

**STRONGER  
TOGETHER**

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**Submissions of The Australian Workers' Union on the**  
***Draft mandatory quad bike safety standard***

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## **INTRODUCTION**

1. The Australian Workers' Union (**AWU**) is the nation's oldest and most influential trade union representing over 70,000 working Australians. The AWU is the representative of workers in the agriculture and forestry industries, where quad bikes are used as work vehicles.
2. The AWU makes these submissions only in relation to quad bikes used during the course of employment in the agriculture and forestry industries.
3. Quad bikes used in the workplace are not subject to any Australian safety minimum standards. The lack of any minimum safety standard has resulted in numerous injuries and fatalities within the agriculture and forestry industries on a daily basis.
4. It has always been the AWU's position that strong and mandatory safety measures and protections need to be in place for the safe use of quad bikes.
5. Accordingly, the AWU welcomes the investigation of the Australian Competition and Consumer Commission (**ACCC**) into a safety standard for quad bikes.

## **Recommendations of the ACCC**

6. After an 18-month investigation into a safety standard for quad bikes, the ACCC has recommended that all quad bikes supplied in Australia:
  - a) meet the US or EN Standard;
  - b) affix a rollover warning label to the vehicle;
  - c) include rollover safety information in the owner's manual;
  - d) provide consumers with vehicle stability information at the point of sale; and
  - e) must require general-use model quad bikes to have operator protection devices integrated into the design or fitted to the vehicles.
7. The ACCC has also recommended that the safety standard exempt second hand vehicles, except those that are imported.
8. The Federal Government is now seeking comments on the (i) ACCC's final recommendations and (ii) the role of State Governments in enhancing the safety standard for quad bikes. The AWU has addressed both of these matters below.

## **AWU'S POSITION**

9. Safety of workers is paramount to the AWU. Therefore, we are generally supportive of the draft mandatory safety standard which has been recommended by the ACCC. However, we strongly oppose the ACCC's recommendation that second hand vehicles in Australia should be exempt from the safety standard. It is also our position that all general-use model quad bikes currently in use must be required to have operator protection devices fitted to the them.

## Second hand vehicles

10. The ACCC's investigation has made it abundantly clear that a mandatory safety standard is critical for improving quad bike safety. Yet, the ACCC has stated that (our emphasis),

*Requiring second hand quad bikes to meet the requirements of a safety standard could lead to a situation where retailers are unable to buy and sell second hand vehicles, however many consumers could continue to do so, as the safety standard is unlikely to apply to quad bikes sold privately. This may place restrictions on retailers without increasing the safety of the fleet, as consumers are likely to continue buying and selling quad bikes privately.*

11. Safety must never be compromised for retailers' ability to buy and sell second hand vehicles. It is incomprehensible to exempt a significant part of the market from complying with a mandatory safety standard because it might affect their business revenue, especially when an 18-month investigation has clearly illustrated the need for a mandatory safety standard. Further, the ACCC's investigation has shown that consumers have demonstrated demand and a willingness to pay for increased quad bike safety characteristics.
12. Any sale of second hand vehicles in Australia must comply with the mandatory safety standard, whether private or through a retailer.

## Operator Protection Devices

13. As the representative of workers in the agriculture and forestry industries, the AWU's position is that all existing quad bikes must be fitted with after-market Operator Protection Devices (**OPD**).
14. A significant part of the AWU's membership are directed to use quad bikes by their employer for the purposes of mustering cattle and sheep for long periods of time. Without the rollover protection that an OPD provides, a quad bike will not be suitable for the purpose of mustering cattle.<sup>1</sup> An OPD helps to protect workers from the risk of serious injury or death as a result of being crushed or pinned in the event of a rollover and reduces the severity of injuries resulting from a rollover incident.
15. However, unless it is mandatory, employers will not equip quad bikes (currently in use) with after-market OPDs, due to costs. Subsequently, a large number of employers will not have quad bikes that meet the requirements of the mandatory safety standard for many years. This means many years of more worker fatalities and injuries.
16. It is the AWU's position that all quad bikes must be fitted with OPDs and not only new and second hand purchased quad bikes. The AWU acknowledges that there maybe a cost to employers for fitting after-market OPDs to quad bikes, but the cost to safety (human life and injuries) as well as the cost to the community and economy significantly outweighs the cost to employers.

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<sup>1</sup> *McHugh v BKE Pty Ltd as trustee for the B W King Family Trust* [2018] QDC 254.

17. To assist with the financial burden on employers each State Government could provide employers with rebates for the fitting of an OPD (Quadbar or ATV Lifeguard) to existing quad bikes.

## **Review**

18. The draft mandatory safety standard must also include a provision to allow for it to be reviewed. The review of the mandatory safety standard will ensure continual improvement in safety, which is important for all the stakeholders.
19. The review provision in the draft mandatory safety standard must state that:
  - a) the mandatory safety standard will be first reviewed after 12 months of implementation then again after 36 months from the first implementation;
  - b) the review process will identify (inter alia):
    - i) each area where safety has improved; and
    - ii) each area where safety has not improved.
  - c) the review process will include feedback from all affected parties as well as a process for implementing the relevant feedback into the mandatory safety standard.

## **STATE GOVERNMENTS**

20. State Governments must play an active and significant role in improving quad bike safety.
21. The AWU acknowledges that the State Governments have in the past initiated quad bike safety campaigns, provided training for quad bike users and rebate schemes for purchasing helmets and after market OPDs. However, these measures although helpful have not resulted in significant positive safety changes.
22. To achieve significant results in reducing fatalities and injuries there needs to be more intervention by the State Governments.

## **Licences**

23. The State Governments must establish a requirement to acquire and maintain a licence in order to operate a quad bike.
24. Before an operator can apply for a licence to drive a quad bike, they must be trained and assessed as competent by a Registered Training Organisation (**RTO**). The assessment must require for the operator's knowledge and skills to be tested under realistic workplace conditions. After this, the operator should be able to apply for the licence to operate a quad bike.
25. The cost of the training and assessment for operating a quad bike must be paid by the employer.

26. Forklift licensing provides a reasonable framework that the State Governments can use as a model for establishing the licensing system for use of quad bikes.

### **Children**

27. The ACCC's investigation has highlighted that children do not have the mental or physical ability to safely operate quad bikes.

28. It is the AWU's view that no person under the age of 16 years are to operate a quad bike during the course of their employment.

### **Helmets and Seatbelts**

29. State Governments must make it mandatory for all operators of quad bikes to wear seat belts and helmets. State Governments have encouraged this approach by offering rebates for helmets. However, State Governments need to take a further active step and make the wearing of seatbelts and helmets mandatory.

**END**