



Department of
**Local Government, Sport
and Cultural Industries**



WALGA

WORKING FOR LOCAL GOVERNMENT

Off-road vehicles in Western Australia:

Management of off-road vehicles

Information for local governments







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To obtain such permission, please contact the Corporate Communications team at:

Department of Local Government, Sport and Cultural Industries

Leederville office

246 Vincent Street
Leederville WA 6007

Postal address: PO BOX 8349,
Perth Business Centre WA 6849

Email: info@dlgsc.wa.gov.au
Website: www.dlgsc.wa.gov.au

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About DLGSC

The DLGSC works with partners across government and within its diverse sectors to enliven the Western Australian community and economy through support for and provision of sporting, recreational, cultural and artistic policy, programs and activities for locals and visitors to the State.

The department provides regulation and support to local governments and the racing, gaming and liquor industries to maintain quality and compliance with relevant legislation, for the benefit of all Western Australians. This publication is current at November 2019.

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Key documents used in preparation of this document include:

- Off-road Vehicles and Local Government (WALGA, December 2018)
- Induction Handbook: Control of Vehicles (Off-road Areas) Act Advisory Committee (Department of Local Government and Communities, October 2016)
- Back on Track, WA State Trail Bike Strategy (Department of Sport and Recreation, 2008)

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Introduction

Western Australia's local governments are often at the forefront of off-road vehicle (ORV) administration in WA. This responsibility may range from determining if an area is suitable for ORV use, managing an ORV driving or riding area or enforcing regulations.

The Department of Local Government, Sport and Cultural Industries (DLGSC) has developed this guide to assist local governments better understand current legislation and manage ORV areas.

It includes:

- a general overview of the Control of Vehicles (Off-road Vehicles) Act 1978 (ORV Act)
- where and how the ORV Act applies
- licensing and registration
- the role of the ORV Advisory Committee
- the ORV Account and access to funding.

What is an off-road vehicle?

Any vehicle that is not fully road registered (Class A) under the Road Traffic (Vehicles) Act 2012 (WA) is considered an off-road vehicle. The Department of Transport describes ORV as including any vehicle that is not primarily designed for on-road activities, including:

- trail bikes
- all-terrain vehicles (ATVs)
- forklifts and mobile plant
- golf carts
- non-compliant tractors
- non-compliant utility vehicles
- quad bikes.

Western Australian legislation provides that road licensed vehicles, such as four-wheel drives, are permitted to use designated permitted off-road areas.

Off-road vehicle registration entitles you to ride or drive only in the six gazetted off-road vehicle areas or on private property with the owner's consent.

Frequently asked questions are highlighted for easy reference.



Section 1: An overview of the 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).

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 other 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 ORV Act currently only operates in certain areas of the State (Permitted Areas); and provides 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 ORV Act 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.

When the ORV Act was proclaimed in 1978, it was determined that it would only apply in certain areas across Western Australia. The areas where it was agreed that the ORV Act would apply, with

restrictions applied to the use of off-road vehicles, included:

- the Perth Metropolitan area
- the Cities of Bunbury, Greater Geraldton and Mandurah
- Albany
- the Shires of Narrogin, Northam and Gingin
- the land the seawards side of the Old Coast Road and the Bussell Highway from the southern boundary of the City of Mandurah to Augusta
- the Townsites of Coolgardie and Kambalda, and
- National Parks and Nature Reserves.

The Department of Water and Environmental Regulation also advises that the ORV Act also applies to any public drinking water source area (i.e. drinking water catchments and wellheads) across the State.

Over time, various local governments have indicated they would like to formally identify other areas where the ORV Act applies.

As a result, further areas in the Perth metropolitan area and in regional towns and locales have since been added as areas where ORV use is not allowed.

These include:

- a portion of the Shire of Dandaragan including the Townsites of Cervantes and Jurien
- a portion of the Shire of Carnarvon involving an area between the North West Coastal Highway and Minilya/Exmouth Road and the coast
- the Townsites of Onslow, Tom Price and Paraburdoo in the Shire of Ashburton
- the Townsite of Roebourne
- the Townsite of Newman in the Shire of East Pilbara
- a portion of the Shire of Greenough
- the Townsite of Harvey and abutting land
- the land seaward side of South Coast Hwy in the City of Albany
- the Boyanup and Southern Cross Townsites and abutting land

- the Boulder, Kalgoorlie and Port Hedland Townsites
- Wedge Island (Reserve No. 43283)
- Mundaring Weir Catchment Area and Shire of York, and
- South Dandalup Pipehead Dam Catchment Area.

What this means is that ORV activity is not allowed in any of the prohibited areas where the ORV Act applies. ORV activity is only allowed in permitted areas.

It also means that local governments and relevant authorities have no power under the ORV Act to enforce fines or other measures relating to unauthorised vehicle use on land where the ORV Act does not apply. Even so, other powers of enforcement could include:

- local laws
- the Conservation Land Management Act 1984 and Regulations 2002
- the Land Administration Act 1997
- the Metropolitan Water Supply, Sewerage and Drainage Act 1909 and by-laws 1981
- the Road Traffic Act 1974 and associated subsidiary legislation, and
- the Motor Vehicle (Third Party Insurance) Act 1943 and Regulations 2009.

Local governments can enact local laws and are responsible for enforcement within their area of jurisdiction. Local laws enacted by a local government apply only to the area administered by that local government and are not State-wide laws.

Local government officers need to be clear where ORV use is permitted or prohibited within their jurisdiction to effectively manage access and administer relevant local and state legislation.

The current areas where the ORV Act applies (including areas where ORV use is permitted) can be seen on the online map available on the Department of Local Government, Sport and Cultural Industries website at ...
(insert link ex Geoff)

Download a copy of the **ORV Act**.

Section 2: Permitted Areas

Permitted areas are established under the ORV Act and are where registered ORVs, as well as licensed on-road vehicles, can operate. Private land can only be declared as a Permitted Area with the written authority of the owner. Approved public permitted areas are listed below.

Permitted off-road vehicle areas in WA	
Perth Metro	<ul style="list-style-type: none"> • Pinjar Off-road Vehicle Area (managed by the Department of Biodiversity, Conservation and Attractions, DBCA) * • Gnangara Off-road Vehicle Area (managed by DBCA) * • Medina Off-road Vehicle Area *
York	<ul style="list-style-type: none"> • York Off-road Vehicle Area *
Lancelin, Ledge Point and Cervantes	<ul style="list-style-type: none"> • Lancelin Off-road Vehicle Area * • Ledge Point Off-road Vehicle Area * • Ledge Point Reserve 27215 Off-road Vehicle Area • Cervantes Item 2 Off-road Vehicle Area
Geraldton	<ul style="list-style-type: none"> • Explosives – Point Moore • Pages Beach • Separation Point • Francis St Carpark • Drummond Cove – Glenfield • Cape Burney Off-road Vehicle Area
Carnarvon	<ul style="list-style-type: none"> • Carnarvon Item 1 Off-road Vehicle Area • Carnarvon Item 2 Off-road Vehicle Area
Karratha	<ul style="list-style-type: none"> • Karratha West Off-road Vehicle Area • Karratha East Off-road Vehicle Area • Karratha Item 2 Off-road Vehicle Area
Port Hedland	<ul style="list-style-type: none"> • Deepwater Reserve Off-road Vehicle Area • Spoilbank Off-road Vehicle Area

* Gazetted as permitted ORV areas in accordance with the ORV Act

These locations – apart from Pinjar, Gnangara and Medina – are managed by their respective local governments.

Several of these locations – Pinjar, Gnangara, Medina, Lancelin, Ledge Point, and York – are gazetted as permitted ORV areas in accordance with the ORV Act.

An online map, available on the Department of Local Government, Sport and Cultural Industries [website](#), shows locations identified as publicly accessible ORV areas by their respective local governments.

Apart from ORV areas managed by State and local government, there are several commercial ride parks operating on private land that can cater for unregistered bikes and unlicensed riders. These include:

- [WA Ride Park](#) – near Kirup
- [West Moto Park](#) – Wyalkatchem
- [Dirt Rider Heaven](#) – near Mogumber
- [The Ducks Nuts](#) – Popanyinning

Section 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 to 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
- provisions of any town planning scheme.

A person who is the owner or occupier of land declared a Prohibited Area or a 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.

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.

Section 4: Registration of off-road vehicles

Before an unlicensed off-road vehicle (i.e. any trail bike not licensed for use on public roads under the Road Traffic Act) can be used in a permitted ORV area, it must have an ORV registration issued by the Department of Transport.

Applicants must be 18 years of age to register an off-road vehicle and vehicles must pass a roadworthiness inspection and conform to the prescribed safety and noise requirements.

Please note that unlicensed off-road vehicles are prohibited from crossing or travelling along public roads. A conditional licence to permit road crossing, or to compete in authorised events, can be issued by the Department of Transport.

There is no requirement for a rider to hold a driver's (motorcycle) licence if riding in an ORV area. However, all riders must be over eight years of age if riding in a public ORV area.

To summarise, the table below shows whether a driver's (motorcycle) licence and what type of vehicle registration is required to access different types of areas.

Private property or club track	ORV area	Events	Public roads
Driver's licence not required		Driver's licence required	
No registration			
Off Road Vehicle registration			
Class B Conditional vehicle registration			
Class A full road registration			

Application for new vehicle registration or renewal must be made either in person (at any Department of Transport [Driver and Vehicle Services Centre](#) or regional agent) or by post. Currently, payment cannot be made online or accepted by Australia Post.

All registrations for off-road vehicles expire on 30 September annually. However, renewals are required to be paid by 1 July each year. If ORV registration has expired by more than 15 days, owners will need to return the number plates and apply for a new off-road vehicle license.

As at 1 July 2019, the cost of ORV registration was \$25 a year.

For more information, please go to the Department of Transport website: [Register an Off-Road Vehicle](#).

The fees collected from ORV registrations are held in a special-purpose ORV Account. Section 7 explains who is eligible to access funds from the ORV Account and how those funds can be used.

Section 5. Enforcing the ORV Act

Local governments are responsible for administering and enforcing the ORV Act as it applies to areas within their jurisdiction. They can appoint authorised officers with specified functions under s.38 (3) of the ORV Act. Penalties for improper ORV use can include infringement notices, on-the-spot fines or prosecution for offences.

Local governments have responsibilities in relation to off-road vehicles and ORV areas under other legislation which may include:

- Civil Liability Act 2003 (WA)
- Conservation Land Management Act 1984 and Regulations 2002
- Land Administration Act 1997 (WA)
- Local Government Act 1995 (WA)
- Environmental Protection (Noise Regulations)
- Bushfires Act 1954
- the Metropolitan Water Supply, Sewerage and Drainage Act 1909 and by laws 1981
- the Motor Vehicle (Third Party Insurance) Act 1943 and Regulations 2009
- Road Traffic Act 1974 and associated subsidiary legislation
- Occupiers Liability Act 1985 (WA)
- Local Government by-laws, and
- Duty of care requirements that may arise according to/under common law principles of negligence.

Enforcement should recognise that in some cases, overlaps may occur in jurisdictional responsibility between local government and the area land managers (i.e. DBCA or Water Corporation).

There are occasions where local government's authorised officers are not the appropriate first responders for dangerous and high-risk situations. The WA Police Force has specialised training and expertise to enable them to safely pursue vehicles and stop or detain possible offenders or impound vehicles (such as suspected hoon drivers).

What role do rangers play in managing ORV use in their local government area?

The legislation empowers nominated rangers to issue fines and penalties for:

- riding in a non-permitted area
- riding a non-registered vehicle, and
- not wearing protective helmets.

For more information, visit the WA Rangers website.



Section 6: Managing ORV areas

Managing and maintaining an ORV area can be costly and time-consuming. There are resources available to assist local governments to keep their ORV areas well maintained and safe to ride.

Where can I find resources about off-road vehicle area management?

LGIS has developed a series of guidance notes to provide practical management considerations. They are published by LGIS and are available on the secure LGIS membership site through your local government membership.

The LGIS website also provides general ORV area information.

Are there funds available for maintenance or improvement of ORV areas?

Funds from registration fees are held in the Off-road Vehicle Account. Proposals can be made to the Department of Local Government, Sport and Cultural Industries to access funds to maintain or improve ORV areas.

Section 7 provides information about how to access funds held in the State-managed ORV Account.



Section 7: The Off- road Vehicles Account (ORV Account)

The ORV Act requires that the money collected by the Department of Transport through the registration of off-road vehicles is credited to a specific account called the “Off-road Vehicles Account” (ORV Account).

The ORV Account is administered by the Department of Local Government, Sport and Cultural Industries (DLGSC). Local governments and other organisations can apply for funds from the ORV Account. Priority areas for expenditure from the ORV Account include:

- Providing information on the location of off-road vehicle areas
- Providing information to assist local governments with the administration of the ORV Act

- Increasing registration numbers and compliance
- Ensuring suitability of potential trail bike riding areas
- Increased rider safety, and
- Management of existing permitted areas.

Approval of the use of funds is at the discretion of the Minister for Local Government, either directly or through delegated authority.

Local governments and other organisations can apply to use funds from the ORV Account. For advice on proposals to access funds from the ORV Account, contact the Department of Local Government, Sport and Cultural Industries.

Given the current low levels of registration of off-road vehicles there is clearly a gap between the number of ORV being used and those which are registered.

A significant benefit would result for all stakeholders should registration levels increase to reflect the real numbers of off-road vehicles being used for recreation across the State. Increased registrations (and collection of fees) would result in increased funds being available through the ORV Account to improve ORV areas in Western Australia.



Section 8: Control of Vehicles (Off-road Areas) Act Advisory Committee (ORV Advisory Committee)

The ORV Advisory Committee is a statutory body established under sections 21 and 24 of the ORV Act with its members appointed by the Minister for Local Government.

Section 21(1) of the ORV Act requires the ORV Advisory Committee to consist of seven members appointed by the Minister for a term not exceeding three years, including:

- A Chairperson
- two people selected from a list submitted by the Western Australian Local Government Association (WALGA)
- two people who in the opinion of the Minister have the appropriate experience in the operation of off-road vehicles
- one person who in the opinion of the Minister has the appropriate experience in the operation of four-wheel drive vehicles
- one person nominated by the Minister for Environment who has the appropriate experience in environmental matters.

Section 24 of the ORV Act provides the Minister with the power to appoint deputy members. Each of these are deemed to have all the powers and duties of a member in the event a member is absent from a meeting. Executive support is provided to the Committee by the DLGSC.

The ORV Advisory Committee's role is established under sections 17 and 18 of the ORV Act.

The ORV Advisory Committee's role is to consider and investigate submissions from the public and local governments in relation to the use of land by off-road vehicles, and to make recommendations to the Minister.

The Minister is required to have regard to, but does not have to act upon, the recommendations of the ORV Advisory Committee.

What submissions will the ORV Advisory Committee consider?

Submissions to the ORV Advisory Committee can include requests for the Minister for Local Government to: extend the area of operation of the ORV Act to include a particular location (noting that the ORV Act doesn't apply across the entire state); or declare certain areas to be 'Permitted areas' for off-road vehicles; or declare certain areas to be 'Prohibited areas' (this declaration can include all vehicles).

Section 9: Creating a permitted or prohibited ORV area

Designated ORV vehicle areas play an important role in providing well-designed and maintained sites for trail bike riders. They have an important place in reducing the incidence of illegal riding of unregistered vehicles in reserves, state forests, national parks, public roads and footpaths.

There are frequent calls for new areas to be created for riding off-road. Determining demand and selecting a suitable location for an off-road vehicle area requires careful planning. Ideally the area contains a combination of factors such as favourable land-use, Local Government planning provisions, physical characteristics and community acceptance. Sound planning is critical for the early identification and management of any associated safety, social and environmental risks.

It is important even at the early concept phase of planning for an ORV area, that risks are identified, assessed and used to inform decision making. Local governments face competing demands and challenges in administering the ORV Act. Careful consideration and addressing of all off-road vehicle stakeholder expectations include aspects such as: suitable areas for off-road vehicles noise; safety; environmental damage; illegal riding; general nuisance; liability, insurance; management; maintenance and resource requirements.

Where do I find out more about how to consider a suitable area for a new off-road vehicle area?

LGIS has published *Off-road Vehicle Area Guidance Notes for Western Australian Local Government*. It is available on the secure membership site accessed through your local government.

Before a site can be made a permitted or prohibited area it must be assessed for suitability by the ORV Advisory Committee. Similarly, the ORV Advisory Committee will assess any application for an established site to be cancelled or subject to a major variation.

In considering the Committee's recommendations, the Minister for Local Government may amend the current ORV areas with the consent of the Governor. This declaration is then published in the Government Gazette.

How do I prepare a feasibility study for a potential permitted site?

Resources on content and process for a feasibility study are at <https://www.dlgsc.wa.gov.au/department/publications/publication/feasibility-study-guide>

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Perth office

Gordon Stephenson House
140 William Street
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Leederville office

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Perth Business Centre WA 6849

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