# Department of Local Government, Sport and Cultural Industries

## Medina Off-road Vehicle Feasibility Study

March 2020

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# 1. Introduction

Trail bike usage is a recognised and legitimate pastime when undertaken in sanctioned areas and/or on road registered bikes on legal trails, roads and tracks throughout Western Australia. For decades, however, the use of off-road vehicles (ORV) has raised concerns for local governments and 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 (WALGA, 2018).

In Western Australia, areas where use of ORV are permitted can be provided under the *Control of Vehicles (Off-Road Areas) Act 1978* (the Act). There are currently six permitted areas gazetted under the Act:

1. Gnangara
2. Medina
3. Lancelin and Ledge Point
4. Pinjar
5. York
6. Karratha

There are several other Permitted Areas including in Ledge Point, Cervantes, Geraldton, Carnarvon, Karratha and Port Hedland, although these have not been gazetted under the Act.

The lack of sanctioned off-road trails and facilities, particularly in the Perth Metropolitan Area, has led to significant impact on other trail users as well as reducing environmental and other values of various trails (Department of Sport and Recreation, 2017), reserves and parks subjected to unauthorised ORV use (GHD, 2018).

## 1.1 Medina Off-road Vehicle Area

ORV use, specifically motorcycles not exceeding 125 cc and emitting noise levels not exceeding 86 dB(A), was permitted at the Medina off-road vehicle area under the Act in 1979. Since this time, there has been minimal management of the site and minimal enforcement of the ORV classes, vehicles type and noise emissions. This has resulted in environmental degradation, user conflicts and safety concerns.

Increased urbanisation around the site has also led to further nuisance issues from noise and anti-social behaviours such as illegal dumping and arson.

The Act states that it is the duty of the local government to administer and enforce the provisions of the Act. However, the City of Kwinana (the City) has been working to surrender this responsibility since 2004 (Ordinary Council Meeting Minutes, 30 September 2004). Regardless of the gazettal and zoning as Parks and Recreation under the Metropolitan Region Scheme, the site has remained unallocated crown land without management order or vesting purpose. There is also no management requirement under the Act.

The City's desire to surrender responsibility of the site led to a temporary site closure in 2006-7 by the then Department of Local Government; the site reopened in response to a significant number of complaints. The engine limitations were removed and regazetted to 'motorcycles generally' in 2008 by the then Minister. The ongoing management and maintenance of the site was, however, not resolved and the site is still not actively managed, although the fire service respond to arson events and there are sporadic clean-up activities.

The Medina Off-road Vehicle Area is the only permitted area gazetted under the Act in the southern metropolitan area.

## 1.2 Purpose of the report

This report focusses on the Medina ORV area and assesses the feasibility of allowing continued use of the area by off-road vehicles. Tasks as agreed with the Department of Local Government, Sport and Cultural Industries used to assess feasibility are:

- Assessment of the site in the context of overall ORV use across the Perth Metropolitan Region
- Review the Management Plan for the Medina ORV Area commissioned in 2008 (to be provided)
- Summarise available planning and approval documentation to determine land tenure and management
- Engage with relevant stakeholders (including City of Kwinana and DPLH) regarding current status and future plans for tenure and management
- Engage with user groups (such Recreational Trail Riders Association and local users) to confirm current usage, industry need and ongoing demand
- Desktop environmental impact assessment, vegetation condition assessment and considerations associated with the site (including Bush Forever site)
- Make recommendations regarding feasibility of ongoing recreational use of the site
- Make recommendations regarding future management of the site

# 2. Site Description

## 2.1 History

The area was initially identified by the Department of Local Government as a potential off-road vehicle area when the *Control of Vehicles (Off-Road Areas) Act 1978* (the Act) was proclaimed in 1978. The Acting Under Secretary for Lands at the time advised no objection to the proposed area, however proposed exclusion of the natural gas pipeline. It was advised by the Department of Local Government that the site was chosen in consultation with the Local Authority and with inspection by the Department of Conservation and Environment. It was also noted at the time that, should at a future date any of the land be required for a particular purpose, the area will be subject to review.

The Medina ORV area has not been actively managed by any agency other than the City of Kwinana by way of:

- Displaying signage at the main entrance from Thomas Road advising patrons to exercise caution and ride at their own risk.
- Attempting (unsuccessfully) to fence the gazetted area.
- Providing perimeter fencing to the wider area to prevent illegal dumping activities.

At its Ordinary Council Meeting 22 September 2004, the City recognised that they did not have the physical or financial resources to manage the site effectively and resolved to:

1. Surrender control, management and administrative responsibility of the area.
2. Encourage the Department of Local Government and Regional Development or other appropriate agency take over management of the site.
3. Or, if 1. and 2. above could not be achieved, close the site or investigate the potential for approval for a commercial lease with the Control of Vehicles Off Road Advisory Committee to transfer the operational responsibilities, risk and liabilities to the private sector.

Further, at its Ordinary Council Meeting held on 23 November 2005, the City resolved to:

1. Seek approval from the Minister for Local Government and Regional Development to close the Medina Off Road Vehicle Area.
2. Request the Department of Local Government and Regional Development continue to find an alternate operator.

Following this request, the Minister decided to temporarily close the area and seek expressions of interest from interested persons to take the facility over and operate the off-road vehicle area. Expressions for interest were coordinated by the Control of Vehicles (Off Road Areas) Act Advisory Committee, however, a review undertaken by the Department of Local Government and Regional Development indicated that the process was not appropriate given the property was vested within the Town of Kwinana who had the only rights to lease the property. The City was then advised that the Department had no interest in the property.

At its Ordinary Council Meeting of 2 October 2007, the City then resolved to reaffirm its previous position and resolved to:

1. Request the Minister for Local Government and Regional Development to close the Medina Off-Road Vehicle Area, and
2. Request the Department of Local Government and Regional Development to give consideration to the management of off road areas at a state level through the development

of appropriately located regional facilitates and through coordination of this review by the Control of Vehicles (Off-Road Areas) Act Advisory Committee.

The Department of Local Government and Regional Development recommended against the permanent closure of the Medina ORV area as requested by the City of Kwinana. The area was re-opened by the Department in 2008 due to a high number of comments and evidence in support of keeping Medina ORV area open. The engine limitations were also removed and re-gazetted to 'motorcycles generally' at this time by the then Minister.

In 2016, the Department of Planning Lands and Heritage asked if the City would accept a management order for the land. The City has indicated it would like to relinquish its vested authority under the *Control of Vehicles (Off-Road Areas) Act 1978* and states it is unable to secure adequate funding or resources to manage the facility and the associated risks, liabilities and responsibilities with management.

Following development of the Medina Concept Plan (included in the Management Plan for the Medina Off-road Vehicle Area, 2008), the Recreational Trailbike Riders' Association (RTRA) approached the Department of Planning, Lands and Heritage regarding the proposed development of a kids trailbike track and some additional trails, fencing and an obstacle course within the gazetted area. In 2018 the Department advised it could not provide consent to any development of trails within the gazetted area due to the pending South West Settlement team investigations; additionally there are safety concerns.

There is continued interest in developing the site to improve its responsible use. In addition to the RTRA, Motorcycling WA and Quad Riders WA have also expressed an interest in developing the site.

## 2.2 Location

The Medina Off-road Vehicle (ORV) Area is located on Thomas Road, Medina. The Perth Motorplex is to the north and the Kwinana Industrial area is to the west. The residential suburb of Medina is to the east and the Thomas Oval is to the south east. The lots adjacent to the Medina ORV area are predominantly vacant lots of unallocated crown land (Figure 1).

## 2.3 Land zoning and tenure

The Medina ORV area is:

- Reserved for Parks and Recreation under the Metropolitan Region Scheme
- A gazetted area located on portion of Unallocated Crown Land Lot 345 on Deposited Plan 59342, as shown on attached Crown Land Title 3151-582 (Appendix A)
- Shown on the Deposited Plan 93028 Miscellaneous Diagram 29 and was gazetted as an Off-Road Area pursuant to section 3 of the *Control of Vehicles (Off-Road Areas) Act 1978* on 17 October 1979.
- Included in Bush Forever site 349

The subject area is 410,337m$^2$ and contains a 6,321m$^2$ easement to APT Parmelia Pty Ltd pursuant to section 20(5) of the *Petroleum Pipelines Act 1969* registered in 1972.

## 2.4 Surrounding land use

There is a land parcel known as Lot 318, surrounded by Lot 345, wherein was the subject of a telecommunication lease between DPLH and Telstra for a term of 10 years which expired in 2012. Telstra has been in holding over the lease with the telecommunication tower present on site.

Two dedicated road reserves form the southern and the western boundary of the Medina ORV area and the eastern portion of the site is reserved as a primary regional road (Fremantle-Rockingham Highway).

The lots directly surrounding the Medina ORV area are largely unallocated crown land, except for Thomas Oval (Reserve 24302) which is reserved for parks and recreation.

The Kwinana Industrial Area is located approximately 500 metres to the west and the residential suburb of Medina approximately 600 metres to the east.

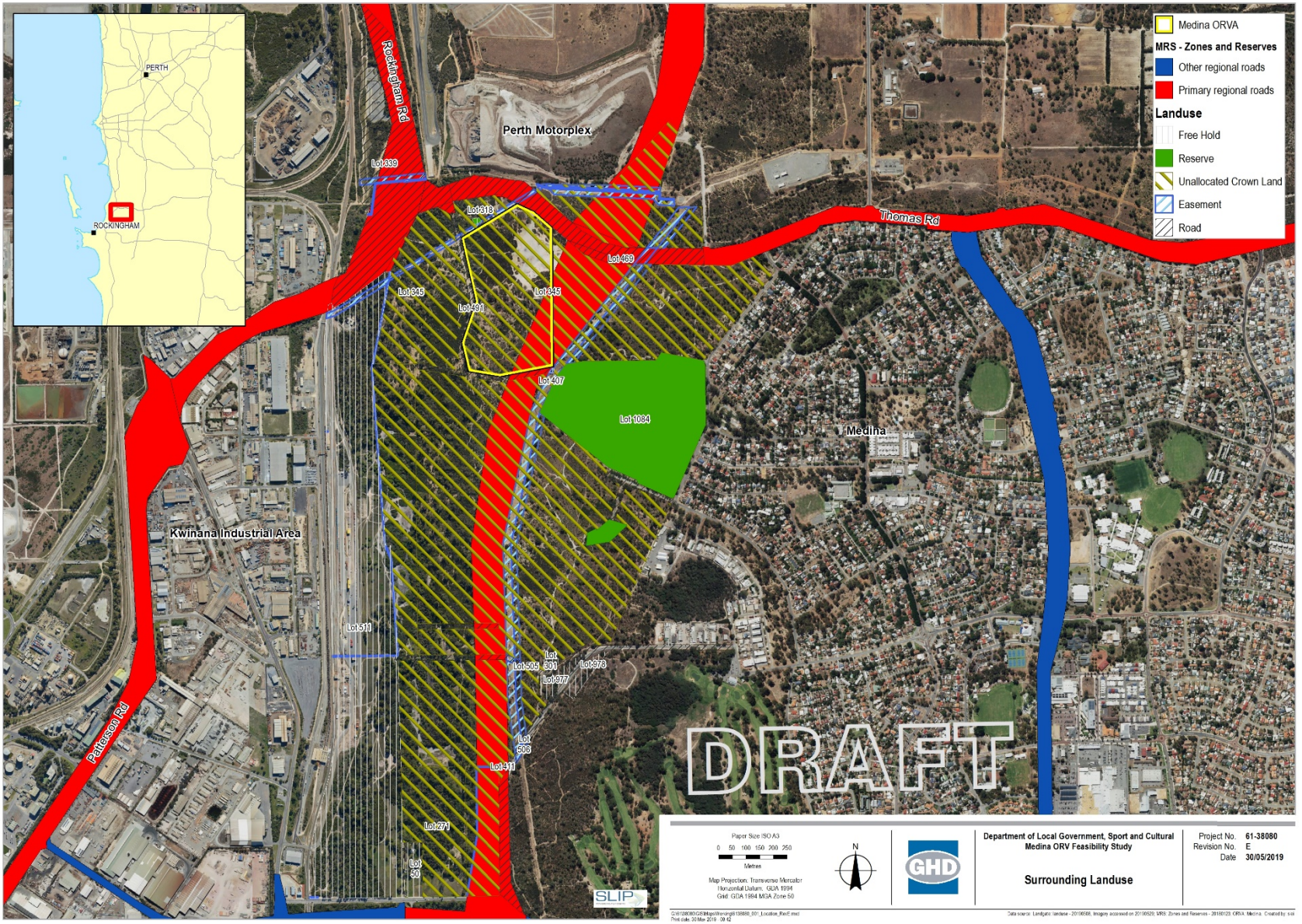


**Figure 1 Location of the Medina Off-road vehicle area and surrounding land tenure**

## 2.5 Legislative framework

Within Western Australia, the use of off-road vehicles is regulated under the *Control of Vehicles (Off-road Areas) Act 1978* (the Act). Under section 5 (1) of the Act, which states 'Subject to the Minister, and in co-operation with the Director General, it shall be the duty of a local government to administer and enforce the provisions of this Act within its district', the local government authority is the City of Kwinana (the City).

The City also has responsibilities in relation to off-road vehicles and off-road vehicle areas under various other legislation, such as the *Local Government Act 1995*, the *Civil Liabilities Act 2002* and local government by-laws. When the Act was proclaimed, the Governor declared that the Act only be applied to the parts of the State listed in the Schedule. This includes the City of Kwinana.

The term 'off-road vehicle' is used to describe a vehicle that is not licensed, deemed to be licensed, or subject of a permit granted under the *Road Traffic Act 1974 (WA)* and may include trailbikes, go-karts, two or four wheel motorbikes and four wheel drives. It is an offence for vehicles to be driven in an off-road area unless on:

- Private land with consent; or
- Land within a permitted area as declared under the Act.

Under the Act, a person is not permitted to drive an off-road vehicle on any land, whether public or private, in a manner which creates or causes undue or excessive noise.

Under the *Civil Liabilities Act 2002*, there is no liability for harm caused by obvious or inherent risks associated with recreational activities, such as riding off-road vehicles. There have been no successful off-road vehicle claims since the *Civil Liabilities Act 2002* was introduced. Duty of care measures for Local Governments includes signage, management, inspection and maintenance of ORVAs.

### 2.5.1 Native Title

The Medina ORV Area is included within the Gnaala Karla Boodja region and the recognised traditional owners are the Gnaala Karla Boodja people, one of the six groups collectively recognised as the Noongar traditional owners of the South West under the South West Native Title Settlement. The ownership has been recognised in the *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016*.

A Native Title Settlement Agreement with the Gnaala Karla Boodja people was signed in 2015, which surrenders any existing native title rights in exchange for a negotiated package of benefits including formal recognition of the Noongar people as traditional owners, land, investments and the establishment of Noongar Regional Corporations. Traditional owners are expected to be more closely involved in land use planning and management upon commencement of the Settlement. This land will provide cultural and economic development opportunities for the Noongar Regional Corporations representing the recognised Noongar groups.

The Department of Planning Lands and Heritage is investigating land parcels for potential transfer to the Noongar Boodja Trust by identifying unallocated Crown land and unmanaged reserves within the Settlement Area. The Medina ORV area is included in South West Settlement, wherein the State of Western Australia is to provide up to 320,000 hectares of development, cultural land and conservation estate to be held by the Noongar Boodja Trust. Inclusion in the Settlement potentially conflicts with the use of the site for off-road vehicles.

If there is strong justification, it is possible to remove the subject site for consideration into the Noongar Land Estate, however, this may take significant time to resolve.

### 2.5.2 Noise regulations

The *Environmental Protection Act 1986* states that noise includes vibration of any frequency, whether transmitted through air or any other physical medium. The *Environmental Protection (Noise) Regulations 1997* operate as a prescribed standard under the Act and set limits on noise emissions.

Local governments use the Regulations to deal with domestic, commercial and general industry noise, while the Department of Environment Regulation deals with industries that are prescribed premises under the Act. The police deal with such activities as noisy parties, using the 'unreasonable noise' provisions of the Act, instead of the Regulations (Department of Water and Environmental Regulation).

Regulation of noise emissions includes noise emitted from public places, such as the Medina ORV area. Investigation of noise complaints is likely to be the responsibility of the City of Kwinana or the police, however due to the mobile nature of the activity it can often be difficult to regulate. There may also be restrictions in chasing perpetrators to ensure the safety of those involved.

### 2.5.3 State Planning Policy

State planning policies provide the highest level of planning policy control and guidance in Western Australia. They are prepared under Part 3 of the *Planning and Development Act 2005.*

State Planning Policy 4.1: State Industrial Buffer (SPP 4.1) provides a consistent statewide approach for the protection and long-term security of industrial zones, transport terminals (including ports) other utilities and special uses. This policy provides for the safety and amenity of surrounding land uses. The Medina ORVA is within the buffer area to the Kwinana Industrial Area and SPP 4.1 should be applied when considering future use of the site.

Draft State Planning Policy 4.1: Industrial interface has been prepared to replace the existing policy. The Medina ORVA and surrounds form the interface between the Kwinana Industrial Area and the residential suburb of Medina. Use of the interface by ORV is likely to be considered a compatible land use.

## 2.6 Strategic Alignment

**Department of Local Government, Sport and Cultural Industries Strategic Plan 2018-2021**

Investigation of the feasibility of upgrading the Medina ORV area contributes to achieving the Department's vision of creating enlivened and successful communities and economy, supporting objectives of:

- Partnering with local government to deliver good governance to community
- Promoting participation and achievement in sport, recreation, culture and arts.

**More People More Active Outdoors (2019)**

This framework is to guide local and regional outdoor recreation planning by government, corporate and community stakeholders. It is also intended to encourage cross agency and organisational collaboration to maximise the benefits of outdoor recreation for participants and service providers.

It recognises trail bike riding and 4-wheel driving as land based outdoor recreation activities. The strategy recognises the benefits of outdoor recreation and identifies issues and barriers to participation in outdoor recreation. Improving access to safe and environmentally sustainable areas in which to ride off-road vehicles will help meet the objectives of this framework.

**Western Australian Strategic Trails Blueprint (2017-2021)**

The Western Australia Strategic Trails Blueprint 2017-2021 (Blueprint) is an overarching guide for consistent and coordinated planning, development and management of quality trails and trail experiences across Western Australia.

*Vision: By 2021 more people will be using Western Australia's trail network resulting in greater community, social, cultural, economic, environmental, health and wellbeing outcomes for Western Australia.*

The Blueprint recognises that whilst the majority of trailbike riding is done by licenced riders on road registered trail bikes on roads and tracks across the state, there are limited opportunities for sanctioned off-road recreational trailbike riding experiences and no long distance trails. Lack of sanctioned trails and facilities impacts on other trail users and can reduce environmental and other values through the development of unsanctioned trails.

The Blueprint recommends the development of state-wide activity based trails strategies including trial bikes and 4WD (GHD, 2018).

**Off-Road Vehicle (ORV) Regional Land Use Planning Study (2010)**

This study identified potential land (areas and trails) for the lawful use of the various forms of off-road vehicles by different user segments. The study considered environmental, social and legal constraints as well as user requirements.

This study encompassed areas within the Darling Range, roughly from the City of Swan to Collie and did not include City of Kwinana locations (including the Medina ORV area), however, the principles of ORV use planning and recommendations can be applied.

**Back on Track: WA State Trail Bike Strategy (2008)**

The State Trail Bike Strategy recommends a series of actions to aid the transition of recreational trail bike riding from unplanned, unmanaged and unsustainable to planned, managed and sustainable. The strategy presented the conflicts between trailbike riders and the general community. It was envisaged that implementation of the strategy would:

- Result in a reduction in antisocial behaviours associated with trail and quad bikes (through access to better facilities and education)
- Adequately address concerns from different stakeholder groups
- Establish an improved governance and funding model
- Improve trail and venue facilities that are planned and developed with and for the user
- Clarify insurance and liability responsibilities

At the time of writing, the Medina ORV area was temporarily closed, however, the action plan included identification and establishment of an off-road vehicle area (ORVA) in the South Metro and Eastern/Hills areas.

**Management Plan for the Medina Off-road Vehicle Area (2008)**

The Management Plan for the Medina Off-road Vehicle Area was produced on behalf of the City of Kwinana in 2008. It provides an overview of the site and proposes a plan for future development and management.

The management plan indicates that the City of Kwinana has control of the site and is responsible for ongoing management, which is disputed by the City.

The plan presents a proposal to significantly develop the site with parking, five trails and a moto trials precinct (an obstacle course for trials practice) requiring an estimated investment of $426,000.

The management plan was informed by the results of the survey supporting the development of the State Trail Bike Strategy and a survey conducted by the Recreational Trailbike Rider Association. The opinions of non-trailbike riders and nearby residents were not incorporated into the management plan. The management plan did not address the ongoing conflict of protecting the site for its environmental values (Bush Forever) and continuing to utilise the area for ORV use.

**City of Kwinana strategic planning documents and local laws**

The City of Kwinana has not included the development of the Medina Off-road Vehicle Area in any of its strategic planning documents. It is not included in the Long-term Financial Plan, the Community Infrastructure Plan 2011-2031 (reviewed 2015) or the Corporate Business Plan.

None of the City's local laws include provisions for managing unauthorised off-road vehicle use or enforcement of the *Control of Vehicles (Off-road Areas) Act 1978*.

**Bush Forever**

Bush Forever identifies 51,200 hectares of regionally significant bushland recommended for protection and management in 287 Bush Forever sites, and includes lands with either some level of protection or unprotected land in both public and private ownership.

State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region (SPP 2.8) applies to any proposal or decision-making that is likely to have an adverse impact on regionally significant bushland within a Bush Forever area.

Bush Forever site number 349 includes the Medina ORVA. Proposed future use of the Medina ORV area and surrounds will need to consider SPP 2.8 and the retention and protection of significant ecological values.

**South Metropolitan Peel Sub-regional Planning Framework**

The South Metropolitan Peel Sub-regional Planning Framework established a long-term integrated planning framework for land use and infrastructure to guide future growth. The Medina ORV area is identified as "Open Space – nature/passive recreation". Supports the establishment of utilising the green network in supporting an active and healthy community.

# 3. Site Context

The Medina ORVA and its use fits within a wider network of off-road vehicle use across the Perth Metropolitan Area, Western Australia and Australia.

## 3.1 Off-road vehicle use

In 2008, it was estimated that there are 50,000 trail bikes (not including Chinese imports) in Western Australia (WA) (State Trailbike Strategy, 2008).

The sale of new off-road bikes across Australia has decreased slightly over the past 5 years (Table 1). In 2019, off-road vehicle sales comprised 38.5 percent of Australia's motorcycle sales, representing the most popular category.

**Table 1 Australian off-road bike sales**[1]

| Year | 2015 | 2016 | 2017 | 2018 | 2019 |
|---|---|---|---|---|---|
| Off-road vehicle sales | 37,982 | 39,710 | 37,370 | 34,841 | 34,298 |

An accurate figure for total off-road vehicle numbers is difficult to estimate without access to used vehicle information and because many off-road vehicles are not registered. Given the number of new bikes sales, it is likely that numbers continue to increase and actual numbers in WA are likely to be higher than the 50,000 estimated previously. The Shire of Manjimup updated the estimate of trail bikes to 58,000 based on an average of 2013-2015 new bike sales (FCAI data) (including adventure, trail, motocross, quad and mini bikes) (Manjimup Trail Bike Trails Hub Feasibility Report 2018).

It is also impossible to estimate how many off-road bike users utilise the Medina ORVA. Anecdotally, users and local residents have indicated that they would use the site more if it were in better condition and provided a safer riding experience.

The local government areas surrounding the Medina ORVA have seen significant population growth in recent years, summarised in Table 2

**Table 2 Population growth by local government area (Population statistics, Australian Bureau of Statistics)**

| | 2016 | 2011 | 2006 |
|---|---|---|---|
| City of Kwinana | 38,918 | 29,227 | 23,198 |
| City of Cockburn | 104,473 | 89,683 | 74,472 |
| City of Rockingham | 125,114 | 104,105 | 84,307 |
| Shire of Serpentine Jarrahdale | 26,833 | 17,746 | 12,889 |

As population increases it is possible that the number of off-road vehicle users will also increase. The land use change from rural to residential is likely to also have contributed to making areas such as regional parks more accessible, increasing the likelihood of unauthorised use.

[1] www.mcnews.com.au (includes all off-road bike types)

## 3.2 Designated off-road vehicle areas

The current publicly available off-road vehicle areas (ORVA) designated under the *Control of Vehicles (Off-road Areas) Act 1978* within a reasonable driving distance from Perth are depicted in Figure 2.

**Figure 2 Designated off-road vehicle areas in and around the Perth Metropolitan Area**

Across the Perth Metropolitan Area, the ORVA gazetted under the Act are widely dispersed and have a range of management approaches, summarised in Table 2 below.

**Table 3 Off-road vehicle areas (designated under the Control of Vehicles (Off-road Areas) Act 1978**

| Site | Summary |
|---|---|
| Gnangara | 225 ha<br>Limited management/maintenance by DBCA<br>Poor condition<br>Limited barriers to adjacent State Forest/reserve areas<br>Located within a public drinking water source area<br>800 m to rural housing |
| Medina | 20 ha<br>Vacant Crown land, not actively managed<br>Poor condition<br>Limited barriers to adjacent lots<br>700 m to residential housing |
| Lancelin | 200 ha<br>Sand dunes<br>All ORV classes permitted<br>Changing nature of site can make unsafe |

| | |
|---|---|
| | Within 250 m of residential housing<br>Noise limits and opening hours apply |
| Ledge Point | 40 ha<br>Sand dunes<br>Motorcycles only<br>Opening hours apply<br>1.5 kilometres to residential housing |
| Pinjar | 250 ha<br>Actively managed/maintained by DBCA<br>Active friends group<br>Very good to excellent condition<br>Site rules, designated rider level tracks<br>Adequate buffer to residential housing |
| York | 4 ha<br>Small motocross bikes permitted<br>Actively managed by the Shire<br>Very good condition<br>Within 500 m of rural housing |

## 3.3 Needs Analysis

Designated ORVAs play an important role in provision of facilities for unlicensed and unregistered off-road vehicles and are an important strategy in reducing the incidence of illegal riding of unregistered vehicles in reserves, state forests, national parks, public roads and footpaths. To be successful, ORVAs should meet the needs of users, be sustainably managed and align with other community needs and social requirements.

To help determine the feasibility of upgrading or closing the Medina ORVA, a community needs assessment has been undertaken based on:

- Comparative need – current provision
- Identified need – provision requirements identified by key stakeholders

### 3.3.1 Comparative Need

There are currently three gazetted ORVA in the Perth Metropolitan Region, however, the Medina ORVA is the only site located to the south. The Gnangara ORVA is a 51 minute drive and the Pinjar site is a 1 hour 5 min drive from the Medina ORVA, increasing travel times for users travelling from the south to use an ORVA. Travelling to areas outside of the Perth Metropolitan Area would involve a 1 hour 34 minute drive to the Shire of York, if a junior motorcross track is acceptable or a 1 hour 52 minute drive to Lancelin.

Commercial ride parks are an alternative option involving a 2-3 hour drive.

There are a number of motorcycle clubs around Perth, the closest being the Coastal Motorcycle Club in the City of Cockburn (8 minute drive from the Medina ORVA). Motorcycle clubs offer a more formal, membership based experience than gazetted ORVA. They offer small tracks for multiple use by multiple bike types.

Much of the land to the east of the Medina ORVA is zoned for rural use, and likely supports off-road vehicle use, although this is difficult to estimate. This usage is likely to support rural activities but may also support some recreational usage by unlicensed, unregistered riders.

The local government sector has identified that addressing off-road vehicles 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. Identifying designated ORVAs is part of the solution for addressing issues with off-road vehicle use.

### 3.3.2 Identified need

Of all gazetted ORVA within and surrounding the Perth Metropolitan Region, Pinjar is the most used due to active and ongoing management, site rules and engaged users. The continued use of more poorly managed sites such as the Medina ORVA and the Gnangara ORVA suggests that there is a need for sites that cannot be met by the better managed sites alone.

There are a number of studies that demonstrate the continued appetite for off-road vehicle use and the establishment of areas where off-road use is permitted, such as:

- Manjimup Trail Bike Trails Hub Feasibility Report, Shire of Manjimup 2018
- Off-road Vehicle Area Site Investigation Study, City of Rockingham 2018 (unpublished)
- Off-road Vehicle Areas in the Northern Agricultural Region of Western Australia, Northern Catchments Council 2015

The Recreational Trailbike Riders Association (RTRA), established in 2007 as a rider advocacy group, represents over 2,000 riders of various ages, gender and riding style. The existence of this group demonstrates that users feel the need for a group to advocate for better recognition as a recreational activity and the need for improved facilities and services.

The use of the Medina ORVA, while difficult to quantify, is likely to be low. This is due to:

- Poor rider experience (lack of track maintenance)
- Safety concerns (lack of site rules, multiple vehicle types, anti-social behaviours)

However, multiple stakeholders have indicated that they would use the site more if improvements were made and there was a commitment to ongoing management, including by the RTRA, Motorcycling WA and Quad Riders WA.

The State Trail Bike Strategy identified the need for a designated ORVA in the Southern Perth Metropolitan Region and is a requirement that remains.

Local government feedback provided to WALGA as part of its preparation of a paper discussing off-road vehicles and local government indicates, that unauthorised off-road vehicle use is an issue managed by local governments regardless of the presence of a designated area. Assistance identified by the local governments included greater provision of designated ORVAs and funding for the development and maintenance of these areas.

There is a demonstrated need for the ongoing provision of existing ORVA and also a case for providing an increased number of areas.

# 4. Opportunity and Constraints Analysis

There are a number of constraints associated with the Medina ORVA that need to be considered in the context of ongoing and future use of the site. These are discussed below as part of an opportunities and constraints analysis.

## 4.1 Land Management

The *Control of Vehicles (Off-road Areas) Act 1978* (the Act), whilst recognising the duty of a local government to administer and enforce the provisions of the Act, does not mandate management of off-road areas.

Attempts have been made in the past to enable the Medina ORV area to be better managed, with signage and demarking the site. Damage to this infrastructure has led to it not being replaced.

There are a number of ongoing issues at the site including illegal rubbish dumping, vehicle dumping, arson and graffiti. The mobile nature of off-road vehicle use means that it is also often difficult to catch offenders, and would involve chasing offenders through a potentially dangerous environment.

The sandy nature of much of the site also means that tracks and areas used constantly change. This can cause degradation of the bushland through physical damage to the vegetation and by allowing the spread of weeds and dieback and poses a safety hazard. This coupled with the removal of boundary fencing leads to vehicles venturing outside of the area gazetted for use by ORV.

The City of Kwinana has recognised that it is unable to effectively manage the site given physical and financial constraints and requested that the site be closed. However, without a land manager and an agreed future us it is likely that the site will continue degrade as riders are likely to continue to access the site.

### 4.1.1 Opportunities

A number of user groups have expressed an interest in managing the site, including the RTRA, Motorcycling WA and Quad Riders WA. It may be possible for the site to be managed by a user group which would improve day-to-day site management. Once inclusion of the site in the land package offered as part of the Native Title Settlement Agreement with the Gnaala Karla Boodja people has been determined, this opportunity can be investigated further. This may include:

- Expressions of interest from interested parties
- Investigation of user group/government/agency partnerships – e.g. for a group to lease the site, it would first need to be reserved and vested with a particular agency or local government.
- Development of a management plan based on the intended use
- Updates to the gazettal under the Act (if for example vehicle use is proposed to change)

Securing a land manager for the site presents an opportunity to:

- Demark the area that is gazetted for off-road vehicle use
- Reduce the impact of vehicles on the surrounding regionally significant vegetation
- Undertake site clean-up
- Implement a plan for the site to establish more responsible usage by site visitors

## 4.2 Use by Multiple Vehicle Types and user groups

The Medina ORV area is gazetted for use by motorcycles under the *Control of Vehicles (Off-Road Areas) Act 1978.* Consultation with stakeholders and a site visit has confirmed that the site is used by off-road motorbikes, quad bikes and also 4-wheel drive vehicles. As there are no designated tracks or site rules, this creates a conflict and safety concerns between different user groups.

**Figure 3 Evidence of 4WD usage**

The 4-wheel drive users also appear to modify the site (moving perimeter boulders and creating obstacles). This can make it less attractive and potentially dangerous to other site users.

The Kwinana Loop trail is located to the east of the site. As the ORV and 4-wheel drive vehicles generally do not stay within the gazetted area, this can cause conflict between vehicles and walkers using the loop trail (pers. comms. City of Kwinana).

### 4.2.1 Opportunities

The needs analysis presented in Section 3.3, demonstrates a clear need for a site for use by off-road motorbikes. Stakeholder consultation and site observations also suggest demand for other uses. Improved management of the site, including defining user groups, clear demarcation of trails and implementation of site rules will manage and reduce conflicts between user groups. This has the potential to create a successful, well-used site and lead to a reduction in the environmental and safety impacts caused by unauthorised use.

## 4.3 Environmental

### 4.3.1 Bush Forever

Bush Forever seeks to protect a target of at least 10 percent of the original extent of each vegetation complex within the Perth Metropolitan Region portion of the Swan Coastal Plain. The Medina ORVA is included in Bush Forever site 349 (Figure 4). The current use appears to be having a detrimental impact on the vegetation and the conservation value of the wider bushland area (given there is no fencing of the gazetted area).

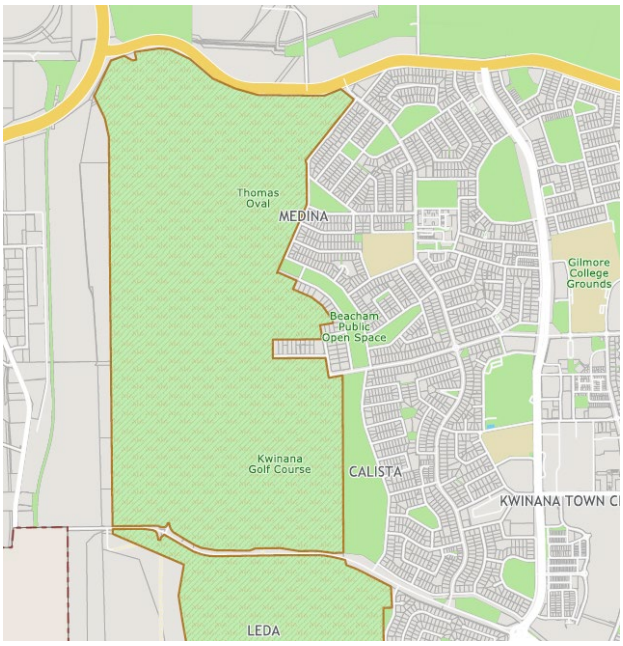


**Figure 4 Bush Forever Site 349**

### 4.3.2 Vegetation

The vegetation in Lot 345 and directly surrounding the Medina ORVA is mapped as belonging to the Cottesloe (Central and South) vegetation complex (Figure 5). The Cottesloe (Central and South) vegetation complex is considered to be regionally significant with less than ten percent of the original extent formally protected within reserves.

Cottesloe Central and South Vegetation Complexes include highly saline seasonal wetlands, woodlands of Tuart, Jarrah and Marri and low Banksia dominated woodlands. The vegetation types in this complex are influenced by Tamala Limestone.

The vegetation has also been included within a regional ecological linkage. Ecological Linkages link locally and regionally significant natural areas and provide stepping stones for flora and fauna. The consideration of linkages between protected natural areas is important to meet the needs of avifauna and maintain long-term movement of genes between the former ranges of species. (Local Biodiversity Study, City of Kwinana).

More than 40 percent of the unprotected vegetation of this vegetation complex is zoned Residential, General Industry, or Town Centre which provide few opportunities for natural area protection (Local Biodiversity Study, City of Kwinana). Protection of the vegetation surrounding the Medina ORVA is therefore considered to be an opportunity to protect this regionally significant vegetation.

The condition of the vegetation in the gazetted area is largely completely degraded to degraded. Vegetation in the wider area ranges from completely degraded to very good condition. Pockets of good to very good condition vegetation should be a priority for improved protection from off-road vehicles.

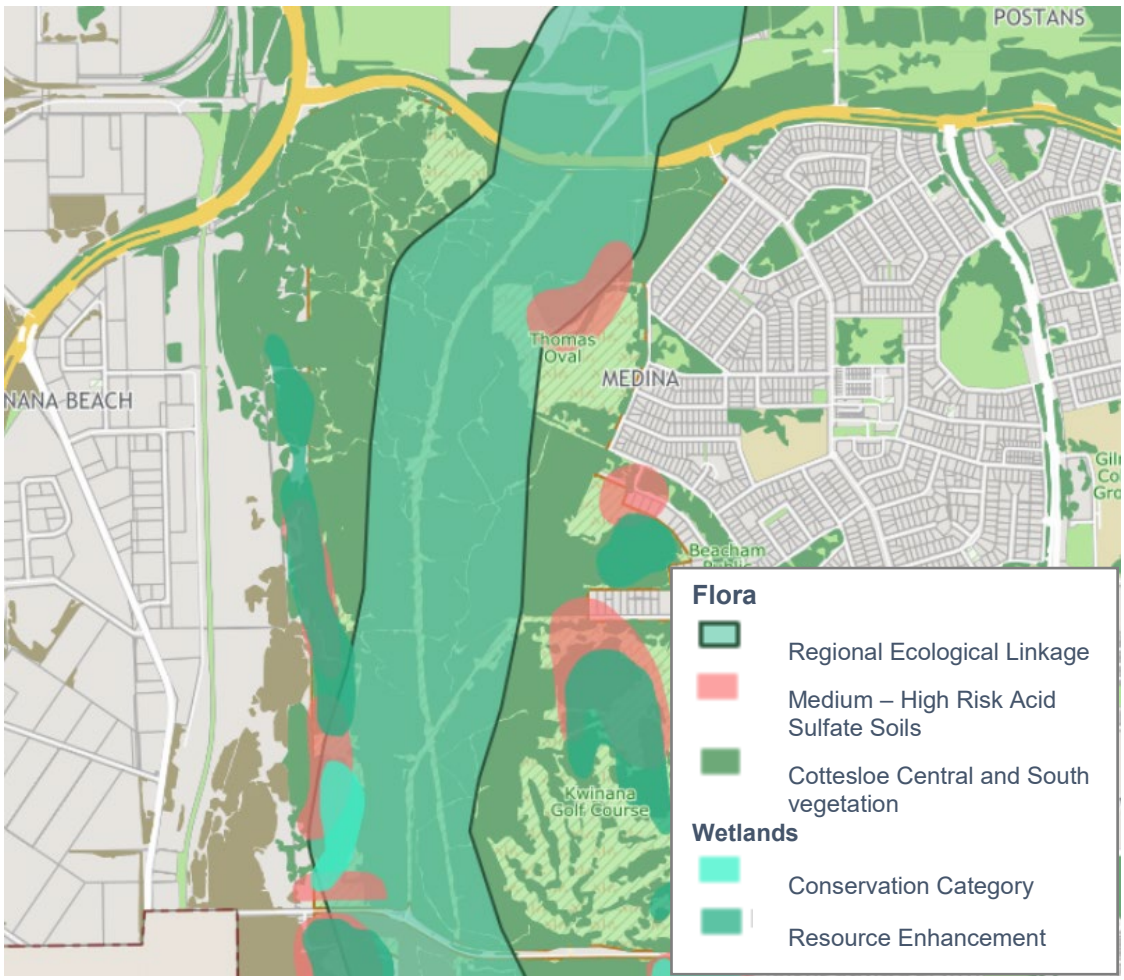


**Figure 5 Environmental features of the Medina ORVA and surrounds (City of Kwinana, Intramaps)**

**Figure 6 Vegetation on Chalk Hill slopes looking towards Thomas Oval**

### 4.3.3 Flora and Fauna

A species search was conducted on the 22 May 2019 using the Department of Biodiversity, Conservation and Attractions NatureMap tool. A search of the area within a two kilometre radius revealed the presence of 106 native species within the immediate vicinity of the Medina ORVA. Of these, three species are listed as rare of likely to become extinct:

- *Calyptorhynchus banksii subsp. naso* (Forest Red-tailed Black Cockatoo)
- *Calyptorhynchus latirostris* (Carnaby's Cockatoo, White-tailed Short-billed Black Cockatoo)
- *Diuris micrantha* (Dwarf Bee Orchid)

Priority species are those species identified as in need of further survey or ongoing monitoring. The search indicated the presence of four priority species within a 2 kilometre radius of the Medina ORVA:

- *Lerista lineata* (Perth Slider, Lined Skink) – P3
- *Dodonaea hackettiana* (Hackett's Hopbush) – P4
- *Hydromys chrysogaster* (Water-rat, Rakali) – P4
- *Isoodon fusciventer* (Quenda, southwestern brown bandicoot) – P4

### 4.3.4 Threatened Ecological Communities

An ecological community is a naturally occurring group of plants, animals and other organisms interacting in a unique habitat. The complex range of interactions between the component species provides an important level of biological diversity in addition to genetics and species (Department of Biodiversity, Conservation and Attractions).

The description of the vegetation for Bush Forever Site 349 indicates that the Floristic Community Type 19b: Woodlands over sedgelands in Holocene dune swales (DEP 1996,

equivalent to 19 in Gibson et al. 1994) may be present at the site (Bush Forever, Government of WA, 2000). This vegetation complex is a threatened ecological community listed as endangered and protected by the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. It is also categorised as critically endangered by the State and protected by the *Biodiversity Conservation Act, 2016*.

Confirmation of the presence and extent of the threatened ecological community should be investigated and (if confirmed) protection of the threatened ecological community included in considerations for the future of the site.

### 4.3.5 Pests, weeds and diseases

Diseases such as *Phytophthora* dieback and canker can alter the structure and floristic of natural areas through causing the death of native vegetation. A visual assessment of the Medina ORVA and surrounds indicates that the area has been impacted by the introduction of diseases such as dieback. The lack of ORV management is likely to be contributing to the spread of disease.

Weeds compete with local native plant species for space and light, and could negatively affect biodiversity by degrading or destroying habitat or by providing inappropriate foods for fauna, depriving them of suitable habitat. There are areas within the Median ORVA and surrounds with significant weed populations. The lack of ORV management is likely to be contributing to the spread of weeds.

Pest and feral animals can alter the structure of vegetation through grazing and soil disturbance. In addition, pest animals can cause habit degradation by trampling and species loss by predation, and alter ecosystem processes. They sometimes act as carrier of weed seeds and its spread. It is likely that pests and feral animals are present within the Medina ORV and surrounds, however, their presence is unlikely to be influence by ORV.

### 4.3.6 Wetlands

Wetlands are areas that are wet by surface water or groundwater, or both. They remain wet for long enough periods of time that the plants and animals in them are adapted to and depend on moist conditions for at least certain part of their lifecycle. Some wetlands are ephemeral, and their extent will vary depending on climatic conditions (Local Biodiversity Study, City of Kwinana).

Detailed mapping of the wetlands on the Swan Coastal Plan has been undertaken by the Department of Biodiversity, Conservation and Attractions and a management category assigned.

Resource Enhancement and Conservation Category Wetlands are mapped in the area to the south of the Medina ORV area (Figure 5). Activities that lead to further loss or degradation of conservation category wetlands is considered to be inappropriate. Resource Enhancement Wetlands are wetlands that have been partially modified. The aim is to support restoration of wetlands within this management category (Department of Biodiversity, Conservation and Attractions). Future consideration of the site for ORV purposes should consider how offsite impacts to wetlands might be managed.

### 4.3.7 Acid Sulfate Soils

Acid sulfate soils (ASS) occur naturally in Western Australia and are harmless when left in a waterlogged, undisturbed environment. However, when exposed to air, through drainage or excavation, the iron sulfides in the soils react with oxygen and water to produce iron compounds and sulfuric acid. This acid can release other substances, including heavy metals, from the soil and into the surrounding environment and waterways.

Activities with the potential to disturb ASS must be managed carefully to avoid serious environmental harm.

There is no known risk from Acid Sulfate Soils at the Medina ORVA, however, there are areas of high to medium risk to the south (Figure 5).

### 4.3.8 Contaminated sites

The Medina ORVA is not listed as a known contaminated site on the Department of Water and Environmental Regulation's Contaminated Site Database (accessed 22 May 2019). There are two sites (Lots 511 and 512) that are known to be contaminated and have been classified as *Contaminated – remediation required* due to the presence of hydrocarbons in the soil and groundwater (Figure 8). This classification restricts the use of these areas.

Whist not classified as a contaminated site, there are known issues with illegal dumping of rubbish, which may include asbestos (Figure 7). Sporadic clean-ups do occur but there is potential for environmental contamination which presents a safety risk to site users.

**Figure 7 Unauthorised rubbish dumping (within gazetted area)**

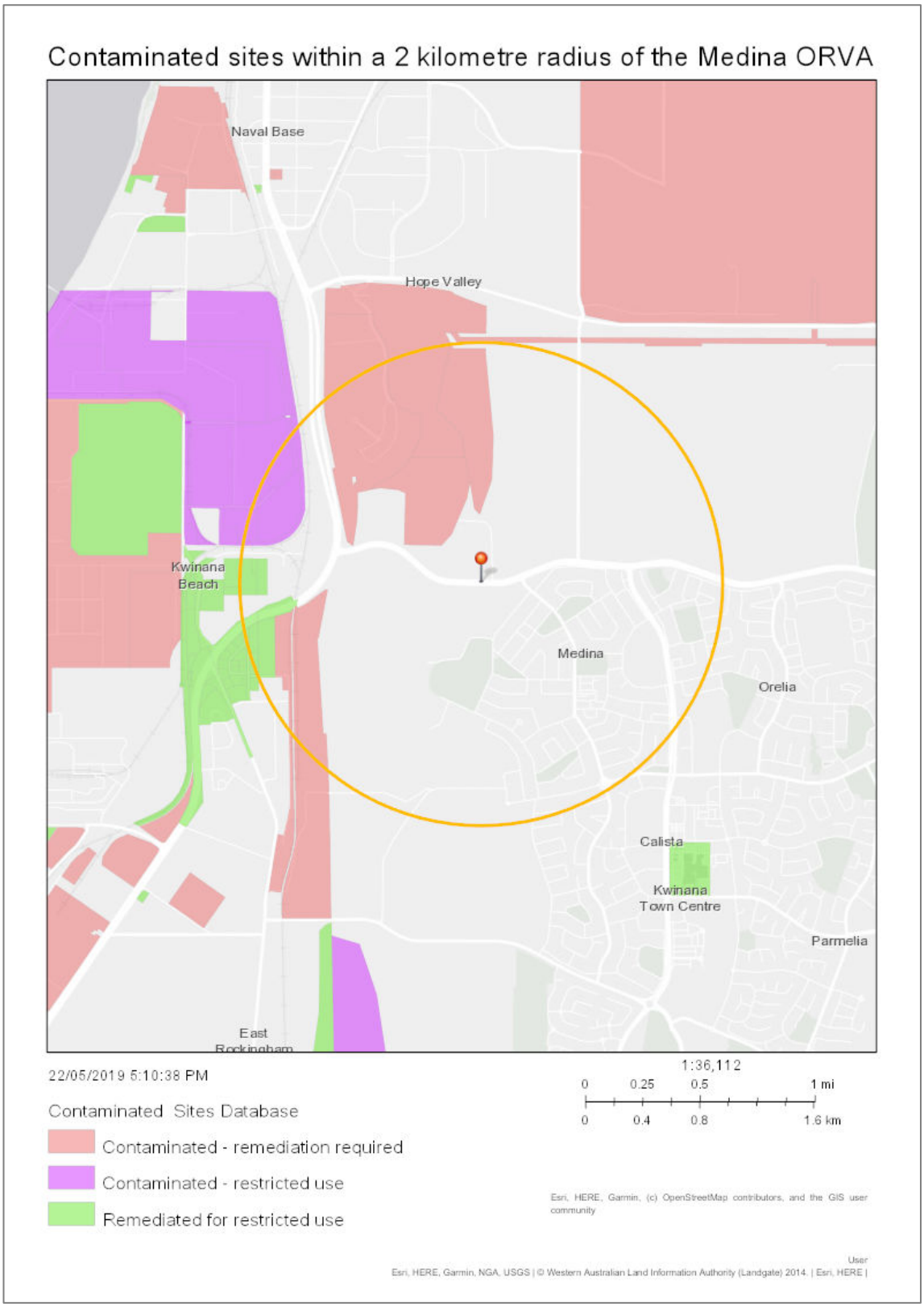


**Figure 8 Contaminated sites within a 2km radius of the Medina ORVA**

### 4.3.9 Opportunities

The site surrounding the Medina ORVA has been identified as having regionally significant conservation values (through Bush Forever), however, use by off-road vehicles has led to degradation of these values that would be difficult and expensive to rectify in some locations (especially within the gazetted area).

Allowing the site to remain open under private management is likely to improve management and operation of the Medina ORVA, however, there may still be illegal dumping and unauthorised vehicle use in the wider area.

A full environmental site analysis of Lot 345 and the surrounding lots and development of a management plan would allow for consideration of the actual environmental values of the area so that their protection can be incorporated into future plans for the site. For example, locating tracks on degraded areas, fencing of areas of significance, closing and rehabilitating unnecessary tracks. This would enable conservation values to be better protected; the management purpose for created reserves can include conservation. Bush Forever objectives are also supported as there will be a presumption against clearing native vegetation and any proposals can seek to improve protection of conservation values rather than allowing the site to continue to degrade.

Upgrades to the site will require the site to remediated, improving the local environment and removing risks of contamination.

## 4.4 Native Title

As discussed in Section 2.5.1 the Medina ORV area is included in the South West Settlement. Inclusion of this site in the Noongar Land Estate is currently being considered. This report can be provided to the South West Land and Sea Council (SWLSC) to help them consider the future of the site on behalf of the Noongar Boodjar Trust.

## 4.5 Heritage

The Medina ORVA is included within the Medina Townsite which has been classified by the National Trust.

Chalk Hill is also included on the City of Kwinana's Municipal Heritage Inventory due to its aesthetic value and contribution to local history and the layout and positioning of the Medina Townsite.

**Figure 9 Chalk Hill Lookout (City of Kwinana Municipal Heritage Inventory)**

Whilst not a registered site, Chalk Hill is known to have once been an Aboriginal campsite. The area is part of a trail of fresh water lakes and natural springs running north-south along the greater metropolitan coastal strip. They were used by the Nyoongar people for hunting and gathering. During the 1950s and 60s Chalk Hill was a camping ground for the local Aboriginal families. Some of these people worked in the BP Refinery but were not eligible for housing until after the 1967 referendum, when Aboriginal people were given the same rights as the rest of the population (National Trust of Australia (WA) Assessment Documentation, 2006).

Thomas Oval to the east is a registered Aboriginal Heritage Site and an artefact/scatter has been recorded to the west of the Medina ORVA.

Pines Cottage, Paradise Cottage, Army Camp and Key Cottage are located within the bushland to the south of the Medina ORVA. These sites are listed on the Municipal Heritage Inventory.

Heritage sites are summarised on Figure 10.

### 4.5.1 Opportunities

Resolution of the future of the site and ongoing management can include consideration of heritage values. Heritage sites can potentially be protected from impacts from off-road vehicle usage in a similar way to environmental protections. Development of a management plan for the site can include improved access to sites which will help promote them and improve appreciation of these values.

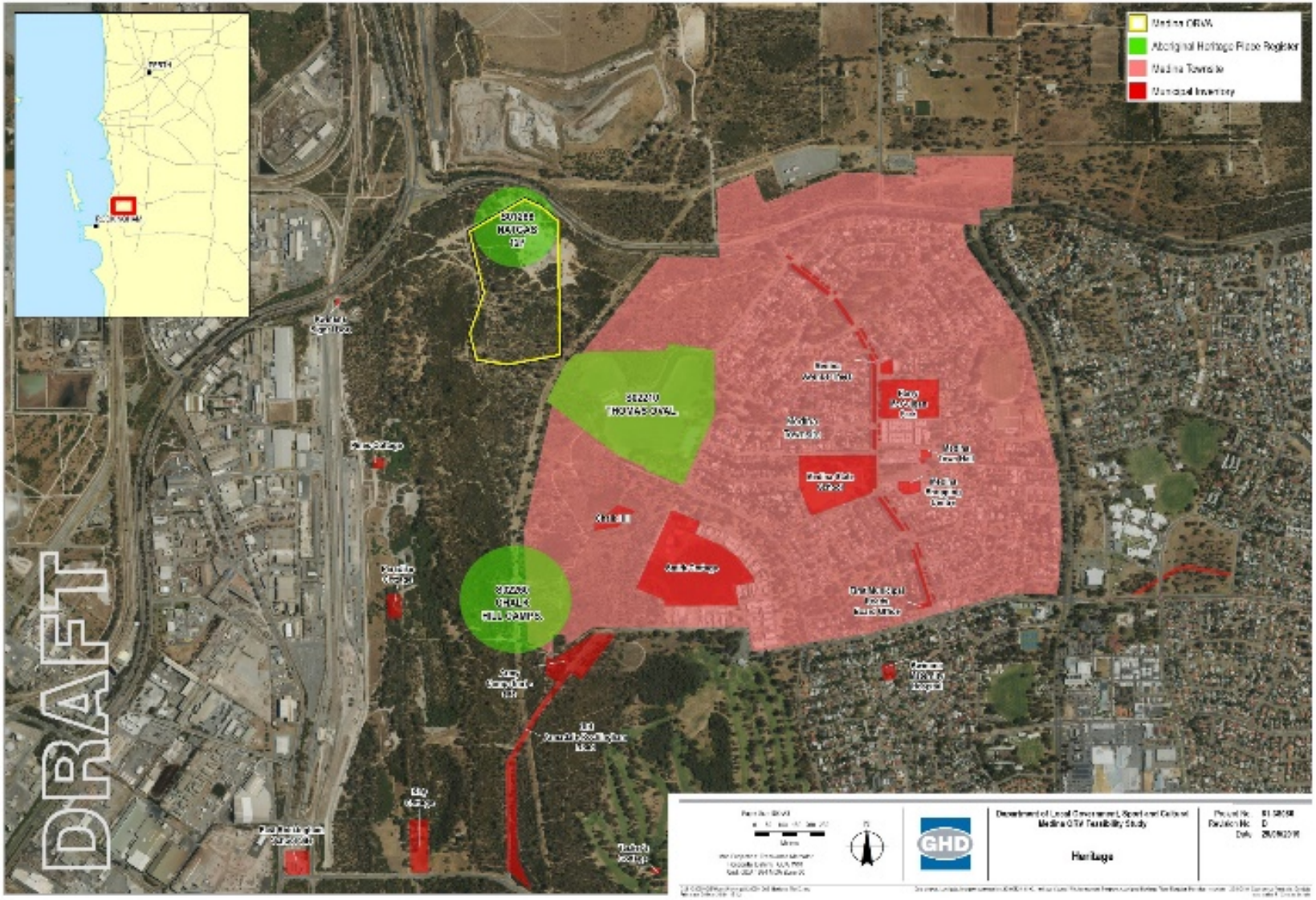


**Figure 10 Heritage sites within the Medina Off-road Vehicle Area and the surrounds**

# 5. Feasibility of Ongoing Recreational Use of Medina ORVA

Medina ORV area is currently the only designated ORV area in the south metropolitan region. The site constraints and anti-social behaviours encountered mean that people often choose to travel large distances or ride illegally elsewhere.

The local government sector has identified that addressing off-road vehicles 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 (WALGA 2018). Identifying designated ORV areas that are well managed and responsibly used is part of the solution for addressing issues with off-road vehicle use.

Closing the site would not alter the demand for spaces for use by off-road vehicles and is unlikely to change its use in reality – users are still likely to come to the site, issues such as illegal dumping would continue and the site would continue to deteriorate. A need to maintain a site in the area is justified to meet demand for ORV; if demand is not met then it is likely that environmental degradation and safety issues will continue through unauthorised access and uncontrolled use.

However, the future of the site cannot be resolved until it is determined whether or not it will be included in the Noongar Land Estate. The site may be able to be vested within the Gnaala Karla Boodja Regional Corporation and leased to a user group to take on day to day management. This option should be investigated as part of ongoing negotiations relating to the Land Settlement Agreement. Lease arrangements between other clubs and the State Government can be investigated to determine the economic advantages of such an arrangement, for example Coastal Motorcycle Club which is located within Beeliar Regional Park.

Once inclusion of the site in the land settlement has been determined, more detailed assessment of the site can be undertaken[2], including:

- Expression of interest from potential site managers
- Development of a management plan
- Site improvements/clean-up

Should the site not be included in the land settlement, an alternative land manager will be required and then a similar process can begin.

It is not considered viable to improve management of the site on an interim basis given the financial commitment required and the commitment from users to make it a success.

[2] This assumes that the Gnaala Karla Boodja will not want to alter the use of the site.

# 6. References


Government of Western Australia, Bush Forever Volume 2, Western Australian Planning Commission, 2000

Western Australian Local Government Association, Off-road Vehicles and Local Government, 2018

Department of Local Government, Sport and Cultural Industries Strategic Plan 2018-2021

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Government of Western Australia, Back on Track: WA State Trail Bike Strategy, Department of Sport and Recreation, Department of Environment and Conservation, Department of Planning and Infrastructure, Department of Local Government and Regional Development, 2008

City of Kwinana, Management Plan for the Medina Off-road Vehicle Area, Trail Bike Management Australia, 2008

Government of Western Australia, Draft Perth and Peel Green Growth Plan for 3.5 million, Department of Premier and Cabinet, 2015

City of Kwinana, Local Biodiversity Study, 2017

Government of Western Australia, State Planning Policy 4.1: State Industrial Buffer, Western Australian Planning Commission, 1997

Government of Western Australia, State Planning Policy 4.1: Industrial interface, Western Australian Planning Commission, 2017

Shire of Manjimup, Manjimup Trail Bike Hub Feasibility Report, 2017

# Appendices

# **Appendix A** Certificate of Title

WESTERN AUSTRALIA

| REGISTER NUMBER | |
|---|---|
| 345/DP59342 | |
| DUPLICATE EDITION | DATE DUPLICATE ISSUED |
| N/A | N/A |

VOLUME LR3151 FOLIO 582

# RECORD OF QUALIFIED CERTIFICATE OF CROWN LAND TITLE

UNDER THE TRANSFER OF LAND ACT 1893
AND THE LAND ADMINISTRATION ACT 1997

**NO DUPLICATE CREATED**

The undermentioned land is Crown land in the name of the STATE OF WESTERN AUSTRALIA, subject to the interests and Status Orders shown in the first schedule which are in turn subject to the limitations, interests, encumbrances and notifications shown in the second schedule.

REGISTRAR OF TITLES

**LAND DESCRIPTION:**

LOT 345 ON DEPOSITED PLAN 59342

**STATUS ORDER AND PRIMARY INTEREST HOLDER:**
(FIRST SCHEDULE)

**STATUS ORDER/INTEREST:** UNALLOCATED CROWN LAND

**PRIMARY INTEREST HOLDER:** STATE OF WESTERN AUSTRALIA

**LIMITATIONS, INTEREST, ENCUMBRANCES AND NOTIFICATIONS:**
(SECOND SCHEDULE)

1. E450638 EASEMENT TO AMPOL EXPLORATION LTD, SHELL DEVELOPMENT (AUSTRALIA) PTY LTD, TEXACO OVERSEAS PETROLEUM COMPANY AND CALIFORNIA ASIATIC OIL COMPANY. RECORDED PURSUANT TO SECTION 19(4) OF THE PETROLEUM PIPELINES ACT 1969. SEE DP59342. REGISTERED 14/3/1972.

   K395713 NOTIFICATION. THE GRANTEES OF EASEMENT E450638 ARE NOW APT PARMELIA PTY LTD PURSUANT TO SECTION 20(5) OF THE PETROLEUM PIPELINES ACT 1969. REGISTERED 31/10/2007.

Warning:
(1) A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required. Lot as described in the land description may be a lot or location.
(2) The land and interests etc. shown hereon may be affected by interests etc. that can be, but are not, shown on the register.
(3) The interests etc. shown hereon may have a different priority than shown.

----------END OF CERTIFICATE OF CROWN LAND TITLE----------

**STATEMENTS:**

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP59342
PREVIOUS TITLE: LR3151-582
PROPERTY STREET ADDRESS: 180 THOMAS RD, MEDINA.

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ORIGINAL CERTIFICATE OF CROWN LAND TITLE
QUALIFIED

REGISTER NUMBER: 345/DP59342 VOLUME/FOLIO: LR3151-582 PAGE 2

LOCAL GOVERNMENT AUTHORITY: CITY OF KWINANA
RESPONSIBLE AGENCY: DEPARTMENT OF PLANNING, LANDS AND HERITAGE (SLSD)

NOTE 1: K576052 CORRESPONDENCE FILE 03155-1971-01RO
NOTE 2: SUBJECT TO SURVEY - NOT FOR ALIENATION PURPOSES

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Document Status

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| | | | | | | |

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