the Queensland Moto Park) where Local and State Governments and ORV organisations have effectively collaborated to fund and manage regional ORV facilities that provide regional benefits and which operate effectively on a user-pays basis.

9.0 Conclusion

Local Governments require support in the management of ORVs in their jurisdictions to improve community safety and for better environmental, economic and tourism outcomes.

The recommendations in this paper were broadly supported by Local Government respondents, and were endorsed by WALGA State Council in December 2018. As the level of Government closest to the community, WA Local Governments have a wealth of experience with ORV issues to draw on, and have identified opportunities which will add value to the implementation of these recommendations.

Addressing these recommendations will require ongoing sustained commitment from decision makers across the board. The implementation of the recommendations will also necessitate all stakeholders at all levels to work in partnership to achieve the best possible outcomes for the communities and jurisdictions which they serve.

10.0 Appendix Local Government Comment

Shire of Murray

City of Greater Geraldton

Peter Nash, Regional NRM Facilitator, South West Group

Town of Port Hedland, Officer.

Shire of Esperance Working Group

Shire of Gingin