

SUBMISSION TO THE CONTROL OF VEHICLES (OFF-ROAD
AREAS) ACT ADVISORY COMMITTEE

RE: PROPOSED CLOSURE OF THOMAS ROAD MEDINA OFF
ROAD VEHICLE AREA

20 March, 2008

Contact:

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The Recreational Trailbike Riders' Association respectfully submits that the Control of Vehicles (Off-road Areas) Act Advisory Committee should advise the Minister for Local Government and Regional Development to not grant the Town of Kwinana's request to permanently close the Thomas Road Medina Off Road Area.

Our submission will demonstrate that;

1. Closure of this facility is not in the Public interest
2. The arguments put forward by the Town of Kwinana in favour of the closure of this facility do not bear objective scrutiny
3. Improved management of the area could alleviate many of the Council's concerns while retaining the facility for the benefit of riders and the broader community.

ABOUT THE RTRA

Just over two years ago a group called WATARC (the WA Trailriders' Access Rights Coalition) was formed to work behind the scenes to raise the profile of recreational trail bike riding, collate research information and contribute to various government studies.

This effort was successful, and government agencies such as the Department of Sport and Recreation and the Department of Environment and Conservation now recognise the legitimacy of recreational trail bike riding and its contribution to recreational diversity and outdoor activity participation rates.

One of the issues identified by this group was the lack of information about the number of trail bike riders and their specific riding needs. Competitive riders have for many years enjoyed representation through various clubs and through Motorcycling WA. This representation has enabled the sport to attract funding through the Department of Sport and Recreation, Healthways, and other bodies. However recreational riders – those who prefer to just get out and enjoy riding rather than competing in organised activities – have not had an association through which their interests can be effectively represented.

Without this representation there has been no opportunity to be heard by government as a collective group. And without a strong voice in government there is no driver to achieve positive change.

The Recreational Trailbike Riders Association of WA (RTRA) was formed to represent the interests of recreational trail bike riders. Membership is open to anyone who rides a registered or unregistered trail or motocross bike or quad, regardless of age.

This is obviously a very broad group, but one of the key objectives of RTRA is to promote recognition of the diversity of machinery and riders, and the need to cater for this diversity.

Since its launch in September 2007 RTRA has attracted 500 Family Memberships, representing over 1,000 riders.

The four objectives of the RTRA represent a balance of interests designed to ensure a sustainable future for recreational trail bike riding:

- To protect and extend quality, safer off-road riding opportunities for Western Australian recreational trail bike riders of all ages.
- To promote and encourage safety and responsible riding attitudes, including minimising noise and trail damage.
- To actively pursue the needs of trail bike riders with government agencies, councils, landowners and other stakeholders.
- To improve the perception of trail bike riding as a recreational activity amongst stakeholders and the broader community.

Through the RTRA web site and e-Newsletters, members are given the opportunity to contribute to the trail bike debate, and are encouraged to adopt safe and responsible riding practices.

- 73% of respondents have parents, children, siblings and / or partners who also ride
- 52% usually ride with family
- 79% of riders began riding under the age of 18

With the exception of private property, gazetted Off Road Vehicle Areas (ORVAs) are the only option for family riding where one or more members of the family is below licensable age. For these riders the only current legal riding options involve a long trip north to Gnangara, Pinjar or Lancelin, or an even longer trip to York where a small ORV facility exists.

For the parents of riders who are too young to have a road licence this represents a significant burden, with a minimum 2.5 hour round trip from Kwinana to Gnangara. This is clearly a major disincentive and must surely contribute to the amount of unsupervised riding that occurs in the Kwinana area.

These statistics clearly point to a significant demand for an ORVA located in the southern suburbs.

Riders who are indirectly impacted are those who ride road-registered trail bikes and whose legitimate right to ride on public roads and tracks is compromised by the community concern and confusion over illegal use. Having more legal places for non-road-registered bikes and quads to ride is an essential element in fostering responsible behaviour.

With the continuing rapid increase in off-road bike sales, the increasing concentration of riders into the few remaining ORVAs is increasing congestion and the potential for accidents.

Residents of the Town of Kwinana

RTRA does not purport to represent the views of Kwinana residents specifically, however the research conducted for the State Trail Bike Strategy found that the non-riding community saw the provision of more designated riding areas as both effective and necessary in controlling trail bike use.

- Over 50% strongly agreed that 'Lack of suitable places for trail riders to ride' was a main cause of problems with trail bikes.
- Over 80% believed that 'providing more designated areas for trail bike riding' would be an effective solution.
- Over 70% believed that 'allocating budgets for shires to create facilities as they do for other recreational activities' would be an effective solution.

Many comments posted on the PerthNow forum in response to a recent incident in Parmelia cited the closure of the Thomas Rd ORVA as a contributing factor to the increase in illegal riding occurring in the Kwinana area and the associated social and environmental problems.

On this basis it is reasonable to assume that there is broad community support for the concept of designated local ORVAs, provided that issues such as noise and transport to and from these areas can be addressed.

Nowhere in the Town of Kwinana's arguments for closing the Thomas Rd area can we find reference to complaints from local residents, and surely these would, if they existed, be highlighted as support

for the case for closure. So on this basis we are left to conclude that any community opposition to the facility would be outweighed by the strong community sentiment that ORVAs are a practical and necessary strategy for controlling trail bike use.

Australian Railroads Group

This stakeholder owns the land adjacent to the southern border of the gazetted ORVA.

ARG operates the railway marshalling yard bordered by Mounsey Rd to the west and Wellard Rd to the south.

Trail bikes illegally entering the ARG property cause significant safety concerns, and noise from trail bikes impacts on shift-working engine drivers who sleep in the ARG barracks at the northern end of the marshalling yards.

ARG has spent significant sums of its own money in fencing and patrolling the boundaries, with varied success.

From conversations with Mr Keith Satie, Operations Coordinator, the Town of Kwinana did not consult with ARG prior to closing the Thomas Rd facility and has not proactively made any attempt to discuss possible management of the area with ARG. The closure of the Thomas Rd ORVA has, if anything, made the problem of trail bikes accessing the ARG Marshalling Yards worse.

We'll return to ARG in Part 3...

Kwinana Council

As the Local Government Authority responsible for the Thomas Rd ORVA, Kwinana Council faces the same issues confronting Gingin Shire, York Shire and to a lesser extent the City of Swan and the City of Wanneroo.

We do not know whether Kwinana Shire (as it would have been at the time) requested the original gazettal of the area or whether the Thomas Rd ORVA was part of the original ORVAs gazetted in 1979. Either way, the areas was gazetted and this imposes certain obligations on the Town of Kwinana under the CV(OA)A .

As we will demonstrate in Part 2, the Town of Kwinana has not adequately demonstrated that these obligations impose an unfair or unmanageable burden on the Council or its ratepayers.

Continuing to take responsibility for the area may be inconvenient for the Council, and clearly the Council would prefer that some other body would step in and make the problem go away. But does a Council have the right to arbitrarily shift a problem elsewhere when they have a statutory responsibility?

When ORVAs have the ability to provide a safer riding environment (for riders and non-riders) does the abrogation of this responsibility constitute a breach in the Duty of Care owed by the Council to its citizens?

In its own submission to the DLGRD review of the CV(OA)A, (27 July 2006) the Town of Kwinana had this to say about safety:

“it is safe to say that most serious accidents involving ORVs do not occur on approved ORV areas.”

ORVAC

The Control of Vehicles (Off-road Areas) Act Advisory Committee itself is considered a stakeholder because the Control of Vehicles (Offroad Areas) Act 1978 relies absolutely on the Areas to make it work. Without ORVAs there can be no Act, as it is the Areas that distinguish between legal and illegal riding and it is the Areas that justify the whole concept of Off Road Vehicle Registration.

The State Trail Bike Strategy (and the review of the CV(OA)A legislation itself) found strong community demand for compulsory registration of non-road-registered vehicles. The only way that this is practical is to provide areas within which this type of registration can be used.

Accordingly ORVAC must set a high onus of proof on any LGA seeking to de-gazette an existing ORVA, as well as providing incentives and support for the improvement of existing and establishment of new ORVAs.

Secondary Stakeholders

We can consider all agencies and groups involved with environmental concerns, and all other LGAs and their residents together for the purposes of a Public Interest discussion.

Essentially, if ORVAs can be developed to be more attractive areas for riders to ride, then fewer unregistered / unlicensed riders will be inclined to ride in unauthorised areas such as water catchment, national parks, bush reserves and local ovals.

CONCLUSION TO PART 1

From the foregoing it is clear that it is in the Public Interest to maintain and extend the number, geographic spread and diversity of Off Road Vehicle Areas.

Therefore it is in the Public Interest to only allow the closure of existing areas where there is compelling and incontrovertible proof that such areas are no longer feasible.

Even then there should be a process for identifying suitable alternatives before existing facilities are closed.

In Part 2 we will demonstrate that the Town of Kwinana has not presented a compelling case to close the Thomas Rd ORVA.

PART 2: THE TOWN OF KWINANA'S REQUEST

Perhaps the best way to understand the rationale put forward by the Town of Kwinana for closing the area is to review the Council Minutes of October 2, 2007 where the decision to request permanent closure was taken.

The following is a complete extract from those minutes.

RTRA Comments on this document are highlighted with a border like this one.

MEDINA OFF ROAD VEHICLE AREA

Kwinana Council Minutes October 2 2007

SUMMARY:

Council has previously resolved to seek the approval of the Minister for Local Government and Regional Development to close the Medina Off Road Vehicle Area.

This resolution came about following a series of Council discussions and a number of officer reports with respect to the use of this property, identified capital infrastructure required to keep the facility operational and the level of risk exposure to the Council as a result of the use of this property.

Following a request to close the Off Road Area being forwarded to the Minister for Local Government and Regional Development, the Minister decided to close the area temporarily and seek expressions of interest from interested persons to take the facility over and operate the off road vehicle area.

Expressions of Interest (EOI) were coordinated by the Control of Vehicles (Off Road Areas) Act Advisory Committee.

A subsequent review of the processes undertaken to date by the Department of Local Government and Regional Development indicated that this EOI process was not appropriate given that the property remained vested in the Town of Kwinana, who had the only rights to lease this property.

Whilst three expressions of interest were received by the Department of Local Government and Regional Development, none of these have progressed any further and no further negotiations have been undertaken with those companies or individuals who have expressed an interest in the property.

The Department of Local Government and Regional Development recently met with the Director of Governance, Strategic and Human Resources and the Director of Corporate and Commercial Services to try and resolve this matter.

The Department of Local Government and Regional Development advised that they have no interest in this property and do not intend to enter into any agreement with any person through the EOI process due to the property being vested in the Town of Kwinana.

Council must now decide if the level of interest received during the Department of Local Government and Regional Development's Expression of Interest process warrants a further public EOI or tender process through the Town of Kwinana or alternatively whether Council should reaffirm its prior position and ask the Minister to permanently close the Medina Off Road Area.

OFFICER RECOMMENDATION:

That Council reaffirm its previous resolution of 23 November 2005 and;

1. Request the Minister for Local Government and Regional Development to close the Medina Off Road Vehicle Area, and

2. Request the Minister for 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 facilities and through the coordination of this review by the Control of Vehicles (Off Road Areas) Act Advisory Committee.

DISCUSSION:

At its Ordinary meeting held on 23 November 2005 Council resolved;

That Council:

1. Seek approval of 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 continue to find an alternate operator.

This resolution followed on from the Ordinary meeting of 22 September 2004 at which time Council resolved;

That Council;

1. Advise the Hon Minister for Local Government and Regional development that the Town of Kwinana seeks to surrender its control, management and administrative responsibility under the Control of vehicles (Off Road Areas) Act 1978 for the Medina Off Road Area effective from the 30 September 2004 for the following reasons;

a) The Off Road Area is utilised by a high percentage of users who reside outside the Town of Kwinana and hence should be considered and operated as a regional facility.

- Many Councils operate facilities that derive a substantial portion of their patronage from outside the LGA itself – eg beaches, boat ramps.
- The CV(OA)A does not require each and every LGA to operate an Off Road Area, so by the intent of that legislation these were always intended to be shared resources.
- Town of Kwinana has not quantified the impact that ‘out of town’ users would have on the capital or operating costs of the facility. For this argument to stand it would need to be proven that such use would have additional costs over and above those that would be incurred in providing the facility for residents of Kwinana alone.
- How reliable is the methodology used to determine that a ‘high percentage’ of users reside outside the Town of Kwinana?

b) The Town of Kwinana does not have the physical and financial resources to effectively manage the operational risks associated with the facility to an acceptable standard, and

- Town of Kwinana has not identified what those physical and financial resources are, what the operational risks are or what is an ‘acceptable standard’. Until these

elements are defined it cannot be proved that the provision of those elements imposes an unreasonable burden on Kwinana.

- There is no evidence that Town of Kwinana has made any attempt to properly consider issues of 'effective management', 'acceptable standards' or required physical and financial resources.

c) Subject to recommendation 4 below.

2. Strongly support the transfer of the control, management and administrative responsibility under the Control of vehicles (Off Road Areas) Act 1978 for the Medina Off Road Area to the Department of Local Government and Regional development or another appropriate government department, agency or the West Australian Sports Centre Trust whom are better equipped to manage this Off Road Area with the intent to retain the current use with approval to vary the vehicle capacities.

- None of the agencies mentioned manage Off Road Vehicle areas, and Town of Kwinana hasn't identified any specific attributes to support the assertion that other agencies are 'better equipped to manage this Off Road Area'.
- The CV(OA)A legislation specifies that gazetted areas remain under the control of the LGA within which their boundaries lie. CV(OA)A 5(1).

3. Advise the Control of Vehicles Off Road Advisory Committee that the funds approved for the upgrade of the facility are no longer required if the transfer of the control, management and administrative responsibility to another appropriate organisation or agency is successful.

4. Reconsider its options if no other agency is willing or able to assume the control, management and administrative responsibility of the Medina Off Road Vehicle Area with the following options;

a) To seek approval of the Minister for Local Government and Regional development to close the Medina Off Road Area,

b) Implement options 1 and 2 within this report,

c) Investigate the potential for approval for a commercial lease with the Control of Vehicles Off Road Advisory Committee to transfer the operational responsibilities, risks and liabilities to the private sector.

- Town of Kwinana subsequently did not investigate the potential for a commercial lease, despite ORVAC passing on three EOIs received.

Following the resolution of 23 November 2005 being made, a formal request to close the Medina Off Road Vehicle Area was forwarded to the Minister for Local Government and Regional Development.

The Minister determined to temporarily close the Off Road Area, a temporary closure that was extended at six monthly intervals. During this period, the Control of Vehicles (Off Road Areas) Act Advisory Committee decided to formally advertise for Expressions of Interest to operate the Off Road Vehicle Area.

Three Expressions were received by the Department of Local Government and Regional Development (acting on behalf of the Control of Vehicles [Off Road Areas] Act Advisory Committee) during this period, and in correspondence dated 10 May 2007 from the Department of Local Government and Regional Development the following information was provided;

“would you please nominate officers within the Town who can assist in the assessment of the expression of interest in managing the Medina Off Road Area.”

The Director of Governance, Strategic and Human Resources and the Director of Corporate and Commercial Services met with the Department of Local Government and Regional development following this request.

Unfortunately, since this correspondence, the Department of Local Government and Regional Development had undertaken an internal review of its role in this process and concluded that the EOI process was not appropriate given that the land remained in the vesting of the Town of Kwinana and the fact that neither the Control of Vehicles (Off Road Areas) Act Advisory Committee nor the Department of Local Government and Regional Development had any power to lease the property in question if an appropriate person could be found.

Based on this conclusion, officers of the Department of Local Government and Regional Development advised that they did not see any ongoing role for the Department in respect to the property and the decisions to enter into a third party lease was a matter for the Town of Kwinana to consider.

- This is correct, in that legal responsibility for any lease would reside with Town of Kwinana. ORVAC had already assisted by calling for EOIs and passing on the details of the parties who responded.

Simultaneous to this meeting taking place, one of the parties who had provided an Expression of Interest to the Department of Local Government and Regional Development contacted the Town of Kwinana to discuss how the matter could be progressed.

Subsequent meetings with this operator indicated that they had significant experience in similar types of operations and were able to secure the necessary approvals, clearances and insurance coverage to enable such a facility to be properly managed.

The Director of Governance, Strategic and Human Resources and the Director of Corporate and Commercial Services met with this operator and whilst details of the method of management were not discussed, it became apparent that a suitable operator may exist for this facility.

- Town of Kwinana acknowledge that a suitable operator may exist

There is no question that the operation of this facility would require substantial capital investment and very high levels of insurance coverage, security measures, and appropriate management experience.

- In the absence of any supporting evidence there is a very big and unresolved question as to what level of capital investment, insurance, security and management would be required. This statement is totally unsupported.

It cannot be reasonably concluded that any of the parties who lodged through the former EOI have these qualifications or capabilities.

- It is not possible to make this statement without a reasoned understanding of what qualifications or capabilities would actually be required.

This is due primarily to the fact that the EOI was lacking in its request for detail and specifics and as such the information received does not answer many of the issues that would need to be resolved.

If Council supports the development of an EOI process, any EOI document would need to be written in a highly detailed format including all possible issues, contingencies, capital infrastructure requirements, environmental management issues and a number of other relevant requirements.

- Not true. The EOI was just that – an Expression of Interest. A process of discussions with interested parties could have led to a better understanding of the issues, with a subsequent Tender process just one of several possible outcomes.

The Town of Kwinana has been placed in a difficult position due to the existence of this facility. Nowhere else in the metropolitan or outer metropolitan area has any local government been successfully able to develop a model to enable this type of facility to operate.

- York Shire operates a small but successful facility
- After 30 years of operation Management Plans are now being developed for the Pinjar and Gnangara Off Road Vehicle areas.
- Gingin Shire is currently developing a Risk Management plan for the Lancelin area.

Additionally, it has been well recognised that this facility provides a service on a regional basis not just for residents of Kwinana. As such, placing the responsibility for operating what is clearly a difficult service to operate could be considered as unreasonable.

- Town of Kwinana has a perception that the area is difficult to operate but hasn't presented any evidence of quality thinking about *how* to manage it
- Operating the service may not be an unreasonable responsibility if correctly managed.
- Funding from sources outside Town of Kwinana may be available – in fact Kwinana was offered \$30,000 in funding from ORVAC.

The closure of the facility however also presents issues.

Those trial bike riders who previously used the facility no longer have a facility to use. Considering the amount of reserve and bush land prominent across Kwinana, it is not then surprising that trial bike riders are a consistent problem throughout so many parts of the district.

- Closing the Thomas Rd facility will cause further dispersal of riding with implications for environmental damage, community annoyance and frustration and safety.

This Expression of Interest process may only result in confirming that the extent of issues relating to such a facility are so numerous that no effective lease will be able to be developed.

- Which makes it even more extraordinary that the Town of Kwinana did not continue with the EOI process to a conclusion one way or the other.

Alternatively, if a successful model can be developed and the risks imposed on the Town of Kwinana through this facility can be mitigated, then the Town will have successfully provided a service that is clearly required at both a local and regional level.

- Hallelujah!

In the event that the EOI process does not provide an alternate form of management, then the Council will still be able to confirm its prior position and request that the facility be formally closed by the Minister for Local Government and Regional Development

- Identifying some other entity to manage the property should not be a pre-condition of the facility remaining open. Town of Kwinana could themselves adopt a better management process.

Whilst calling for Expression of Interest may be beneficial, Council must also consider its previous decision with respect to this property and the impact that any suggested operation of the off road area from this site will have upon nearby residents.

The Medina Off Road Area, whilst located in the buffer zone, is within close proximity to the Medina residential area.

- This issue must be considered within a Management Plan for the area. Trails planning and area zoning can help mitigate noise problems.

Council is already well aware of the complaints received in respect to the noise of the Motorplex facility and it is reasonable to assume that the Off Road Area will also create noise issues for nearby residents.

- Noise will need to be managed, but we're not talking about 1,000 horsepower supercharged dragsters!
- ORVA has been operating for years. If resident complaints had been received surely this would have been raised here.

The Town of Kwinana will be responsible for any such noise abatement issues in the event that the Medina Off Road Area is re-opened as it would be the head lessor to any agreement in place.

Ultimately, the Town of Kwinana must decide if it is willing to try and operate this facility, knowing the potential issues that the facility may cause and the many challenges that will need to be addressed before an operator can be considered.

- ... and weighing up the impacts of closing it and the failure to provide facilities for which there is a strong community demand – from riders and residents alike.

The issue of Off Road Vehicles is not peculiar to Kwinana and despite several off road areas previously operating, officers are not aware of any model being developed where such a facility can be operated by the local government, or through the local government as the lessor.

- Lancelin is operated by Gingin Shire, York is operated by local government (a much smaller council than Kwinana)

Recent discussions by the Department of Local Government and Regional Development failed to resolve very similar issues at the Shire of Gingin for the Lancelin facility.

- Gingin Council has been offered various forms of assistance from ORVAC and others. The Gingin shire is required to drive the process.

The Off Road Vehicles Act is state legislation provided to the Minister for Local Government and Regional development for the management of such facilities.

The Control of Vehicles (Off Road Areas) Act Advisory Committee was established to assist in the development of these types of facilities, however despite the best intentions of this committee through the calling of the recent Expression of Interest, the Department of Local Government and Regional development clearly prefers to withdraw itself from this process and pass responsibility back to the local government.

- This statement demonstrates a fundamental misunderstanding of the role of ORVAC.
- ORVAC may well be unwilling to relieve local government of its responsibility (and rightly so), but it has demonstrated a willingness to assist Town of Kwinana both financially and by means of coordinating the EOI process. It is reasonable to assume that ORVAC will continue to offer some level of assistance to Town of Kwinana in the management of the facility.

It is suggested that the provision of Off Road Areas is a state concern, affecting many of the local governments in Western Australia and particularly those on the outer ring of the metropolitan area.

Despite numerous attempts, officers are not aware of any model being developed to successfully operate such a facility at a local government level and as such it is suggested that this matter needs to be considered at a state level to provide regional facilities for off road vehicles across Western Australia.

- York is one such facility. See earlier comments about lack of interest from LGAs

This is unlikely to be able to be successfully coordinated by local government however can clearly be influenced by the Minister for Local Government and Regional Development through the prevailing Off Road Area legislation and the existence of the Control of Vehicles (Off Road Areas) Act Advisory Committee.

LEGAL/POLICY IMPLICATIONS:

In the event that the facility is able to be leased, the Council will be required to undertake formal disposal processes as required by the Local Government Act 1995.

FINANCIAL/BUDGET IMPLICATIONS:

Budget Item Name	Not Applicable
Budgeted Amount:	Nil
Expenditure to Date:	Nil
Proposed Cost:	Nil
Balance:	Nil

*NOTE: All figures are exclusive of GST

- The decision was taken by Council despite no estimates of financial impact being provided. Is this an example of *'being responsible and fair in our decision making, based on sound information'*? ref extract from Strategic Plan (below)

ENVIRONMENTAL IMPLICATIONS:

No environmental implications have been identified at this stage, however environmental implications will form part of the assessment once the Expression of Interest process develops.

- Environmental sustainability should form part of a Management Plan for the area.

STRATEGIC/SOCIAL IMPLICATIONS:

The operation of an off road area is not identified within Council's Strategic Plan. The existing of off road vehicles across the district is known to Council and is responsible for a significant amount of time in terms of staff resources and complaints received.

- Here the Town of Kwinana is acknowledging the problem of off road vehicles being ridden 'across the district', yet a strategy that would assist in containing them is being rejected.
- An Off Road Area is not identified within the Council's Strategic Plan. Nor is it contemplated in the Council's 'Trails Master Plan' which carried no reference to motorised trails, despite the obvious community demand and problems created by the lack of facilities.

RISK IMPLICATIONS:

The Medina Off Road Vehicle Area poses a number of significant risks to the Town of Kwinana both with respect to the effective management of the property and its users and the insurance risks associated with this type of activity.

To date the Council has resolved that the extent of risk exposure is sufficient enough to require the closure of the facility.

- No evidence is provided to support this critical assertion. With proper management and signage the provisions of the CLA 2002 and Amendment 2003 provide significant risk transfer.

Any Expression of Interest and subsequent lease agreement will need to successfully remove these risks for the process to be considered as successful.

- And so it could, with relatively simple steps (which were outlined in at least one EOI response). Again, this should not be contingent on transferring management responsibility of the area from the Town of Kwinana to another entity.

COUNCIL DECISION 867

MOVED CR D WOOD SECONDED CR LEE

That Council reaffirm its previous resolution of 23 November 2005 and;

1. Request the Minister for Local Government and Regional Development to close the Medina Off Road Vehicle Area, and
2. Request the Minister for 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 facilities and through the coordination of this review by the Control of Vehicles (Off Road Areas) Act Advisory Committee.

CARRIED

Voting for the Motion

Cr Adams , Cr D Wood , Cr Bersan , Cr Porter , Cr Pattinson ,Cr S Wood , Cr Lee

Voting against the Motion

Cr Kearney

- The Councillors voted on the basis of vague and unsubstantiated claims of the Town of Kwinana's inability to manage the area.

PART 3: A VIABLE MANAGEMENT ALTERNATIVE EXISTS

The Town of Kwinana's concerns appear to revolve around liability and the resources required to effectively manage the ORVA.

The subject of liability has been recently and extensively explored as the result of the Coombes –v- Shire of Gingin case. Trail bike riding has obvious and inherent dangers which reduce the occupier's duty of care to ensuring that only the specific risks associated with the subject area are effectively brought to the attention of participants. A Management Plan for the Thomas Rd ORVA would identify any such specific risks and would recommend a user education program including but not limited to effective signage.

Safety of the area can be improved with some simple trails planning and area zoning to create a one-way network of trails, eliminate trail crossings, separate younger and inexperienced riders from faster riders, and separate (where necessary) bikes from quads.

Noise outputs can similarly be managed through trails planning and area zoning.

The RTRA requested expressions of interest from riders to form a Local Area Management Committee as envisaged in the State Trail Bike Strategy (Recommendation 3.03). 21 riders have indicated that they are *definitely* interested, 24 *probably* interested and 33 *maybe* interested. This show of commitment to the Thomas Rd area demonstrates how serious the riders of the area are about retaining and developing a safe, legal area to ride and augers well for the development of an effective local management group that can act as 'area ambassadors' in informing and educating riders about the responsible use of the area, or even taking on the role (after suitable training) of honorary inspector under S38(5) of the CV(OA)A.

The offer made by the Australian Railroad Group to consider offering some of their land to the south of the ORVA as an extension to the gazetted area creates exciting opportunities for additional dispersion (countering issues of potential congestion as popularity of the area increases) as well as a diversity of riding experiences. The ARG offer is temporary, as they have future plans for the land, however it will provide time for an alternative location to be identified. ARG, in discussions to date, have been favourably disposed to the idea that an informal riders' group such as the Local Area Management Committee could successfully influence positive riding behaviours in the area.

In the broader context, the offer made by ARG is an important development as it could serve as a pilot for future provision of land by private owners such as developers.

The Recreational Trailbike Riders' Association of WA would welcome the opportunity to engage in dialogue with ORVAC and the Town of Kwinana and to serve as a communications conduit to the trail bike riders who would use the facility.

Based on the above three areas of argument,

- Public Interest,
- the case for closure not being made and
- A viable alternative to closure existing

the Recreational Trailbike Riders' Association respectfully submits that ORVAC should advise the Minister to reject the Town of Kwinana's request for permanent closure of the Thomas Road Medina Off Road Vehicle Area.

APPENDIX 1: RIDERS' VIEWS ON THE ISSUE

The following submissions have been made by individual riders and their families. They have been collated by the Recreational Trailbike Riders' Association for the convenience of the submitters and for the convenience of the Control of Vehicles (Off-road Areas) Act Advisory Committee.

The 127 submissions should be viewed separately to and independent of the submission of the RTRA.

On that basis this document can be said to deliver 128 submissions requesting that the Thomas Rd area remain open.