Office of Environment & Heritage
NSW National Parks & Wildlife Service

Our reference: DOC13/32887
Contact: Tom Bagnat
6229 7029

Mr Bjarne Nordin
Inquiry Manager
Joint Standing Committee on Road Safety
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Sir

I am writing in reply to your letter dated 4 July 2013. On behalf of the NSW National Parks and Wildlife Service, I submit the following response for your consideration.

1. Questions on Notice.

Page 10:
Are you aware of any accident that has occurred as a result of an oversnow vehicle being overloaded? We would be interested in any statistics in that area.

The NPWS is not aware of any serious accidents related to over snow vehicles (specifically skidoos) where there were more than two people on the vehicle.

The Perisher Valley Medical Centre doctor is not aware of any medically treated incidents involving **overloaded** oversnow vehicles. In his 12 years of service, he estimates he has treated, on average one patient per season, for any oversnow vehicle related injury. It is likely that there have been more injuries than this, but they are probably not reported unless they are serious.

Page 11:
I would certainly be interested to see if, from a national parks perspective, there is anything that your organisation thinks could be useful in the way of regulation, policy or legislation in order to manage these matters

The Kosciuszko National Park Alpine Resorts Winter Access Policy (http://www.environment.nsw.gov.au/resources/alpineresorts/130391KNPWinter.pdf) recommends operators and passengers on open oversnow vehicles such as snowmobiles and ATVs, wear Australian Standard approved motorcycle style helmets. This is mainly due to the potential speed of the vehicles. NPWS would support regulations that mandate the wearing of Australian Standard approved motorcycle style helmets for all open oversnow vehicles used in Kosciuszko National Park.

However we recognise that any such a requirement may not be welcomed by all operators particularly the ski resort companies who have staff such as lift operators, mechanics or ski patrollers who through the course of their work are regularly riding skidoos over short distances. Many of these staff would likely wear a ski helmet which would not meet the Australian Standards for a motor cycle use.

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Page 12:

In relation to conflict between motor vehicle use and ATV or quad bike use

Has anyone been killed?

The NPWS is not aware of anyone being killed in an accident between a vehicle and a quad bike or ATV on the Worimi Conservation Lands. In the 5 years that NPWS has been involved, there have been many single vehicle accidents (for both ATVs and Vehicles) and a couple of accidents between cars, but none that we have records of between different classes of vehicles.

Page 15:

Are they legislated rules and are they enforceable? If the answer is yes, are they difficult to enforce? (In relation to the Worimi Conservation Lands, and advice on the website regarding rules that apply)

In the absence of regulations under the recreation vehicle Act, NPWS staff have relied upon either:

- Use of powers under the National Parks and Wildlife Regulation (2009).

  Under cl.7(f) it is an offence to drive a vehicle in a "dangerous or reckless manner" and this has been used to regulate a range of dangerous activities including speeding, distance to pedestrians, towing of people etc. Whilst the definitions of "dangerous or reckless" are open to definition and interpretation by the Courts, to date use of these provisions has been successful.

  The Regulation also creates an offence of "driving in an area not set aside" (cl.7(e)) – which has been used to infringe Quad bikes operating on park but outside of the RVA. Similarly, the requirement for a vehicle in a park to be "registered" (cl.7(d)) has been used for offenders operating quad bikes without Conditional Registration from the RMS.

- Joint Operations with NSW Police – who can use powers available to them under the Motor Traffic Act.

The regulations can be particularly difficult to enforce, primarily due to the unwillingness of many offenders to obey lawful directions from NPWS – they often rapidly disperse from staff, who are neither equipped nor authorised for pursuit activities on the dunes. Police powers under the Motor Traffic Act are impacted by the operation of the Recreational Vehicle Act, but they tend to have far higher levels of compliance with directions than NPWS staff.

Are they legislated rules and are they enforceable? If the answer is yes, are they difficult to enforce? (In relation to Kosciuszko National Park)

The National Parks and Wildlife Service has a registration system for all oversnow vehicles and licences all oversnow operators. They must hold a Roads & Maritime Services licence.

The Registration/Licencing system ensures that:

- The operator is working for a resort operator/lessee and their use is related to legitimate resort management
- The licensee has read, understood and signs that they will comply with the "Kosciuszko National park Winter Access Policy" http://www.environment.nsw.gov.au/resources/alpineresorts/130391KNPWinter.pdf which provides details of conditions of use, approved over snow routes, speed limits, parking etc

- Operators must stick to defined over snow routes around Perisher, Smiggins, Guthega and Charlotte Pass including the Kosciuszko Road as access between Perisher and Charlotte Pass.
- Use on ski areas is not permitted other than resort company or emergency services.

2. Additional questions following the hearing on 28th June 2013.

1. The submission states that speed, negligent driving and excess passengers is difficult for NPWS and Police to enforce (page 2). Do operators ever receive infringement notices?

Over the last 5 to 10 years, NPWS has infringed operators several times on the basis of unregistered vehicles under the NPWS Regulations. NPWS has been unable to gather data from NSW Police, but we are aware that they have previously conducted random breath testing and radar speed camera operations targeted at high traffic oversnow areas in Perisher Valley.

2. The submission states there is increasing pressure from users to make the area available to "light utility vehicles", that is small buggies with side by side seating and steering wheels (page 3).

- **How is the NPWS responding to this pressure?**
- **Do these vehicles have a better safety record than quad bikes?**
- **Does this lead to conflicts between users of recreational vehicles in designated areas?**

The current RMS Conditional Registration Guidelines for the Stockton Bight RVA do not allow for the registration of "light utility vehicles". The Worimi Board of Management, through the NPWS, have advised the RMS it does not support any changes to these provisions (to allow for these vehicles) until it has evidence that there is the appropriate legal and regulatory framework in place to properly manage the existing (quad bike) activity. Further, they have expressed real concern over the intended usage of such vehicles (which are heavily promoted for motorsport type activity) and their appropriateness in the already heavily used RVA site.

The NPWS has no information on the comparative safety of ATVs and "light utility vehicles".

As "light utility vehicles" cannot obtain Conditional registration for the Stockton Bight RVA, no conflict issues with quad bike users have arisen to date.

3. The two commercial operators in the RVA provide the opportunity for people to ride quad bikes under supervision (page 3).

- **How is supervision carried out, and are you satisfied that these casual users are made aware of the regulatory information on appropriate behaviours for RVA users?**

Licensed commercial tours are all undertaken under the guidance of a professional guide, with a maximum group size of 16, and a guide/client ratio of 1/8. As private commercial operators, these businesses have strong incentives to comply with their Licence arrangements to both protect their existing commercial interest (a commercial operators Licence can be cancelled for non compliance) and to ensure compliance with their own Insurance requirements. NPWS staff also undertake spot audits of activity, and would respond to any customer complaints that were received.

4. The submission says that NPWS has been unable to access data about NSW Ambulance Service attendances at incidents which have occurred on the Worimi Conservation lands

- **Do privacy concerns prevent access to this data?**
- **Would access to injury data contribute to policy and planning around dangerous driving in the RVA?**

Privacy concerns have not been raised as an impediment to data access. The NPWS have been advised that the data is not collected in a manner which made it either easy or reasonable to collate for NPWS purposes.

Access to injury data would and should contribute to policy and planning around activity in the RVA. The proper assessment and management of visitor risk does require an understanding of the “consequences” of existing management practices – without this data, evidence based decisions cannot be made on the issues of safety risk.

Please contact me if you require any additional information.

Yours sincerely

TOM BAGNAT
Director Metro & Mountains Branch
National Parks and Wildlife Service

17 July 2013

Q.1 *The TARS submission identifies the current sources of statistical injury and fatality data involving ATVs. This includes WorkCover, hospital, Crashlink and national coronial data. TARS claims that there is a general lack of specificity in these data collections when referring to ATVs.*

i. Does the misuse of the term ATV undermine the ability to accurately define this class of vehicles and potentially compromise data collection?

ii. How would you suggest this can be improved?

Q1(i) Yes this is a possibility for some data collections. It is possible that the different terms that can be used for ATVs might be confusing for individuals within these agencies who are recording and/or classifying the agency of injury. Where text descriptions are available, the following terms have all been used to describe an ATV: 'ATV', 'all terrain vehicle', 'quad', 'quad bike', 'farm quad', 'farm utility vehicle', 'farm utv', or '4 wheeler'.

Within the classification system for all Australian hospitals, there is an option to identify 'U65.0 riding an all-terrain vehicle (ATV)' as the activity conducted at the time of an injury and/or to identify 'occupant of special all terrain or other motor vehicle designed primarily for off-road use, injured in transport accident' as the mechanism of injury. However, the different terminology used for an ATV can be confusing and could possibly lead to misclassifications and an under-enumeration of the number of ATV-related injuries.

Q1(ii) We would suggest using the terms:

Quad-bike: off road vehicle where the rider straddles over the seat they sit on and operates the vehicle similar to how a motor-cycle is operated.

These straddle type vehicles can be 3, 4 or 6 wheel vehicles.
E.g: Quad Bike, 4 wheel.

Side by Side Vehicle (SSV): These are off road farming/forestry/ workplace utility type vehicles – can also be recreational vehicle for access on tracks that can accommodate their width or over terrain. These vehicles are usually 4 wheel vehicle where the driver sits in the vehicle as one would in a road vehicle. These vehicles usually can accommodate a passenger sitting next to the driver (hence the term 'side-by-side')

Motorbike: These are the same as traditional road motorbikes with only two wheels.

Vital key missing data with these vehicle types relates to vehicle model identification, and any accessories:

- Manufacturer:, e.g Honda
- Model: e.g TRX250
- Model Year:, e.g 2011
- Accessories: type, manufacturer, capacity: e.g rear spray tank, Silvan Rakpak 70L 12V Shurflo ATV Spray Unit.

Q.2 *In describing the range of strategies employed to reduce injury risks associated with ATVs, TARS refers to registration and licensing, personal protection and vehicle rollover safety devices.*

i. Why do you think previous attempts at education and training have been unsuccessful?

ii. Who should have primary responsibility for prevention education and training?

iii. How else would you suggest that general public awareness of the safety risks of ATVs should be raised?

Q2(i) The failure of previous attempts at education and training we believe is largely because there is no mandatory requirement to do so nor any requirement regarding their use, i.e. no licence associated with driving them. This inadvertently sends a message to purchasers and users of these vehicles that they are easy to use and do not require any specific training. This means that many people purchasing these vehicles will believe that they are fulfilling all requirements for their use such that they are unlikely to seek out information about their use and may even consider it a waste of time learning how to ride either a Quad Bike or SSV. If there was a licensing scheme similar to road vehicles, regulators could impose mandatory training and the message would be sent to users that these vehicles require training and cannot be used safely without it.

Education and training cannot stand alone without ATV usage and design changes. Education and training to be effective, clearly, must be part of the holistic Safe Systems approach used in Road Safety. What has also been missing is the vehicle safety developments components. The NSW Work Cover Quad Bike Performance Project through TARS/UNSW and Crashlab aims to help address this aspect through developing an ANCAP type star safety rating system for QUADs & SSVs etc.

It is recommended that the Staysafe Committee read pages 10 to 13 of the MUARC Report (Rechnitzer G, Day L, Grzebieta R, Zou R & Richardson S, (2003). All Terrain Vehicle Injuries and Deaths, Monash University Accident Research Centre) where the issue of training has been discussed. Attempts by the US Consumer Product Safety Commission (CPSC) to provide training alone through enhanced training and education and even provide free training failed to reduce the fatalities. In fact fatalities continued to increase until the CPSC banned three wheel Quad bikes. Pages 10 to 13 from the MUARC report are enclosed in Appendix A.

Q2(ii) Roads and Maritime Services. They already have the infrastructure for carrying out similar tasks for road vehicles throughout NSW. Extending their services to off-road vehicles would not be difficult if these vehicles were licensed.

Q2(iii) NSW Workcover, the Department of Primary Industries and Farmers associations, etc., could include into their suit of advertisements some focussed on Quad-bike and SSV safety.

A simple measure would be to also require that vehicle manuals and safety brochures are provided at the point of sale. Safety brochures and safety ratings information could be distributed at farming and agricultural shows and safety advertisements could be placed in rural newspapers. The main aim would be to disseminate widely the information on the need for training to use ATV's.

Q.3 *Many of the issues identified in the submission in relation to ATVs also apply to mobility scooters. TARS refers to the inadequacy of data collection, lack of vehicle standards and public education.*

i. Who should be responsible for the design and marketing of public awareness campaigns to highlight the issues around mobility devices and vehicles?

ii. Should this be a shared responsibility between all tiers of government?

Q3(i) This should be carried out by the Roads and Maritime Services (RMS) and Centre for Road Safety in collaboration with local government and Road Safety Officers. In addition, Department

of Primary Industries should also be involved with information provided by Agricultural Extension Officers and the like.

Q3(ii) Yes. Stakeholder ownership across all government tiers is essential for road safety gains. Involvement of manufacturers and dealers (i.e. scooters Australia) is also important in order to make informed choices when taking the decision to purchase a particular type of mobility scooter and for education and training to occur at sales point.

Q.4 *No commentary is made about the increasing use of electric bicycles using the road system.*

i. Do you have any observations about the increased popularity of electric bicycles and other motorised devices on NSW roads?

ii. What do you think about the recently announced changes to the road rules in Queensland to allow Segways to access the road network?

Q4(i) Any motorised vehicle on a shared footpath should not exceed 10 km/h regardless of the vehicle. See for example for reasons why: (*Grzebieta et al, Pedestrian-Cyclist Collisions: Issues and Risk, Peer Reviewed Paper presented at the Australasian College of Road Safety National Conference and published in Proceedings' A Safe System: Making It Happen!, Melbourne, 1-2 September, 2011.*). When a pedestrian is struck the mechanism (pedestrian biomechanics and throw distance) should not be any different to a pedestrian tripping as a result of walking. Similarly, the severity of the impact should be no greater than that of tripping as a result of walking. Hence the speed of a vehicle on the footpath should not be any greater than a person briskly walking or running.

Electric bicycles should not be treated any differently to non-motorised bicycles. The motor should only be power assist which should cut out at 20 km/h.

Shared roads where electric bicycles and other power motorised vehicles share the road with common road vehicles the speed limit should be no greater than 30 km/h for all vehicles. This would be in line with world's road safety best practise European countries. Moreover, these motorised mobility vehicles and electric bicycles should be restricted from travelling on any road which exceeds 50 km/h in line with the survivable speed limit for pedestrians and the National Road Safety Strategy and Safe System Approach.

Q4(ii) The decision to allow Segways to access the road system in Qld, will add to the road toll. Mixing of such disparate traffic as with bicycles, however powered, will inevitably add to increased collision and serious injury risk for such road users.

There is real confusion and to some degree obfuscation by some in Government, various agencies and lobby groups on the real and predictable negative safety consequences of what amount to political decisions to promote increased bicycle and other vehicle types on the roadway.

Appendix A – Extract from the 2003 MUARC Report

(Rechnitzer G, Day L, Grzebieta R, Zou R & Richardson S, (2003). *All Terrain Vehicle Injuries and Deaths*, Monash University Accident Research Centre)

2. PREVENTIVE STRATEGIES FOR ALL TERRAIN VEHICLES

2.0 Overview of current preventive strategies in Australia

Most of the preventive activity related to ATV deaths and injuries has taken place within the agricultural setting, given that a large proportion of ATV related deaths and injuries occur in that setting. Farmsafe Australia takes a lead role in defining the nature and size of the farm injury problem, setting agreed goals and targets, and developing an agreed strategy for achievement of these targets. ATV related injury is included in the Farmsafe Australia Goals, Targets and Strategy (Fragar and Franklin, 1999), although not explicitly. Both vehicles in general (for deaths) and motorcycles more specifically (for serious injury) are targeted and ATVs would be incorporated under both these categories.

A research project on injuries associated with farm motorcycles (2 and 4-wheel) was undertaken by the Australian Centre for Agricultural Health and Safety which set some directions for prevention of motorcycle related deaths and injuries (Schalk and Fragar, 2000). The following were recommendations related specifically to ATVs:

Competency based ATV farm motorcycle training courses should be developed with the aim of improving both rider knowledge and skills.

- Information regarding carrying of passengers and recommended driver age should be made available to all riders and their guardians.
- Advice for Australian suppliers, farmers and farm managers on the fitment of ROPS to ATVs should be prepared on the basis of research information regarding the benefits and risks of fitment.

Note that the recommendation regarding training was made in the absence of any robust research evidence that such training would actually reduce deaths and injury.

A series of recommendations were also made regarding the evidence base for ROPS on ATVs (Stephenson, in Schalk and Fragar, 2000). These recommendations were developed by a qualified engineer following a review and analysis of available material on previous attempts at designing ROPS for ATVs. These recommendations indicated that there was not yet sufficient data to recommend or condemn the two ROPS designs evaluated, and identified a need to continue to develop better ROPS. It was also noted that if adverse statistics continue and there are no significant safety improvements (such as ROPS), then consideration should be given to issuing warnings to consumers and possibly restricting the sale of ATVs.

ATV related fatality and injury prevention initiatives in Australia have until recently primarily focussed on provision of information and on training programs. Competencies for motorcycle and ATV riding have been incorporated into the Australian Rural Training Framework. Some ATV manufacturers provide ATV training as a service, however the extent to which the manufacturer provided training meets the formal competencies has not yet been determined (personal communication, John Temperly, Australian Centre for Agricultural Health and Safety).

The development of an all-purpose protective helmet (for horse and motorcycle riding) is also being pursued. The fitment of ROPS is being officially discouraged, although

individual farmers may continue to fit their own. Anecdotal evidence from a Victorian ROPS manufacturer and supplier indicates that demand for ATV ROPS is relatively low (personal communication, Frank Ford, Casey Cab and Frame).

The Australian Centre for Agricultural Health and Safety is currently developing an ATV safety strategy for Farmsafe Australia.

2.1 Overview of current preventive strategies in other countries

Apart from the provision of information to users, the two countries which appear to have applied the most significant preventive effort are the United States of America and New Zealand.

2.1.1 United States of America

Serious concerns arose in the USA during the early to mid 1980s when the numbers of fatalities and serious injuries associated with ATVs increased significantly. The United States Consumer Product Safety Commission (CPSC) initiated regulatory proceedings which culminated in a decree which was in effect for ten years, from April 1988. The decree required:

- Withdrawal of three-wheel ATVs from the market.
- Implementation of a national training program and provision of free training to all future purchasers of ATVs and their immediate families.
- Implementation of a public awareness campaign costing US$8.5 million.
- Development and implementation of improved labelling, owners manuals and point of sale purchase materials.
- Implementation of a toll-free ATV hotline service.
- Implementation of an outreach program to disseminate safety materials to consumer groups.
- Agreed age recommendations for operating ATVs to prevent young children from operating the wrong size ATVs.

The CPSC has monitored fatality and injury rates, and conducted a number of national surveys, to determine the impact of the consent decrees (Ingle 2002, Rodgers 1999).
The number of deaths had been decreasing from 1986 to 1988 when the consent decree was instituted (Figure 5). The numbers continued to decline until 1993 after which deaths increased until 1998 when the consent decree expired. The numbers of deaths in 1997 and 1998 were equal to or greater than the number in 1988. Deaths have continued to increase from 1998 to 2000, although some of this increase is due to changes in reporting processes. Most of the decrease in deaths appeared to be due to the withdrawal of the three wheel ATVs, as there was little decline in deaths associated with four wheel ATVs (Figure 1).

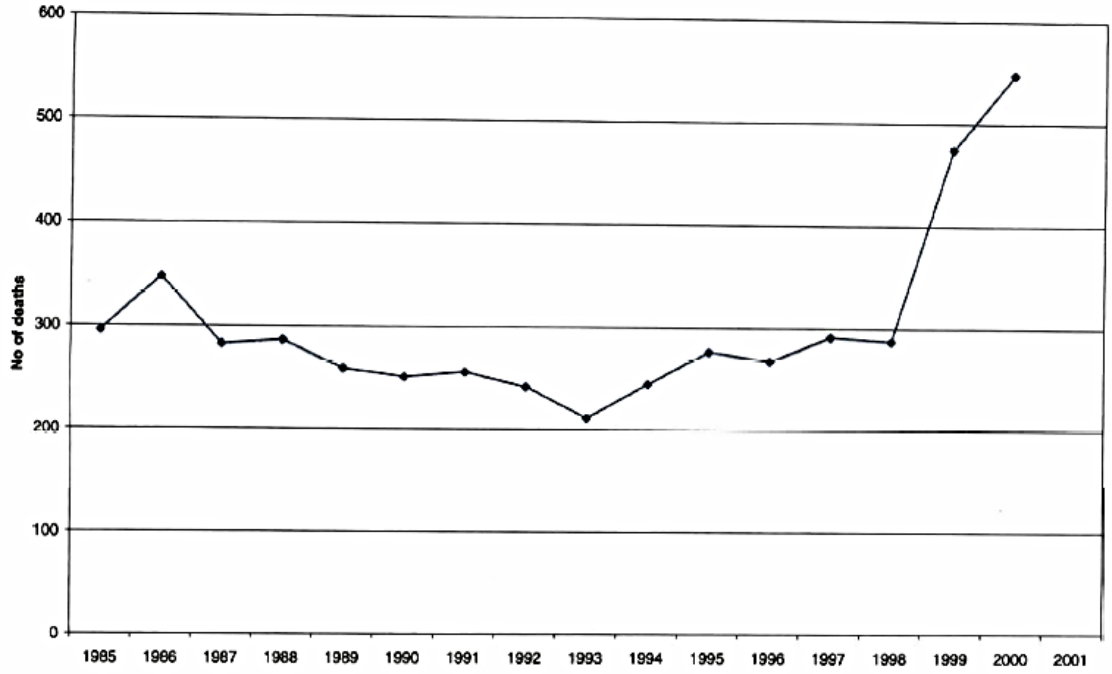

Figure 5: Estimated deaths, all terrain vehicles, United States. Data source: Ingle, 2002

Rates were not available for all ATV related deaths, but were available for four wheel ATVs. The rates per 10,000 for four wheel vehicles in use decreased from 1985 to 1993, after which an increase was observed. The fatality rate for 1998 was only marginally lower than that for 1988 (Figure 2).

The same pattern was seen for the number of ATV injuries treated in hospital emergency departments, as for deaths. The increase in serious injuries has been particularly pronounced since 1998 when the decrees expired. As with the deaths, most of the decrease in serious injuries appears to be associated with the withdrawal of the three wheel ATVs from the market.

Serious injury rates per 10,000 for four wheel vehicles decreased from 1985 until 1991. The rate was then stable until 1997 after which it increased. Unlike the fatality rate, the serious injury rate for 2001 remained below that for 1998 (Figure 4).

It would certainly appear from the deaths data that the main effect of the decree had been the withdrawal of three wheel ATVs from the market.

National surveys of ATV riders conducted in 1989 and 1997 revealed that the other aspects of the decree appeared to have had little effect. In 1997, just over a half of riders (53.7%) reported that they carry passengers frequently or sometimes, despite clear warnings discouraging this practice.

Between 1989 and 1997 there was a decrease in the proportion of ATV drivers who were under 16 years of age (23.2%, 14.3%). However, in 1997, 95.9% of drivers under 16 years of age rode adult sized ATVs.

An increased proportion of riders had undertaken an organized training program (2% in 1989, compared with 11% in 1997). Although a relatively large increase, there were still

89% of riders who had not undertaken formal training by 1997, the year before the expiry of the decree. Close to one third of respondents (32.6%) rode ATVs which were subject to the training requirements of the decree, but had not undertaken the free training provided. This is despite the offer of a $50 rebate on the vehicle purchase, a $100 US Savings Bond, or a merchandise voucher worth at least $50. The most common reason for not taking the training was that the respondent already knew how to ride. Other reasons included inconvenient time or location, or that a friend or relative provided the training.

The United States example confirms one of the general principles of injury prevention: that removal or modification of a hazard will usually be more effective than encouraging protective behaviours that need to be repeated on each occasion of exposure to the hazard (National Committee for Injury Prevention and Control, 1989).

2.1.2 New Zealand

The Departments of Labour and Agriculture, and the Accident Compensation Commission have released a guideline on the Safe use of ATVs on New Zealand Farms which sets out agreed industry best practice (Occupational Health and Safety Service, 2002). The guidelines cover recommendations for training, age related restrictions, helmets, ROPS, and management practices. Standards New Zealand has developed a standard for an approved ATV helmet that is designed for low speed off road use, which is recommended in the industry guidelines. Further, while ROPS are neither recommended or advised against in the guidelines, the Department of Labour has published guidelines for the design, construction and installation of ROPS for ATVs. The guidelines were issued in 1998 with an intention of a 12 month trial (Department of Labour, 1998). The guidelines were issued following the recognition of a moderate level of demand from farmers for ATV ROPS.

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Our refs: MAA 13/525 & WC01621/13

23 July 2013

Mr Bjarne Nordin
Inquiry Manager
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Dear Mr Nordin

I refer to your correspondence regarding responses to additional questions from the Inquiry into non-registered motorised vehicles following the hearing of 28 June 2013.

The question of relevance to the Motor Accidents Authority (MAA) is that regarding insurance coverage for high-risk vehicles and is under "(e) Insurance implications of injuries and fatalities sustained and caused by non-registered motorised vehicles":

Can you explain who provides this sort of insurance and how a rider would go about obtaining it?

Many types of insurances exist that could cover injuries, fatalities or damage sustained as a result of the use of these types of vehicles:

- Various types of sickness, accident, injury and life insurances are available that would cover riders who sustain injury or death while driving the vehicles.
- Public liability components of (or attached to) property insurances may cover injuries, fatalities and damage riders cause to other third parties or property.
- There are certain forms of global public liability and other vehicle insurances that can be purchased.

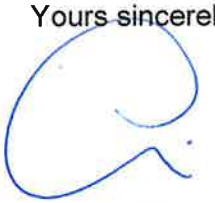
It should be noted that all of these insurances are conditional and riders would need to ensure that they are appropriately covered. Riders can purchase insurance via a range of modes:

- Dealers that sell the various types of vehicles can often advise riders what cover to buy and where to buy it.
- Riders can find a supplier through insurance brokers and underwriting agencies.
- Relevant associations such as seniors' associations, communities and local councils; and specific riders' associations can help riders identify their needs and purchase appropriate cover.

- Riders could conduct an online search for reputable products and suppliers. This search could be assisted by accessing websites such as: The Insurance Council of Australia; Underwriting Agencies Council of Australia; and Australian Prudential Regulation Authority (APRA) as the industry regulator and supervisor.

I trust that the above is of assistance however if you would like to discuss any of this in more detail I would be happy to be of further assistance.

Yours sincerely



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1 August 2013

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Dear Mr Nordin

I refer to your correspondence regarding responses to additional questions from the Inquiry into Non-Registered Motorised Vehicles, following the hearing of 28 June 2013.

Please find enclosed responses to the additional questions:

- A)6 Quad Bike Performance Project
- D)4 Conditional licence for a quad bike use

I trust this information is of assistance. However, should you wish to discuss the Quad Bike Performance Project, or training and education for quad bike use in more detail, please contact Mr Tony Williams, Assistant Director Operations, WorkCover, on 4321 5609.

Yours sincerely

Julie Newman PSM
Chief Executive Officer
Safety, Return to Work and Support
Encl.

a) ***6***

The current status of non-registered motorised vehicles in road rules definitions and the extent of road safety problems related to their use;

The Government submission says that that there are a number of safety risks inherent in quad bike design: the lack of a differential, their limited load capacity, lack of rider protection. Their marketing as 'all-terrain vehicles' encourages people to use them in inappropriate environments. (section 3.4.1, page 17)

- **Can you tell us about the work of the Quad Bike Performance Project and what kind of measures can be taken to minimise the safety risks for quad bike riders?**

The Quad Bike Performance Project is a Heads of Workplace Safety Authorities initiative to engage the University of New South Wales Transport and Road Safety Research facility to carry out dynamic engineering testing to investigate quad bike stability, and a broader range of designed operator protective devices that can be fitted to quad bikes. The 12 month project was launched in March 2013 and is being funded by WorkCover.

Dynamic testing involves a series of handling and test manoeuvres including accepted international standards tests. These are conducted at various speeds to assess how well the vehicle responds to a steering input while enabling the rider to maintain control of the vehicle, thereby avoiding a collision or rollover. The Project will involve 200 tests using a combination of riders, loads and operator protection devices. These tests will be conducted on 15 quad bike vehicles, comprising of eight farm or work quad bikes, three recreational or sports quad bikes and four utility side-by-side vehicles.

With respect to protective devices, the Project will deliver independent, world leading expert scientific and engineering findings to further inform regulator positions and actions on the suitability of devices currently commercially available. Other expected outcomes of the Project are to:

- Provide safe design guidance for designers, manufacturers and suppliers of quad bikes.
- Improve design and adoption of operator protective devices.
- Improve quad bike performance and stability when using quad bike accessories and attachments.
- Build awareness and knowledge that will enable persons conducting a business or undertaking to make informed decisions regarding purchasing and use of quad bikes and available accessories.
- Form a foundation for further development of dynamic stability testing models for quad bikes.
- Encourage innovation in the design and development of quad bike operator protective devices and accessories.

While it is acknowledged that engineering controls are preferable, it is agreed these alone will not improve quad bike safety. In addition to improving the design safety element of quad bikes through the Quad Bike Performance Project, the greater Trans-Tasman Quad Bike Safety Strategy concentrates on minimising other safety risks to quad bike riders from an administrative and personal protective equipment perspective, including:

- improving point of sale material to guide farmers in purchasing the vehicle best suited to their specific needs and farm conditions;
- the mandatory wearing of approved helmets;
- providing farmers with the option to fit safety improvements, such as devices to protect riders in case of a rollover, under certain conditions;
- introducing a nationally recognised quad bike rider-training curriculum;
- guidance to help provide a better match between quad bike accessories and the host vehicle; and
- encouraging compliance with manufacturers' guidelines in relation to passenger carrying, load requirements and rider age, ie children not operating adult sized bikes.

Further information including a copy of the Strategy is available on WorkCover's website.

d) 4

***The extent and effectiveness of education and the necessity for skills and competency training for users of non-registered motorised vehicles, particularly in relation to safe use*;**

- **Should training and education be made a pre-requisite for obtaining a conditional licence for a quad bike, particularly in a workplace setting?**

Under the *Work Health and Safety Act 2011*, persons conducting a businesses or undertaking need to provide information, training and instruction or supervision that is necessary to protect persons from risks to their health and safety from work.

Given the design and handling characteristics of quad bikes, appropriate training and instruction, is provided by the accreditation training module AHCMOM212A (Operate Quad Bikes). While WorkCover supports this accreditation module to meet the minimum competency for operating quad bikes, a licence is not required under the *Work Health and Safety Act 2011* to operate a quad bike.

Further, the New South Wales Government has a target of $750 million in reduced 'red tape' costs for business and the community by June 2015. To assist in meeting this target, the Independent Pricing and Regulatory Tribunal (IPART) has been tasked with reviewing and reforming licensing in New South Wales. In this environment and as a regulator, WorkCover is cognisant it needs to consider not only the cost benefit analysis for a new licence/regulatory provisions, but also:

- assess whether the licence can be well designed in terms of its coverage, duration, reporting requirements, fees and charges, conduct rules and mandatory attributes;
- assess whether the licence can administered effectively and efficiently, and
- confirm that licensing is the most appropriate response to address the risk compared to other options.

The Hon. Duncan Gay MLC
Deputy Leader of Government in the Legislative Council
Minister for Roads and Ports

PR13/13837

Mr Greg Aplin MP
Chair
Joint Standing Committee on Road Safety (Staysafe)
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

Dear Mr Aplin

I refer to the letter dated 4 July 2013 from Mr Bjarne Nordin, Inquiry Manager about the Joint Standing Committee on Road Safety's inquiry into Non-Registered Motorised Vehicles.

I am advised that on 28 June 2013 representatives from Transport for NSW appeared at a hearing before the Staysafe Committee on this matter.

I am pleased to enclose Transport for NSW's response to the questions on notice from the hearing and supplementary questions from the Staysafe Committee.

Should you have any queries relating to the submission, please contact Ms Margaret Prendergast, General Manager, Centre for Road Safety, Transport for NSW on (02) 8265 7510.

Yours sincerely

Duncan Gay MLC 14-8-13
Deputy Leader of Government in the Legislative Council
Minister for Roads and Ports

Encl

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STAYSAFE INQUIRY INTO NON-REGISTERED MOTORISED VEHICLES TRANSPORT FOR NSW – QUESTIONS (JULY 2013)

Questions Taken on Notice (28 June 2013)

1. Breakdown of motorised mobility devices casualties (motorised wheelchairs and mobility scooters)

CrashLink data for casualty crashes from 2000 to 2004 are contained in table below.

Number of casualties from crashes involving a motorised wheelchair, road user class, degree of casualty, reporting year, 2000-2004						
Reporting year						
Road user class	**Degree of casualty**	**2000**	**2001**	**2002**	**2003**	**2004**
Motorised wheelchair driver	Killed	1	0	1	2	1
	Injured	5	12	7	14	20
Motorised wheelchair passenger	Injured	0	0	0	0	0
Motorcycle rider	Injured	0	0	0	0	0
Pedal cycle rider	Injured	0	0	0	0	0
Pedestrian	Injured	0	1	1	1	0

Since 2005 it has been possible to differentiate mobility scooters from wheelchairs in the motorised wheelchair category. The table below shows this differentiation. Data have been sourced from the CrashLink database. Data for 2012 are preliminary and subject to change.

Motorised wheelchair casualties, conveyance type/road user class, degree of casualty, reporting year, 2005-2012*									
Reporting year									
Conveyance type / Road user class	**Degree of casualty**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012***
Mobility scooter driver	Killed	0	1	1	2	1	2	1	1
	Injured	4	16	10	21	28	20	18	14
Mobility scooter passenger	Injured	0	0	0	0	1	0	0	0
Motorised wheelchair driver	Injured	5	3	3	7	2	2	4	1
Pedal cycle rider	Injured	0	0	0	0	1	0	0	0
Pedestrian	Injured	1	0	0	1	0	1	1	1
* Data for 2012 are incomplete and subject to change (available data as at 01/04/2013)									
Prepared by Centre for Road Safety, Transport for NSW - 08/04/2013									

Of the seven fatalities involving mobility scooters in the five years between 2008 and 2012, in only one crash was the mobility scooter controller identified by police as being at fault, with responsibility for the crash apportioned to the motor vehicle controller in four cases, and fault unknown in the two other cases.

2. Motorised bicycles (moped) casualties

Over the 13 years between 2000 and 2012 (preliminary), 5 motorised bicycle riders were killed in crashes, with injuries sustained by a further 184 riders. In addition, over that period 3 motor vehicle drivers, a motor vehicle passenger, 3 motorised bicycle passengers, a mini-bike rider and 5 pedestrians were also injured.

Motorised bicycle in these statistics refer to pedal bicycles with a motor, and does include pedal-assisted registrable mopeds and legal power-assisted pedal bicycles, but it may also include power-assisted cycles that are illegal (e.g. has a power capacity greater than 200 watts and does not meet the 'pedalec' standard). The accuracy of the data relies on the accuracy of police crash reports and data entry.

Number of casualties from crashes involving a motorised bicycle, road user class, degree of casualty, reporting year, 2000-2012*

Reporting year														
Road user class	**Degree of casualty**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012***
Motor vehicle driver	Injured	0	0	0	0	0	0	0	0	1	0	1	1	0
Motor vehicle passenger	Injured	0	0	0	0	0	0	0	0	0	0	0	0	1
Motorised bicycle rider	Killed	0	0	0	0	0	1	0	0	1	3	0	0	0
	Injured	1	4	1	1	1	4	5	15	20	20	28	42	42
Motorised bicycle passenger	Injured	0	0	0	0	0	0	0	1	0	0	0	0	2
Mini-bike rider	Injured	0	0	0	0	0	0	0	0	0	1	0	0	0
Pedestrian	Injured	0	0	0	1	0	0	0	1	0	1	0	2	0

*Data for 2012 are incomplete and subject to change (available data as at 17/06/2013).

**Since mid 2010 the NSW Police provided improved narrative in their reporting, this information may have more readily identified motorised bicycles in crashes.

Prepared by Centre for Road Safety, Transport for NSW - 17/06/2013

Supplementary Questions on Notice

a) The current status of non-registered motorised vehicles in road rules definitions and the extent of road safety problems related to their use

1. **Previously in NSW there has been a weight limit of 110kg for mobility scooters, but this requirement is no longer specified in the regulations.**

   - **Is there still a weight limit of 110kg for mobility scooters and should it be standardised across Australian jurisdictions? For example, in Queensland the weight limit is 150kg.**

     In the Australian Road Rules (and consequently the NSW Road Rules 2008) a motorised wheelchair, which can travel at **over 10km/h**, has a prescribed mass limit of 110kg. However, this is an anomaly as these vehicles cannot legally travel on NSW public roads and paths.

     Only motorised wheelchairs that **cannot travel faster than 10km/h** can be legally used on NSW public roads and paths, however currently there is no mass limit applied to this group.

     At the Australian Road Rules Maintenance Group Meeting in June 2012, it was agreed to impose a 150kg mass limit on all motorised wheelchairs.

     As the Austroads Registration and Licensing Taskforce is currently examining motorised wheelchairs in a more holistic manner, the National Transport Commission has postponed the amendments to motorised wheelchair rules, pending the outcome of the review.

2. **Currently helmets are not required to be worn by riders of mobility scooters, quad bikes and snow mobiles.**

   - **Should they be made compulsory?**

     There are appropriate helmets available for use for quad bikes and snowmobiles.

     Transport for NSW notes that a number of tourist operators across NSW provide recreational quad bike activities with helmets provided to customers. It is also noted at the Victorian ski resort of Falls Creek, their snowmobile tours include provision of a helmet.

     The issue of helmet use for mobility devices was discussed by the former ACCC Mobility Scooter Reference Group. It was identified that most injuries from mobility scooters occur from the rider falling off either at very low speeds or while the scooter is stationary in the home environment. It may be difficult to enforce helmet wearing in this environment.

     Crash data would be required to support helmet wearing when using a mobility device on footpaths. Some practical concerns raised include aesthetics, comfort and practicality for safely storing the helmet when the rider has dismounted from the mobility device at shopping centres and other destinations.

- **The Australasian College of Surgeons recommends a helmet specific to the use of quad bikes (Submission 73). Should helmets be developed for specific classes of non-registered motorised vehicles?**

  There is currently a New Zealand standard for quad bike helmets that could be adapted for use as an Australian standard. Helmets that comply with *NZS8600-2002: All-Terrain Vehicle Helmets* are already available.

  Helmet standards for other non-registered motorised vehicles will require more detailed investigation.

3. **The engine capacity for a power assisted pedal bicycle, that is, a pedal bicycle fitted with an auxiliary motor, is limited to 200 watts; whereas for a pedelec or an electric bicycle the engine capacity limit is 250 watts.**

   - **Why is there a difference in the engine capacity requirements for these vehicles?**

     The definition of power assisted pedal cycles was amended last year to allow for more modern, greener vehicles that are more powerful yet safer than traditional models. The new definition allows for pedalecs – which are defined as bicycles that comply with the European Standard, EN 15194:2009 *Cycles - Electrically power assisted cycles - EPAC Bicycles* – to be classed as a type of power assisted pedal cycle, while retaining the older definition.

     The 200 watt limit refers to older types of power assisted pedal cycles, while the 250 watts refer to the more modern pedalecs. The additional power allowed for pedalecs is compensated by their enhanced safety features, including advanced braking required by EN 15194, requiring the rider to pedal for the motor to activate, and requiring the motor to cut out once the pedalec reaches 25km/h or sooner if the rider stops pedalling.

     The Commonwealth Department of Infrastructure and Transport, which is responsible for administering the *Motor Vehicle Standards Act 1989* where the definition of bicycle is established, decided to retain the existing definition and include the new definition of pedalec as an alternative to allow use of both old and new types of power-assisted pedal cycles.

4. **The Government submission states (section 3.2.5, page 13) that 'suspected cases of impaired riding of a power-assisted pedal cycle fall outside of the breath testing and roadside drug testing regimes' if the motorised vehicle falls outside the definition of 'motor vehicle'.**

   - **Why would power-assisted pedal cycles fall outside the definition of 'motor vehicle' (section 3.2.6, page 13) but motorised wheelchairs be included?**

     The drink driving offences are found in the *Road Transport Act 2013*.

     Under section 112 of the *Road Transport Act 2013* it is an offence to use a vehicle under the influence of alcohol or any other drug, or what is commonly referred to as 'driving under the influence' (DUI). This offence applies to all vehicles on wheels, whether or not motorised, and hence covers power-assisted pedal cycles.

     Under section 110 of the *Road Transport Act 2013* a person must not drive a motor vehicle with the presence of a prescribed concentration of alcohol (PCA). The Act defines 'motor vehicle' to mean a vehicle that is built to be propelled by a motor that forms part of the vehicle. This provision may be open to different interpretations with respect to whether a power-assisted pedal cycle "is built to be propelled by a motor" when they are designed to be propelled by human power with the motor attached as a supplementary aid.

     It is noted that 'power-assisted pedal cycle' is included in the definition of 'bicycle' in the Road Rules 2008 and for the purposes of the road rules are treated as bicycles.

     The application and enforcement of these laws are a matter for the NSW Police Force.

5. **Many submissions pointed out the dangers associated with quad bike use. The Government submission states that some European Union countries allow quad bikes to be used on roads but only if the bikes conform to very specific standards (section 3.4, page16)**

   - **Can you tell us what the EU standards are and do you think they should be introduced in NSW?**

     A number of European countries allow certain types of quad bikes to be used on their roads. Europe introduced a new category of vehicle known as a 'quadricycle' to enable certain types of alternative vehicles, such as very lightweight electric cars and quad bikes be used on their roads in response to the chronic congestion experienced in many urban areas in Europe.

     These quadricycles are covered by European Directive 32013R0168, *Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles* which also includes motorcycles. The safety specifications are written around *functional safety* which is defined as: "The absence of unacceptable risk of physical injury or of damage to the health of persons or to property owing to hazards caused by mal-functional behaviour of mechanical, hydraulic, pneumatic, electrical or electronic systems, components or separate technical units." Although it covers items like brakes, audible warning devices, electrical components and lighting, the requirements are far less than the safety standards applied to standard passenger and other vehicles supplied to the Australian market, as specified in the Australian Design Rules (ADRs).

     The European quadricycle vehicle class has no equivalent in Australia. For road-going quad bikes to be allowed in Australia, either they will have to be designed to meet the current safety requirements specified in the ADRs, or a vehicle classification will have to be

established. Recently, the Commonwealth Department of Infrastructure and Transport (DIT) subjected a quadricycle to a standard crash test required by the ADRs, and data from the crash test dummies indicated the crash would have been fatal to the vehicle's occupants. Based on this research, the DIT and some other jurisdictions have expressed opposition to introducing these vehicles into Australia for unrestricted access to the road network.

6. **The Government submission says that there are a number of safety risks inherent in quad bike design: the lack of a differential, their limited load capacity, lack of rider protection. Their marketing as 'all-terrain vehicles' encourages people to use them in inappropriate environments. (section 3.4.1, page 17)**

   - **Can you tell use about the work of the Quad Bike Performance Project and what kind of measures can be taken to minimise the safety risks for quad bike riders?**

     Advice should be sought from WorkCover NSW who funds this project.

b) The adequacy of data collection for injury and fatality rates arising from the use of non-registered motorised vehicles

1. **The Government submission states that quad bikes will be included as a separate category of road users in Crashlink2, the Centre for Road Safety's new data warehouse.**

   - **Do you think there needs to be further improvements in data collection for casualty crashes involving non-registered motorised vehicles?**

     The Centre for Road Safety (Centre) CrashLink database relies on crash information supplied by the NSW Police Force. The Centre works closely with NSW Police to ensure that the crash data are of the highest standards. Where improvements can be made in the quality of police data capture (as has occurred with improved police crash narratives enabling identification of vehicle types such as quad bikes) then the Centre will endeavour to identify the involvement of other types of non registered motorised vehicles in crashes. However, the data will still largely rely on the reporting police officer's knowledge of these types of vehicles and the officer's correct terminology used in the crash report. While, the Centre will continuously work on improving the quality of crash data, there is no guarantee that this can be done consistently across the NSW Police Force, especially given the evolution of different types of non-registered vehicles in recent years and expected in the future.

   - **Do you consider NSW Health's Admitted Patient's Data Collection needs more codes to cover different non-registered**

     The Centre for Road Safety works closely with the NSW Health's Admitted Patient's Data collection. The data collection provides accurate and valuable information admitted patients' age and gender, extent and severity of their injuries as well as the length of stay etc. However, the admitted patient data collection is not designed to be the source of crash dynamics information - the crash location, the vehicle movements, the traffic units involved in the crash etc. These are data items better captured by the reporting police officers attending the scene of the crash (such as the crash investigation squad).

     At present the admitted patient data collection uses international ICD10 coding to identify road trauma cases. These codes do not align exactly with the national guidelines of road traffic crashes as used by the Centre. Hence the admitted patient data collection includes victims from road vehicle crashes on private land which would not be included in the Centre's database. The ICD10 codes used in the admitted patient data collection are very

basic (road vehicle crash involving a car, a light truck, a heavy vehicle, a pedal cycle, a pedestrian, a motorcycle. Whilst this data collection is useful in identifying possible trauma cases arising from farm vehicles, children in driveways etc., it does not provide sufficient details of the types of vehicles involved. Police remain the source for these details. For NSW Health to consider more codes for non-registered vehicles special protocols would need to be created as an adjunct to the ICD10 coding process, and would require close consultation with the Police and the Centre.

It should be noted that recent linking studies have found that only around a quarter of all injuries captured by CrashLink are serious enough to be included in the admitted patient data collection.

2. **The Royal College of Australasian Surgeons noted in their submission that non-registered motorised vehicles are beginning to play a more significant role in trauma, often associated with alcohol. Is there any statistical evidence which would support this observation?**

The table below provides the blood alcohol concentration (BAC) for road crash casualties involving motorised mobility devices (motorised wheelchairs and mobility scooters) and motorised pedal cycles (mopeds). Please note that the unknown category includes those cases where a blood test was not needed/not carried out by the police. It also includes those the Centre for Road Safety could not match with hospital BAC test result records. This information is limited to the cases reported by police and the ability to match crash data with hospital records. In case of fatalities, the Centre for Road Safety has far better data in terms of quality compared with injuries data.

Motorised wheelchair and motorised pedal cyclist casualties, Blood Alcohol Concentration (BAC) group, 2000-2012

		Reporting year												
		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012*
Vehicle type	**BAC group**													
Motorised mobility devices (motorised wheelchairs and mobility scooters)	Nil	3	5	3	6	5	3	9	6	12	10	7	8	8
	.001-.019	-	-	-	-	-	-	-	-	-	1	-	-	-
	.020-.049	-	-	-	-	-	-	1	-	-	-	-	1	-
	.050-.079	-	-	-	-	-	1	-	-	-	-	-	-	-
	.080-.149	-	-	-	-	-	-	-	-	-	1	-	-	-
	.150 or More	-	-	1	-	2	-	-	2	1	-	-	-	-
	Unknown	3	7	4	10	14	5	10	6	17	20	17	14	8
	Total	6	12	8	16	21	9	20	14	30	32	24	23	16
Motorised pedal cycle (nopeds)	Nil	1	2	-	1	-	3	2	8	10	15	15	16	13
	.001-.019	-	-	-	-	-	-	-	-	1	-	-	-	1
	.020-.049	-	-	-	-	-	-	-	-	-	-	-	2	-
	.050-.079	-	-	-	-	-	-	-	-	-	-	1	-	2
	.080-.149	-	-	-	-	-	-	-	-	-	-	-	2	1
	.150 or More	-	1	-	-	-	-	-	-	3	3	1	2	8
	Unknown	-	1	1	-	1	2	3	8	7	5	11	20	19
	Total	1	4	1	1	1	5	5	16	21	23	28	42	44

* 2012 date are preliminary and subject to change

**Since mid 2010, the NSW Police Force have provided improved narratives in their reporting, This information may have more readily identified motorised pedal cycles in crashes.

Prepared by Centre for Road Safety, Transport for NSW - 12/07/2013

d) The extent and effectiveness of education and the necessity for skills and competency training for users of non-registered motorised vehicles, particularly in relation to safe use

1. **The Government submission states that there has been no evaluation of education programs for motorised wheelchair users either nationally or internationally (section 6.1, page 26).**

   - **Are there any plans to evaluate programs in New South Wales, such as Transport for NSW's Walking Safely education program (section 6.2, page 29) or Holroyd City Council's 'Getting Around' pilot project (section 7.1, page 38)?**

     In 2011, Transport for NSW funded the Holroyd City Council's 'Getting Around' pilot project as part of the NSW Local Government Road Safety Program which focused on skills training and used.

     This pilot delivered road safety messages involving local businesses that sell motorised wheelchairs and occupational therapists as health professionals who have expert knowledge on the movement needs of people with limited mobility. Additionally, the Holroyd Project provided links to public transport information, local facilities and trip planning. '

     By the end of the 2011-2012 financial year over 39 Walking Safely pedestrian presentations had been delivered in local government areas with a further 15 presentations addressing motorised wheelchair safety.

     A revised delivery model of the NSW Local Government Road Safety Program will be implemented in July 2014. This program will continue to provide road safety education resources and support for the education of vulnerable road users including wheelchair users at the community level. Although no detailed evaluations of the 'Getting Around' or the 'Walking Safely' projects have been conducted, Transport for NSW would be keen to evaluate the operation of the revised model including its capacity to successfully deliver road safety programs for motorised wheelchair users.

2. **A number of councils run education programs for users of mobility scooters (section 7.1, page 38).**

   - **Can more be done to educate users and are councils the appropriate agency to run programs?**

     There is scope for education and communication programs to improve safety of the use of mobility scooters and other mobility devices.

     It is noted that the programs to date have largely targeted older people, Transport for NSW considers that there is scope for programs to target younger people. This is especially important because as the ACCC and NRMA survey indicate, a large proportion of mobility device users are under 60 years of age.

     Local Government education programs are appropriate channels to deliver safety messages and training for pedestrians and motorised wheelchair users. However, other channels, such as at the point-of-sale of mobility devices should also be considered.

3. **The *mobility scooter usage and safety survey report* (joint project with ACCC, NRMA, CHOICE, Flinders University and others) found that mobility scooter users felt safe on their scooters and blamed factors such as the environment for any lack of safety.**

   - **Do you think that current educational programs include sufficient information about handling environmental factors?**

     The Transport for NSW 'Walking Safely' presentation, delivered by local government road safety officers, provides practical advice on how to safely use motorised wheelchairs in their local road environment.

     'Walking Safely' provides advice on the road rules that applies to motorised wheelchair users, including requirements that they must:
     - Cross the road by the shortest safe route
     - Not cross a road if you are within 20 metres of a designated crossing (eg zebra or signals)
     - Not travel along a road if there is a footpath or nature strip adjacent to the road – unless it is impracticable to do so
     - Not unreasonably obstruct the path of any driver or another pedestrian.

     The presentation also provides safe travel tips such as going straight up or down ramps or kerbs, not on an angle, and taking care not to make sharp turns at full speed, ride on steep slopes, or stop on a slope to rest or dismount.

     The 'Walking Safely' presentation encourages motorised wheelchair users to plan a safe route and provides tips to encourage greater awareness of the road safety risks involving motor vehicles and pedestrians around them in the road environment.

     Transport for NSW will continue look to improve its communications material, and will consider any feedback from the current Staysafe Inquiry that could be used to provide improved guidance to motorised wheelchairs on how to handle the road environment.

4. **Should training and education be made a pre-requisite for obtaining a conditional licence for a quad bike, particularly in a workplace setting?**

   This is a matter for WorkCover NSW.

5. **How difficult is it to ensure an understanding of road rules for people using non-registered motorised vehicles?**

   It is important to raise awareness about the road rules. In February 2013, the first Road Rules Awareness Week was conducted and a 'Top 10' guide, detailing NSW's most misunderstood road rules was distributed.

   The road rules will differ depending on the type of vehicle being used. It is important that road users are aware of the road rules that apply to them.

   Transport for NSW will continue to work to use communications to improve understanding of the road rules for the broader public and targeted communications for specific road user groups.

e) Insurance implications of injuries and fatalities sustained and caused by non-registered motorised vehicles

1. **The Government submission suggests that CTP insurance coverage for high risk vehicles, such as off-road motorbikes, could be prohibitive and that insurance coverage for such a vehicle class is better organised through the purchase of personal liability insurance or a permit system for fulfilling specific functions (sections 6.8.4, page 37).**

    - **Can you explain who provides this sort of insurance and how a rider would go about obtaining it?**

      This is a matter for the Motor Accidents Authority.

f) Initiatives taken by local Councils and other jurisdictions to certify, register and regulate the use of currently non-registered motorised vehicles

1. **Several submissions complain about the illegal use of trail bikes on public lands and roads and about the noise the y make.**

    - **Can you explain the status of trail bikes in NSW and where they can be ridden?**

      Complying, fully registered trail bikes may be used on any roads and road related areas in accordance with the Road Rules and in the *Recreation Vehicle Area*.

      Non-complying, conditionally registered trail bikes may be used on any roads and road related areas in accordance with the Road Rules, except for built up areas, and only for farming use; or in the *Recreation Vehicle Area*.

      The Environment Protection Authority (EPA) has powers under the *Recreation Vehicles Act 1983* to designate land as a Recreation Vehicle Area, and people can apply to the EPA to have land so designated.

      Transport for NSW has previously received requests to allow quad bikes to be eligible for conditional registration (outside the scope of the current conditional registration scheme for quad bikes) and to be used in NSW State Forests, National Parks and along public beaches. These requests have been declined due to safety risks.

    - **Can you comment on the recreational registration system they have in Victoria, which is a lower cost form of registration which allows motorcycles to be ridden on open public roads, apart from arterial roads, in State forests and national parks, but not through or into townships.**

      Transport for NSW understands that the costs of the Victorian recreation motorcycle registration scheme (registration fee $8.20, number plate fee $16.40, Compulsory Third Party (CTP) insurance premium $66 including GST) are subsidised by the Victorian Government, making the scheme affordable for riders. Under this scheme, all recreational motorcycles must meet minimum construction requirements and comply with a number of operating conditions. Inspection requirements also apply in some circumstances.

      CTP insurance in Victoria is managed by the Transport Accident Commission (TAC) which is a Victorian Government-owned organisation. Therefore, in Victoria, the Government can subsidise CTP insurance premiums for particular vehicle types with potentially no adverse impact on other vehicle owners.

As noted in the NSW Government submission to the inquiry, the CTP scheme in NSW is underwritten by private insurers and the full cost of the Scheme must be met by the premiums collected from owners of registered vehicles. Any proposed CTP insurance subsidies for recreation motorcycles in NSW would add an additional cost impost on other NSW vehicle owners.

- **Victoria also has the Victorian Trail Bike initiative which encourages responsible riding to minimise the impact on the environment and other park users. Has a similar scheme been contemplated in NSW?**

  Adoption of a scheme similar to Victoria, may generate additional revenue for trail bike infrastructure and education initiatives to improve awareness of safe and responsible riding, but is not necessary.

  A number of organisations already provide advice for trail bike riders on where they may ride, and the importance of minimising the impact of their visit. The Forestry Corporation of NSW website provides guidance for riders on how to minimise their impacts when riding through State Forests. It is noted that in the past Forests NSW and the NSW Environmental Trust have funded the development of brochures and websites dedicated to educating trail bike riders of safe and sustainable riding.

  Transport for NSW understands that the Victorian Trail Bike initiative is managed through the Victorian Department of Sustainability and Environment. The Victorian Government has committed $5 million for this four year initiative to better manage recreational trail bike use of State Forests.

  Any proposed expansion of the current recreational registration scheme would require a whole of government approach to address issues such as registration (TfNSW and Roads and Maritime Services), CTP insurance (Motor Accidents Authority), land use (Environment Protection Authority, Forestry Corporation of NSW, NSW Crown Lands), education (Department of Education and Communities) and compliance (NSW Police).

- **Skate parks have proved popular with skateboard riders and discourage inappropriate use of public spaces. Stockton Beach would appear to be the only public land in NSW which can be legitimately be used by quad bikes. Could more areas of land be set aside for the specific use of trail and quad bikes to discourage indiscriminate use of trails on public land?**

  The Environment Protection Authority (EPA) has powers under the *Recreation Vehicles Act 1983* to designate public land as a Recreation Vehicle Area, and people can apply to the EPA to have land so designated.

  However, the law does not prevent landowners to allow the use of their private land for the recreational use of quad bikes. There are a number of tourist operations across NSW that promote the use of quad bikes on their properties.

2. **Providing a customer declaration of roadworthiness is a requirement for conditional registration for recreational vehicles used in the Stockton Bight RVA. The Office of Environment and Heritage report that NPWS staff often encounter heavily modified conditionally registered vehicles with large engines, turbo chargers and/or super chargers, nitrous injection systems, modified suspensions, axles and wheels, all developed to increase speed and acceleration. (OH&E submission, page 4)**

   - **Do you think that this indicates that roadworthiness needs to be independently checked?**

     The purpose of conditional registration is to allow limited access to road and road related areas to certain vehicles that by reason of their design and/or intended use, cannot comply with the mandatory safety and performance standards. Persons wishing to register vehicles subject to conditional registration must satisfy themselves of that the vehicles are safe to be used on the road and road related area, and meet any standards specified as part of the conditions for registration as detailed below for quad bikes. There is no requirement for an independent assessment of the vehicles, instead a *Customer Roadworthiness Declaration* is acceptable.

     For some conditional registration schemes, such as heritage vehicles or road going plant, there are some limited standards and rules that apply to them; but for others there are no applicable standards for them other than those stated in the applicable *Vehicle Registration Guide*. For the latter vehicles, it is impossible to define what constitutes a modification and set limits on how much they can be modified from their original condition. As such, and as many modifications do not relate to roadworthiness, there is little benefit in requiring an independent roadworthiness assessment as part of the conditional registration process.

     There are approximately 500 conditionally registered recreation vehicles in NSW. Currently, the scheme only includes non-complying motorcycles and 'quad bike' type All Terrain Vehicles (ATVs). The current vehicle equipment requirements are: brake and turn lights, rear reflectors, rear vision mirror/s and a horn. Although these vehicles are otherwise exempt from the vehicle standards in the Road Transport (Vehicle Registration) Regulation 2007, the lighting must be fitted as near as possible to the position required in the regulation.

     Currently, NPWS rangers report ineligible conditionally registered vehicles detected using the RVA to Roads and Maritime Services' Customer Service Branch for registration enforcement action. Illegally modified vehicles can also be issued with a Defect Notice and/or a Traffic Infringement Notice for failing to meet roadworthiness requirements and a Penalty Infringement Notice for using the vehicle in breach of a registration condition.

     The introduction of mandatory vehicle inspections in the current scheme would reduce affordability and increase red tape and must be carefully considered against any potential safety improvements. The table below contains the approximate cost riders may face if inspections for recreation vehicles are introduced.

     Table. Estimated inspection costs for recreation vehicles

	Registration	Registration Renewal
Motorcycles	$63.30	$21.60
ATVs	$86.40	$36.40

     The introduction of mandatory inspections is also unlikely to address the issues around modifications as these modifications would likely be made post-inspection under such a scheme.

In comparison to the approximate 500 conditionally registered recreational vehicles, there are currently around 45,000 other conditionally registered vehicles, with relatively greater access to the road network. These vehicles are also declared suitable for safe use by the operator, without inspection by an authorised examiner.

3. **The Government submission highlights the lack of clarity for police regarding the legal status of some non-registered motorised vehicles, for example electric bikes (section 8.2, page 41).**

- **Would providing proof of status and registration exemption to roadside police be the most straightforward way to establish the legal status of these vehicle?**
- **Should such proof be a condition of the sale of the vehicle?**

At this stage, Transport for NSW cannot comment on whether this proposal is the most appropriate measure to establish the legal status of some non-registered motorised vehicles. Further work with the NSW Police Force, Office of Fair Trading and Roads and Maritime Services to investigate various policy options would be required.

It is noted that there are differences between some motorised bicycles and bona fide power assisted pedal cycles which can be observed.

In general, for power assisted pedal cycles, the rider must be the primary source of power and the motor an auxiliary power source used to assist the rider, such as when cycling uphill, into a strong wind or as a general fitness aid. This is more clearly emphasised for pedalecs where the rider must pedal for the motor to activate, and the motor must cut-out when the rider stops pedalling (or if they reach 25km/h).

Many illegal motorised bicycles can be identified by a number of means: the saddle height and position relative to the handlebars and bottom bracket is not adjustable; the bottom bracket is so wide and the pedals are too far apart to facilitate smooth and efficient pedalling; the bicycle is too heavy to cycle without the motor; and the gearing is not appropriate for the size of the wheels and the weight of the bicycle. In addition, it is virtually impossible for bicycles powered by petrol motors to meet either of the definitions for power assisted pedal cycles as to be limited to 250 watts. The cylinder would only be 4cc, the size of a standard medical syringe.

The differences between power assisted pedal cycles and motorised bicycles are explained in Vehicle Standards Information 27 *Mopeds and power-assisted pedal cycles*. This is currently being updated in line with the amended definition for power assisted pedal cycles, and a copy of the draft is attached. In addition, Transport for NSW has offered to provide expert assistance to the NSW Police Force to assist with prosecution of suspected uses of illegal motorised cycles.

As stated above, identifying a pedalec for enforcement purposes should be relatively easy to do. In addition to the rider needing to pedal to activate the motor, the continuous power output at the wheel can be measured reasonably easily by a dynamometer; and pedalecs that comply with EN 15194 and imported from Europe will be marked with a label indicating that they have been subjected to the conformity assessment process and they comply with the standard.

For power assisted pedal cycles that meet the older definition, there is currently no requirement for any labelling. The Australian Standard AS/NZS 1927: 2010 *bicycles – Safety requirements*, is called up under the Australian Consumer Law *Trade Practices Act 1974 - Consumer Protection Notice No. 6 of 2004 - Consumer Product Safety Standard: Pedal Bicycles: Safety Requirements* (CPN 6). Bicycles supplied in Australia must comply with this standard. Although power assisted pedal cycles are covered by the scope of the

standard, they are not included in CPN 6, meaning PAPCs supplied to the market do not have to comply with the standard. The Australian Consumer Law is administered by the Australian Competition and Consumer Commission (ACCC). Transport for NSW has previously approached the ACCC to remove this anomaly and to include power assisted pedal cycles in CPN 6, but to date no changes have been made.

Inquiry into non registered motorised vehicles

Questions on notice and additional questions for the Commission for Children and Young People following the hearing on 28 June 2013.

Questions on notice

1) **Would you support the creation of trails suitable for younger riders in national parks or State forests in the same way that some local governments have built skate parks in public places?** (Page 5 transcript)

The Commission is chiefly concerned that any young person riding a motorcycle has the physical and cognitive capacity to handle the motorised vehicle. All children and young people are vulnerable compared to adults by virtue of their size and still-developing physical and cognitive abilities, including the capacity to appreciate risks and comply with societal rules and constraints.

There is currently insufficient information about the minimum age at which children and young people have the physical and cognitive skills to safely ride a motorcycle off road and the minimum power to weight ratio for safe manipulation of off-road motorcycles marketed to children

Creating designated places for riding motorcycles is a recommendation of the Victorian Injury Surveillance Unit that the Commission considers sensible in principle. However, it would not in and of itself guarantee the safety of a young motorcycle rider if issues such as power to weight ratio, age related or individual skill and judgement were not also addressed.

If a national park or State forest in NSW were to be a designated place for young motorcycle riders, this would necessitate regulation and would shift liability from the private sphere.

While the Commission is generally supportive of providing safe avenues for young people to experience their world, learn about risk and enjoy their increasing physical mastery, we would caution that it may not be possible to provide assurance that any given terrain is safe for riding a motorised vehicle. In addition, the intersection of a proposal for motorcycle trails for young people in national parks with the current debate about hunting in designated national parks may raise rather than allay safety concerns.

2) **Is there an age limit in New South Wales on the use of motorised equipment on private property?** (Page 6 transcript)

The NSW Department of Transport Roads and Maritime Services informs us they do not have rules and regulations governing the use of motorised equipment on private property. However other laws may or may not apply in

these circumstances and the Committee may wish to seek further information from the Department of Attorney General and Justice in this respect.

3) **New question is: Can the Commission provide a breakdown by gender and age groups of the child deaths in New South Wales that involved non-registered motorised vehicle accidents such as of all-terrain vehicles and motorised skateboards with data more up to date than the 2011 calendar year?**

The Commission does not have this breakdown for the child death data post-2011, however the Committee could request this information from the Ombudsman who convenes the Child Death Review Team.

4) **Where is the best place to offer/provide/mandate training in use of items like motorised skateboards, motorised scooters and motorised bikes or even motor bikes? (Place of sale, school, or other place you attend outside school?)**

The Young People Advisory Group who met on September 14 2013 (11 young people from 6 schools) was asked their view on the best place for training. They thought that point of sale training would be useful for young people and their parents. This training would need to be in a safe environment and conducted by professionals. The young people felt that learning to ride/drive and learning safety conventions should be taught in environments in which they would expect to drive/ride in order to be practical. School based programs were seen to be less appropriate as it is not relevant to all students and wouldn't be possible or a priority at some schools.

5) **What kind of training would have an impact on young people?**

The Young People Advisory Group favoured competence based including how to steer, accelerate, break as well as how to drive safely and the related dangers. Training which covered falls and what to do in an emergency was also considered potentially useful. It was thought that other methods such as media campaigns and videos highlighting the dangers and shock stories in schools could be used to motivate young people to attend appropriate training.

The young people felt that training linked to a licensing system would not be appropriate and would not work well as it is hard to police on private properties. Their view (contravened by the statistics) was that young people on farms are likely to know what they are doing.

The young people stressed that parents play a big role and it is their responsibility to keep kids safe. It is parents who give their kids access to vehicles and should be responsible for training them properly.

<u>Additional questions</u>

1) **The Victorian Injury Surveillance Unit has recommended registration for off-road motorcycles and special licensing for off-road riders aged under 18 years.**

- Is that something you would support?

- Do you think enforcement officers would have the capacity to enforce the law, given that unregistered bikes are not easily identified and unlicensed riders may not be carrying identification?

The Commission considers that requiring registration has two potential benefits. It would allow the registration body to ascertain that the vehicle is roadworthy and it would provide an opportunity for the registration body or seller to provide information to the user about safe use.

The identification issue would not be insurmountable. If registration and licensing were a requirement, carrying a licence could also be a requirement and a licence is a form of identification. In relation to identifying an unregistered bike, it should not be necessary to identify a vehicle as unregistered before seeking verification of this from a rider or owner. Presumably, enforcement officers could ask for this information randomly or only when observing erratic or concerning rider behaviour. The key question here is one of costs and benefits in that considerable resourcing may be required to put in place a licensing scheme. Training and competency requirements are desirable but do not have to be linked to licensing.

2) **Are you aware of any education programs in NSW run by motorcycle clubs for younger riders?**

The Commission is not aware of any education programs in NSW run by motorcycle clubs for young riders, but has contacted the Motorcycle Council of NSW in relation to this question. The Motorcycle Council of NSW has a list of clubs for kids on their website (http://dirtbike.mccofnsw.org.au/a/60.html) and the Commission understands that at least some of these clubs, including those operated by the PCYC, offer education programs for younger riders.

3) **The European All-Terrain Vehicle Safety Institute recommends that quad bike riders use protective equipment, including gloves, goggles or face shield, non slip boots, long sleeved shirts with shoulder and chest protection and long trousers that have knee/shin and hip protection. Wearing helmets and personal protective equipment was a recommendation of the Queensland study of child quad bike deaths the Commission referred to in its submission.**

- **While helmets are universally recognised as protective for bike riders, how realistic is it to expect children to wear additional forms of protective clothing, particularly if they are riding a quad bike for recreation?**

The Commission has examined data on episodes of hospital care in 2006/07 - 2010/11 related to four-wheeled special all terrain vehicle types primarily for off-road use and broken down this data by body region injured.

The data shows a high percentage of injuries to the elbow and forearm, (26.6%), shoulder and upper arm (14.39%), head (23.02%), knee and lower leg (10.43%) and smaller percentages for other areas – hip and thigh 6.46%, wrist and hand 3.96% and ankle and foot 3.96%. The recommendations of the European All-Terrain Vehicle Safety Institute and the Queensland study of child quad bike deaths for protective clothing would appear to be broadly justified, at a minimum for the arms and upper body. While there may be some justification for equivocation about full body protection, covering areas less frequently injured, it would still be desirable to minimise injuries to hips thighs, knees and ankles.

The Commission also sought advice from its Young People's Advisory Group on this question. In terms of safety equipment the young people who were involved in recreational use of in off-road motorbikes believed that safety equipment such as goggles, boots, armour and knee guards were already being worn. However the young people's general impression was that young people working on farms are unlikely to wear the equipment and that it was not realistic to expect that they would do so when doing daily jobs. Some barriers to wearing the equipment included cost, parental modelling, convenience when going for short rides and heat.

4) **How do you think information about the dangers of using non registered motorised vehicles can best be conveyed to young people and their parents?**

Children

The young people on the Commission's Young People Advisory Group (YPAG) thought that information provision would be more effective if targeted to specific groups of users such as recreational users and people using vehicles for farm work.

They suggested that the majority of young people using vehicles on farms would learn from their families. It was felt families should be targeted with common sense information rather than information about legal prohibitions . Young people suggested that for recreational users, information on the vehicles and safety could be obtained from the store as parents play a big role in buying recreational bikes when young people start riding. Targeted information in schools, such as country schools or schools with agricultural programs was also a possibility, but it was not considered a priority for all schools.

The information that was most relevant to young people was that which would build their competency and experience-based learning was considered more appropriate and effective than books or other educational materials. The value of adult supervision was also stressed.

In terms of targeting information to parents it was suggested that information be provided through bike clubs to recreational riders and through country shows or farmer's meetings to parents on farms. The young people also saw a role for a media safety campaign similar to those used for seatbelts or drowning to highlight the dangers to parents, but suggested that this may be more usefully aimed at rural and regional television stations.

Parents

The Commission considers a targeted education campaign may be the best means of conveying information to parents. The available statistics for NSW suggest some obvious areas where targeted education would be useful.

A broad based campaign may be necessary to alert the general public, including parents, to the fact that the majority of off road incidents requiring hospitalisation are not traffic accidents (according to our analysis of the 2036 hospitalisations in NSW over the five years from 2006-07 - details page 3 of our submission.) *The community may be under an illusion that children and young people are safe if they are not on the road.*

A campaign could also address the issue that *the majority of incidents are not collisions*. The risks are not necessarily about hitting other vehicles or objects but (it would seem) losing control and falling off. If parents were alerted to this fact, they may be more inclined to take their supervisory responsibilities more seriously or to support training or provide more support and advice to their children.

5) Safety precautions are generally required to be provided when selling dangerous equipment, especially when the equipment may be dangerous to children.

- **Do you think the same responsibility should be required of the manufacturers of quad bikes and other non-registered motorised vehicles?**

The Commission considers that given the statistical evidence about risks to children from riding/driving quad bikes and other non-registered motorised vehicles, manufacturers should be required to provide safety warnings. This would be relatively inexpensive and quick to implement.