

CURRENT AS OF JUNE 2020

TALKING POINTS QUAD BIKE SAFETY

DEATH AND INJURY

- On average, there are **16 quad bike related deaths per year**.¹
- As at 4 June 2020, at least **267 Australians have died** in quad bike related incidents since 2001.²
- At least **145 Australians have died** since 2011.³
- So far in 2020 there have been 9 reported quad bike fatalities, **the majority which were the result of a rollover**.⁴
- **Almost half** of quad bike deaths result from a **rollover**.⁵
- Almost half of farm work fatalities were caused by **asphyxia** or a related condition.⁶
- There are limited statistics on specific injuries, but anecdotally a significant proportion would result permanent disability (**quadriplegia and paraplegia**).
- The estimates of annual **hospitalisations** resulting from quad bike accidents range from **650⁷ to 1400**.⁸
- An estimated **6 people a day** attend hospital **emergency departments**.⁹

THE FINANCIAL COST

- The cost of each injury ranges from a thousand for minor injury to more than **\$4 million** for disabling injuries.¹⁰
- The average cost of each hospitalization is **more than \$175,000**.¹¹

¹ Safe Work Australia: <https://www.safeworkaustralia.gov.au/quad-bike-fatality-data>

² Ibid

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ UNSW TARS, *Quad Bike Performance Project Test Results, Conclusions, And Recommendations — Report 4*, pg 26.

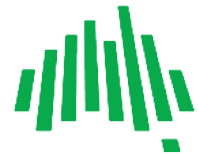
⁷ ACCC, *Quad Bike Safety*, pg 256; c/f The Australian Institute of Health and Welfare, *Hospitalised farm injury, Australia 2010–11 to 2014–15*, pg 9

⁸ Ibid at pg 28

⁹ Safe Work Australia: <https://www.safeworkaustralia.gov.au/quad-bikes>

¹⁰ ACCC, *Quad Bike Safety*, pg 99

¹¹ Ibid, pg 99



- The estimated cost of quad-related deaths and injuries to the national economy is **\$204 million**.¹²

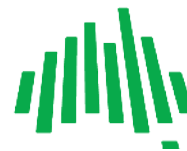
PROACTIVE STEPS TO ENSURE A SAFE WORKPLACE

Workplace safety

- The NFF, our members and Farmsafe engage regularly with state-based **Workplace Health and Safety Authorities**.
- Many of these authorities have on offer for example: rebates for farmers to fit OPDs, subsidised quad bike training and other offerings to assist to improve safety.
- The NFF believes that soon, many **state-based worksafe authorities, will switch from an incentive approach to more of a ‘stick’ approach**.
- This could mean that farmers who haven’t fitted OPDs and/or taken other steps to ensure the safe operation of quad bikes on their property could face **action from Worksafe inspectors in relation to operating an unsafe workplace**.

Legal

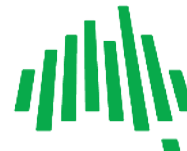
- Courts are also increasingly placing a higher burden on farmers to ensure the safety of their workers and others when operating quad bikes.
- Specifically, the Queensland District Court ruled that **quad bikes are “not – without a roll bar, seatbelt and netting ... – suitable for the purpose of mustering cattle...”**



- The ruling was made in a case brought by a farm worker, who was injured in a quad bike incident, against his employer, a farming operation near Gympie in Queensland. The case citation is ***McHugh v BKE Pty Ltd as trustee for the B W King Family Trust***.
- The plaintiff brought a **personal injury suit** against the defendant's farm business, in effect, claiming that it was **negligent** in failing to provide him with instruction on using the bike or providing adequate equipment to enable him to safely muster cattle on the property.
- The judge accepted the "largely unchallenged" expert evidence tendered by the plaintiff that **"quad bikes are a high risk machine requiring management if used on a rural property"**.
- Significantly, the judge expressly stated that the **failure to provide rollover protection**, seatbelts, an alternative vehicle (such as a side-by-side), or to conduct a safety audit were all important components of the breach.
- The court ordered the defendant to **pay the plaintiff \$400,000**.

The ACCC's Report and Recommendations

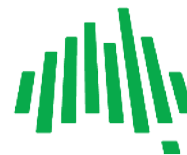
- On 24 Oct 2017, then Ministers for Small Business (Michael McCormack) and Employment (Michaelia Cash) announced the ACCC would conduct an enquiry to address quad bike safety as an urgency.
- Over 18 months the **ACCC held 3 rounds of submissions, took 119 sets of submissions; consulted with over a dozen experts, and considered more than 60 expert reports**. In March 2019 they published a 112 page report.
- They conclude that a consumer **Safety Standard** should be introduced applying to all new quad bikes:
 - Within 12 months all new quad bikes must:
 - Meet the specified requirements of the US or EU quad bike design standards;
 - Be tested for lateral static stability test;



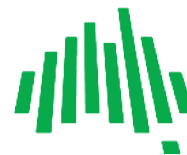
- Display the angle at which it tips on to two wheels on a hang tag at the point of sale;
- Have a label affixed alerting the rider to rollover risk; and
- Include rollover safety information in the owner's manual.
- Within 24 months new general-use (i.e. not sport/recreational or kids) quad bikes must:
 - Be fitted with an Operator Protection Device (**OPD**) or have it integrated into their design; and
 - Meet minimum requirements for stability.
- The ACCC was equivocal on a 5-star safety rating system. Although supportive in-principle, they cannot identify a reliable model.
- The manufactures (represented by FCAI) are resistant to mandatory installation of OPDs.

THE WITHDRAWAL OF MANUFACTURERS

- The NFF shares the **frustration** of farmers, following statements by **Honda and Yamaha** that they intend to cease selling quad bikes in Australia, reportedly as a result of the new mandatory safety standards.
- **Polaris** has publicly stated numerous times (**long before the mandatory safety standard was announced**) that they believed within 24 months the quad bike market would be minimal at best, as the market would shift away from quad bikes towards side by side products.
- The new **mandatory safety standard** introduced by the Federal Government in **October 2019**, requires all new quad bikes to be sold with operator protection devices fitted come **September 2021**.
- It's disappointing that established manufacturers would **rather leave the Australian market than adhere to new safety standards for quad bikes** that will without a doubt save lives. Specifically, the fitting of
- OPDs to all new bikes will have a significant impact on preventing fatalities which result from rollover incidents.



- It is estimated that the cost of an **OPD**, when incorporated into the manufacturer of the bikes will be marginal, some estimate that the average **cost per bike is just \$250**.
- These manufacturers also oppose the new safety standard that requires all new quad bikes to display **a warning label alerting riders** to the risk of roll over by **September this year**.
- It is a decision that is entirely up to these manufacturers – who is must be noted are multi-national companies.
- The new safety standard requirements are **not an attack** on manufacturers, they **are everything about saving lives**.
- The facts is that **many people are killed each year** in quad bike accidents and **the NFF and our members simply cannot stand by and let that happen**.
- The NFF's support for operator protection devices is based on the **best available science and medical advice**. Our priority is protecting the lives of farmers, farm workers and other quad bike riders.
- **Operator protection devices** have been proven to do just that.
- There is no doubt these multinationals have **done well out of Australian farmers** for many years.
- It's a fact that Honda and Yamaha are the preferred manufacturer of quad bikes for farmers. Over decades, Australian farmers have **spent millions of dollars with these companies**.
- Despite this, neither Honda nor Yamaha are prepared to wear the small cost of adding OPDs to all new quad bikes in the interests of saving farmers lives.
- **To be blunt – it's shameful**. To reiterate, there are about 15 deaths per year attributed to quad bikes, and over 650 hospitalizations.
- An estimated 6 people per day attend emergency department due to quad bike accidents.



- While the personal cost is unquantifiable, the cost to the national economy is estimated at \$208.1 million per year.

WHAT WILL IT MEAN FOR FARMERS?

- The NFF knows and **understands the departure of Honda and Yamaha** from the market will **limit some farmers' access to their preferred brand of quad bike**. While this is deeply regrettable, these models of quad bike will still be available through private retailers.
- **Rollover protection has been mandatory in Israel since the early 1990s**, yet **Israel still enjoys a competitive market** for safe, compliant quad bikes. Despite the original withdrawal of some manufacturers from the Israeli marketplace their quad bikes are still available for sale there.
- We've had **positive discussions with other established manufacturers** who tell us they are committed to the Australian market and to make the changes necessary as of September 2021.
- It is our strong hope, that market forces will ensure manufacturers of quads of comparable performance of that of Honda and Yamaha will remain in the market.

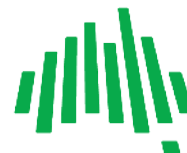
OPDs - MYTH VS FACT

“OPDs are dangerous.”

No fatalities have been attributed to OPDs and most of the reported case of injuries were a result of faulty installation of the OPD and would have resulted in worse injury if the OPD had not been installed. That's consistent with the research which — with the exception of a flawed report commissioned by manufacturers — support the view that OPDs are important for safety.

“OPDs reduce the usability of quad bikes.”

Research indicates that OPDs do not significantly restrict handling or usability, and surveys of riders who use OPDs indicate that they are accepting and positive about them. That's consistent with accounts we hear from farmers who use OPDs and say that the loss of rack space is minimal and they have little problems with low branches.



“The ACCC is creating harsh laws which will control the way farmers work and go about their business.”

The Safety Standards’ simply aim to make a safer product. None of the Safety Standards’ requirements directly apply to the rider, control the way the bike is used, or can penalise the rider’s behaviour.

“The recommendation will affect the value of my (existing) quad bikes.”

The Standard only applies prospectively to new bikes and 2nd hand imports, and don’t take effect for at least 2 years.

“ODPs will make quad bikes more expensive.”

It would cost less than \$250 bike to integrate an OPD; that’s about 4% of the price of the cheapest new bike.

“Three coronial report (in NSW, Queensland and Tasmania) did not support the mandatory fitment of OPDs.”

*The coroner only look at fatalities, and then only at a specific factual circumstances; they did not consider safety generally. Nonetheless, the NSW and Qld reports support OPDs if there is a net safety benefit, and indicated more research was required. That research has subsequently occurred, not least with the ACCC reports, etc. There has been a relatively steadily increasing coronial support for OPD and critically, in **July 2019**, the Victorian Coroner found that:*

The ACCC's comprehensive report highlights how much safety measures can significantly reduce the frequency and severity of injuries, particularly from rollover incidents. I support the proposed recommendations as set out in the ACCC's final recommendations to the minister.

“Data indicates that in many fatalities the quad bike came to rest on its left or right side, not upside down.”

That data only records fatalities Given OPD’s protect against crush fatality especially where the vehicle lands upside down a significant portion of the relevant incidents are omitted. Also, it doesn’t disclose the circumstance prior to the bike coming to rest; e.g. how many times the bike rolled across the rider inflicting crush injures which an OPD would prevent.

“Riders will be reckless and ignore other safety options if OPDs are installed”

This is unsubstantiated speculation which is not supported by the evidence, either of person who have currently installed OPDs or of like incidents (such as the installation of ROPS on tractors or seatbelts in cars).