Inquest into the death of Jack Wallace MacNicol

Jack Wallace MacNicol died on 15 December 2007 in the Townsville Hospital after suffering serious head injuries in a motorbike accident two days earlier. Jack had been mustering cattle on a motorbike at his family's property, 20 kilometres south of Collinsville but was not wearing a helmet at the time of the accident.

Coroner Kevin Priestly delivered his findings of inquest on 29 June 2012.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported. Further information relating the implementation of recommendations can be obtained from the responsible agency named in the response.

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At the time of this hearing Workplace Health and Safety Queensland have published a draft for comment of amendments to the Rural Plant Code of Practice 2004 ... The draft acknowledges the various uses made of motorbikes in that setting including mustering and imposes a requirement that an approved helmet be worn ...

While I acknowledge that Workplace Health and Safety Queensland had embarked on major programs for raising awareness about the need to wear helmets on motorbikes in the rural sector, I was concerned about the number of reported deaths associated with the failure to wear a helmet. The advisory nature of the requirement for young rural workers to wear helmets did not seem to be well appreciated in the sector. Ultimately, it is for Workplace Health and Safety Queensland (now Fair and Safe Work Queensland) to take a leadership position as regulator to determine whether it is advisable to wear helmets and regulate accordingly...

I have reviewed the proposed amendments to the Rural Plant Code of Practice 2004 and having regard to the circumstances of this tragedy, the regulatory confusion afterwards in attempting to enforce a particular view, I have no hesitation in recommending promulgation of those amendments.

By way of comment pursuant to section 46 of the *Coroners Act 2003*, I recommend the introduction into law of the proposed amendments to the Rural Plant Code of Practice 2004 requiring the wearing of helmets on motorbikes.

Response and action: the recommendation was not implemented.

Responsible agency: Queensland Treasury.

On 12 September 2015 the Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships responded:

The Queensland Rural Plant Code of Practice 2004 was not amended at the time when the findings were delivered as the national model work health and health and safety laws were being considered for agreement. It was anticipated the national model laws would specifically address the issue of wearing a helmet while operating powered mobile plant at work, however the laws only generally require personal protective equipment to be provided where there is a risk to health and safety in the workplace which is not otherwise minimised.

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In addition, supporting material for managing the risk of plant used in rural workplaces is being developed nationally. A final draft of this material was approved by jurisdictions in December 2014, however, it is noted that the issue of helmet use while riding motorbikes is not specifically addressed. The Office of Industrial Relations Queensland has identified this gap and will raise this issue nationally.

The Office of Industrial Relations Queensland is currently considering the issue of mandating helmets as part of a broader review of quad bike safety. It is proposed that the issue of the use of helmets on motorbikes could be considered concurrently with this review.

The Office of Industrial Relations Queensland will raise this issue with Safe Work Australia for consideration and will also raise it with the Quad Bike Interagency Working Group at their next meeting in June 2015. It is anticipated that a position on this issue will be developed by the end of 2015.