Australian Government
Productivity Commission

PRODUCTIVITY COMMISSION

PUBLIC HEARING INTO NATIONAL TRANSPORT REGULATORY REFORM

MR P LINDWALL Presiding Commissioner
MR K BAXTER, Commissioner
MR M ROBERTS, Commissioner

TRANSCRIPT OF PROCEEDINGS

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MR LINDWALL: Good morning to everyone. Well, welcome to the public hearings for the Productivity Commission's inquiry into the national transport regulatory reform. My name is Paul Lindwall, the presiding Commissioner. I'm joined on my left here by Ken Baxter and Malcolm Roberts on my right. I acknowledge that we're on the land of the Cadigal peoples.

The inquiry started with a reference from the Australian Government in April 2019. The purpose of the inquiry is to investigate the economic impacts of the 2008/09 COAG transport reforms, examine the implementation of the national transport regulation reforms, including the development of the three national regulators, the capacity of local governments in supporting the implementation, and the delivery against agreed COAG and intergovernmental agreements objectives, and to assess the scope of future reforms of national transport regulation, including areas for further harmonisation and integration of the transport sector and the remit of the regulators.

We have spoken to representatives from the Australian State and Territory government service providers and their peak bodies, unions, academics, researchers and individuals with an interest in the issues. So far we have received 44 submissions prior to the release of the draft report and 31 since the draft report was released on 12 November, and eight brief online comments. We are grateful to all of the organisations and individuals that have taken the time to prepare submissions, to speak with us and to appear at these hearings.

The purpose of the hearings is to provide an opportunity for interested parties to provide comments and feedback on the draft report. This is the first public hearing for this inquiry. Following this hearing hearings will also be held in Brisbane, Canberra and Melbourne. We will then be working towards completing a final report having considered all of the evidence presented at the hearings and in submissions as well as other informal discussions.

The final report will be submitted to the Australian Government in April. Participants and those who have registered an interest in the inquiry will be advised of the final report's release by the government which may be up to 25 parliamentary sitting days after completion. We like to conduct all hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken. For this reason comments from the floor cannot be taken, but at the end of the day's proceedings participants will have an opportunity to make a brief presentation and they may take that opportunity to address comments made by other participants.

You are not required to take an oath, but you are required under the Productivity Commission Act to be truthful in your remarks. Participants are also welcome to comment on issues raised in other submissions. The transcript will be made available to participants via the Commission's website within about a week of this hearing. Yes, within about a week.

For any media representatives attending today some general rules apply. Please see one of our staff for a handout which explains some rules. Participants should be aware that any media representatives who may be present may be using Twitter and other internet mechanisms to convey information online in real time, including participants' remarks.

To comply with the requirements of the Commonwealth Occupational Health and Safety legislation you are advised that in the unlikely event of an emergency requiring the evacuation of the building please evacuate by the nearest exit which is basically straight out that way. There's no stairs to worry about in this location fortunately. And the toilets if you wish are out to the right, my right over here.

Participants are also invited to make some opening remarks of no more - well, five to ten minutes, I'm fairly flexible of that, and then we will have a question and answer session. I think that's about all I would like to say except again thank you to everyone here. I would also like to mention that Ken Baxter on my left here was given an Order of Australia in the Australia Day honours, so congratulations, Ken, and here we are.

So perfect timing here, welcome to Sue McCarrey and Julie Bullas, if you would come forward, please, and welcome. We just had a short introduction so you didn't have much time to listen to that, Julie, but there's no hurry, take your time and when you get there and you're ready if you just mention your names for the recording so it's easier to work out the transcript and then make a presentation. Thank you very much. Did you have a good flight.

MS BULLAS: Yes, it was actually on time.

MS McCARREY: Look, thank you very much. My name is Susan J McCarrey and I'm the chief executive of the Office of the National Rail Safety Regulator, also appointed as the National Rail Safety Regulator.

MS BULLAS: So Julie Gaye Bullas, I'm the executive director of Policy Reform and Stakeholder Engagement for the Office of the National Rail Safety Regulator.

MR LINDWALL: Thank you, Susan.

MS McCARREY: Thank you very much first of all to the Commissioners for giving us the opportunity to talk to you this morning. I really do appreciate it. Before I go into - I've just provided a bit of summary of information from our submission in the slides this morning. I guess before I go into talking about things like objectives and outcomes of a reform about budgets, where the finances are at and a whole range of issues like that as the rail safety regulator I would first like to point out that what we're about is the safety of people first and foremost, particularly those people who travel on trains every single day, and in particular those people who work for the railways. We can often get buried in statistics and actually forget about the people concerned, and although we do have some statistics to show you, and I think if you look back in history railways are getting safer every single year, I still want to acknowledge the fact that we get the occasional fatality, particularly in our workforce out there and we would prefer that to be zero, and I think we need to make sure we never forget that as part of these discussions.

Having said that the first slide I'd really just, sort of as a reminder I guess for the Commission is what the reform was about. Obviously it's always about improving rail safety for the Australian community, and because of that we often say as a regulator we work on behalf of governments, but for the community in order to make our railways as safe as possible. But it was also about trying to achieve that seamless national rail safety regulations, because we had a situation - the history was that regulators had come out of the state systems and we were becoming much more of a national country where we had companies running across state borders. So it was becoming such a complex system for industry, and therefore the more you focus on complexities around administration often the less you're focusing on the real safety issues.

So the outcomes were the promotion of safety and safety improvement in the delivery of rail, transport improved productivity and efficiencies from consistent national requirements, and where we can decrease the regulatory burden on rail operators so that they can focus on what they need to. So, look, just a quick update. Probably since even the draft report was released we actually became a truly national regulator on 2 December 2019. We have no service level agreements in place and we now have regulatory responsibility for heavy rail, light rail and the tourist and heritage industry from the west coast to the east coast and north to south. So that's probably been a bit of a change even since your draft report happened.

MR LINDWALL: It has been, yes.

MS McCARREY: So, look, just a very quick reminder of the budget. The cost of regulation just prior to transition, which is as of December 2012, was around $35.22m a year. So that was based on what it was costing to regulate in each state at the time. There was an addition made just prior to transition by ministers of 1.5, because as a regulator we needed to actually then fund our own insurance which had previously been covered by obviously state governments, and other policy changes around the regulator conducting a certain amount of random drug and alcohol testing and post incident drug and alcohol testing across the country, which is what ministers required. So that was the reason for the 1.5 million.

So therefore the cost of regulation at commencement was 36.72. The cost of regulation 19/20, and I note some of your information goes back to previous financial years, but I thought I'd pick up this year, is 39.7. That's not - 38.4 if we do not include the major project fee which is actually there to cover the cost of regulation in the major construction projects that are happening around the country, new technology, et cetera. We actually did decrease our budget by $1m in 18/19 and always said we would also revisit it now that we are fully national and we're going through that process in readiness for the transport and infrastructure council meeting this year.

So the budget increases have only ever been at CPI, which has ranged over the last few years from between 1.2 per cent and 1.6. We have at this stage kept salary increases to 2 per cent. We have actually, even though the budget has only gone up by CPI we've absorbed that 2 per cent salary increase and rental increases of between 3 per cent and 3.5, and I think even in Sydney that goes up again shortly, because obviously in cities like Sydney we have a higher rental. That 1.2 million is now covered by major project fees, so that funding is actually coming direct from those projects as opposed from your routine accreditation fees covering that amount. So it actually caused a reduction in what they were actually paying.

During that period we have also absorbed $4.68m in IT systems improvements, which we have not gone back to ministerial council to request extra funding, and we've absorbed prolonged transition expenses which of course we never thought would sort of take another seven years post 2013.

So, look, one of the things I think that often gets confused in what people look at that the government did make a policy decision to increase the amount industry contributed to the cost of regulation by 5 per cent each

year. We apply that, but that's not a decision that we take, it's a government policy decision. So we actually had a bit of a look. If we look at operator A who's a national freight operator, largely the above ground operations, based on today's track and train kilometres if they were paying under the old state-based accreditation systems applying their kilometres of 19/20 their accreditation fees would have been 1.85 million.

If you take ONRSR's without efficiencies that we've achieved, and if we actually take the formula on which we use to calculate fees that same operator today would be paying 1.52 if the government had not made that decision, which they're entitled to take, but I'm just trying to separate the two issues. As a result of that 5 per cent decision from government policy to increase the amount industry contributes that operator for 19/20 their fees are 2.36 million.

MR LINDWALL: So 2.36 is 1.05 times 1.52. Is that right?

MS McCARREY: No.

MR LINDWALL: No?

MS McCARREY: The 5 per cent is actually - when we actually look at it's looking across at the moment the state as a whole. So for each state, so in the state of New South Wales the amount we then recoup from industry increases by 5 per cent. It then depends on the amount of track and train kilometres they're actually doing. So some might actually go up by 7 per cent or 10 per cent, some will only be 2 per cent. So again that can be a confusion which Julie spends every year explaining to industry because they wonder why it's not by 5 per cent.

MR LINDWALL: I guess my point on that slide was that - - -

MS McCARREY: It wouldn't calculate.

MR LINDWALL: - - - the increase whatever it be, whether it be 6 or 7 or 2 or 3 is on the lower figure, not the higher figure because you achieve some savings. Is that - - -

MS McCARREY: Correct. Yes, correct. Okay, so just very quickly operator B just to be fair, the above ground freight operator probably benefits the most. So operator B is actually a large rail infrastructure manager working across a number of jurisdictions. So again based on today's track and train kilometres using the old state-based system they would today be paying 679,000. Based on ONRSR because of our savings and our change in formula they'd be paying around 714,000. So

we're having to estimate a bit there because some of the state's information is a bit - we believe we're within about 50,000.

So again because the formula changed in the amount of track and train versus the track kilometres and the train kilometres that's why there would have been a little bit of an increase, but it was seen as a fairer split between above and below ground at the time. But again with the 5 per cent increase that operator is now paying 1.7 million. So it shows there is quite an impact from that.

MR LINDWALL: Yes, it does.

MS McCARREY: Those efficiencies and reduction in the budget we've achieved while we're going through one of the biggest growth. I'm sure you've seen this graph and I think if you look above that yellow arrow it's pretty much talking rail projects. There you go, that's the increase in construction projects across the country. That graph is available online. Basically it's road as well as rail, but you can see the above - the arrow there is actually the rail projects. So we are still regulating. So in a sense we see that as an efficiency and a saving that we haven't had to increase in order to manage those projects as they're coming online.

So just some outstanding reform issues I wanted to touch on. First of all the 85 derogations which I know was mentioned in your draft report, and we've obviously had a look at some of the other submissions in response to that draft report, and again I think there's been such a change in personnel things get lost a little bit along the way.

In 2016 at the request of ministerial council we actually did a complete review of those 85 derogations in consultation with the Australasian Railway Association, and they put that out to rail industry through an industry reference group. That work which ARA agreed to at the time was that out of those 85 five of them actually had a substantive impact. The reason you have those 85 is because in every state the law interacts with work health and safety. Some states even have a human rights responsibility, so you have to actually build that in. These are quite - they're not the sorts of things that have big day to day impacts, but they need to be there in order for the law to integrate with the state-based law.

So the only ones then that the industry said were the ones that actually had an impact were those five. So train communication systems; there was a different requirement in, I think it was New South Wales, but operationally because the rail industry has moved on it's kind of outgrown itself, so the issue isn't there anymore because they're all using the modern day comms system, so the issues (indistinct).

Data loggers; we resolved that with New South Wales, so there isn't a difference in New South Wales. The three remaining are the ones in bold; the drug and alcohol management which you're aware of. Again we're tracking really closely with international research on drug and alcohol testing, particularly drug testing, and it is changing on a fairly rapid basis the accuracy of that saliva drug testing. So we believe we might be able to get some better consistency over the next sort of 12 months two years.

Fatigue management; we know there are some particular views. Fatigue management is a really important issue, although we don't have a huge number of incidents where fatigue is seen as an absolutely contributing factor, but sometimes it's hard to determine that, so we keep focusing on it. The hours that people work is a really important issue. How much time they have off in between, and we've got documents that we actually work with industry on and we actually work with industry on their fatigue management plans to ensure they're actually managing fatigue well.

What we have only ever disagreed with is we don't need necessarily to prescribe the hours for train drivers in law, because managing it through a fatigue management plan you get the right outcome through that process. So it's more about process. And of course Western Australia still has mirror law, which means they are behind on a lot of the changes, and Julie and her team are working really closely with the WA government and we're hopeful that we might see a (indistinct) of that.

A big part of our role is safety improvement and education. That happens a lot day to day, so often it will be a one on one education role where we're actually sharing expertise with a single operator, or it's whole of industry education programs, say in track worker safety, tourist and heritage, investigations, just to name a few. We also produce a huge amount of education through our policies, guidelines and fact sheets online, and education through information and data, which has been a huge benefit of being a national safety regulator is having that data.

The next one is actually a graph which does show you fatalities excluding suspected suicide. When people look at fatalities on the rail system unfortunately the great majority of those are those who choose to harm themselves on the rail system, which is a very tragic thing for everybody involved, including train drivers, and we work closely with state government's health organisations to try and help provide what information we can in trying to reduce those. But if you look at fatalities outside that you can see there is sort of a slow decrease. Because we have so few, which is great, prefer zero, but because we have so few it only takes one that obviously then can - it's very hard to look at trends in that

particular area, and then obviously we can look at trends, because it's (indistinct) fatalities per million train kilometres which gives you an idea of an overall trend. As I said I would prefer to see that as zero, as would everybody across the rail industry.

Look, reduction in regulatory burden, we tried to give you a few examples in our submission which explains how that benefits, because it's not about the law, and one of the points I was trying to make was, yes, you've got law and that can be pretty much consistent apart from those three areas. It's more how seven different regulators would interpret that law, and they would have their own rules with that. It would be this regulator's - we looked at particular examples where an operator wanted to introduce a new technology right across the country; approached all seven regulators and every single one had different requirements. It almost made it impossible for them to implement at that moment in time. As soon as the single regulator ONRSR was developed that application came forward to actually start moving on that. So it was actually stifling better technology which gives safer railways. So it wasn't so much the law was hugely different, but it was the way in which they interpreted it, and they all had their own legal responsibilities so therefore they felt their way was the right way. So it was a very difficult situation for those operators and it did actually stifle innovation.

That single accreditation process and notice sounds simple, but it actually gives huge benefits. Again as we've transitioned each state in we've actually had companies come to us and say now you've got that state I would like to change my accreditation to operate in that state. That has allowed companies to bid for more work across the country. We have some companies that would only do rail construction in the eastern seaboard. They're not bidding for work across the country. So there would have to be benefits in relation to that.

That single set of rail safety data and definitions, even though a certain amount of the data could be drawn together nationally it was only a very small amount in that when you had seven regulators, and they did have different definitions. There were different definitions of a serious injury in the different states. So making comparisons was very difficult. That's actually made our data much more useful; not just to us, but to governments. Level crossing committees across the country use it for example. Even back to the operator where they can benchmark themselves against other similar operators. The rail industry themselves, we provide that information to the Rail Industry Safety Standards Board, et cetera. So that's been a huge benefit. And as I said we now at least have consistent interpretation of the law.

Just quickly some other benefits. So that single set of policies and guidance material I talked about. That guidance material is actually being used a lot now where in contracting and tender documents they will actually say you need to meet requirements of the regulator, please refer these documents. Again that is very hard to quantify, but one of the things that is being talked about across the states is that each of these projects need to develop standards for those projects, which is a cost. Being able to reference our documents means they don't need to each have to develop those sort of documents again and again.

I mentioned the large national data set for both industry and governments, and we use it to benchmark industry on a regular basis. But like anything there's still some opportunities, some of which we're starting to realise. I think the Commission has very rightly sort of outlined in your report about what we have not seen change greatly are what are the network rules and access requirements of the different rail infrastructure managers. We have been talking to industry about this and we've recommended that rather than waiting for the whole major project to be finished identify those small number which is having a significant - and let's get in a room and sort it. We can actually be there to listen. We're not the decision-maker, but it means that when it comes time for any changes or approvals we can streamline that process because we have actually been involved.

There is a national data strategy where we are relooking at a lot of the data that we collect, because a lot of it is not data that's particularly useful, and yet there's other data now in a modern rail system we would like to be collecting. So there's a major project on the way. We are actually now building a level crossing portal which will start to make information much more easily accessible by a whole range of people in government and industry.

Obviously continual requirement of the rail safety national law, we would like to have shared that consistency in those final three areas, and we as an operator will always look for further efficiencies as we're heading down that path. So that's probably gone well over my time, so I apologise for that.

MR LINDWALL: No, that's all right.

MS McCARREY: They were just sort of some of the key points, but I'm happy to answer any questions.

MR LINDWALL: Thank you very much, Sue. I might just ask a couple of questions and then turn it over. When you reflect on any national scheme it's complex because of the different state regulations, as you

alluded to, and the interpretation, which was a very good way of putting it too, because the laws can be similar but interpreted differently. If you were to start afresh knowing what you know now what would you say are some of the lessons that you've learnt and how they should be - how government should reflect on future efforts, the national system, in some area other than rail say?

MS McCARREY: Look, if it were achievable one of the things that I've talked about before would be at the time this was a fairly new approach, in fact it was completely new in the sense that we are not a Commonwealth entity. We are actually set up by legislation in every state and territory of Australia. So therefore you go through that kind of negotiation process with each state with each transition to ensure that you get a national outcome, and there was some terrific work done by the project office which Julie led which led into ONRSR being developed.

In hindsight if we could have got more detail agreed by the states in the intergovernmental agreement upfront it would have made it a little bit easier. Could that have been achieved? I think next time round possibly it could, because we have been through these now a couple of times, not just with us, with other regulators, but getting as much detail agreed - but I also agree with the approach we took around fatigue and D and A. If you are waiting for it to be utopia from day one it won't happen. So quite rightly the ministerial council at the time said, look we're not going to get agreement on these particular issues. If we keep trying it's going to take another five years, we won't get the national regulator (indistinct). So let's park them, keep a state-based system as a part of the national regulator and let's revisit them within a reasonable time period, which is exactly what happened with our fatigue review, D and A, et cetera.

So in order to get it up and running you do need to accept that you are not going to get utopia from day one, but for me had there been a little more detail agreed as part of those intergovernmental agreements where there was a high commitment to it, it would have been made, the transition was just that bit easier.

MR LINDWALL: On the network rules and access requirements, which vary of course and they're outside your scope to really improve, but what you just mentioned about streamlining makes a lot of sense. Is there a way of identifying what the key differences are and maybe taking a role of technology in allowing to operate on different networks without - in an easier fashion, is that something that's going to improve over time?

MS McCARREY: Look, there are. I mean there are again - the only - we do have the ability to step in if obviously there is something that is

unsafe. So I just want to make that clear. But when it comes to just a decision about what system do they actually choose to use each of those systems can produce a similar safety outcome. I think there are ways around it. There are systems out there, particularly if you're talking about freight systems, because the passenger systems, particularly the metropolitan passenger systems tend to be quite isolated from the rest, but when you're talking about the freight system across Australia there is technology available for example which would almost subsume some rules that are probably sitting there and causing frustration.

One of the issues is we've got each rail infrastructure manager, each company out there looking at what they're going to do, and two or three looking at different systems. That is incredibly frustrating. I mean we along with industry would actually like those rail infrastructure managers, possibly with governments who own those tracks, so a lot of them might be leased to private enterprises, but in many cases they're owned by government state or Commonwealth, to actually sit in a room and make a recommendation that could be used across the freight system and go with the same system, or at least systems that have a really good integration, so that the train driver of the train isn't dealing with two or three systems across the country.

So technology is getting smarter where it can talk to each other, but I think there would be huge benefits for industry if those decisions could be made together as opposed to individually.

MR LINDWALL: Where do you think in future, and it's a very safe operation generally speaking when you look at the data - I will talk a bit more about attempted suicide and that later - but where do you think the major gains in safety might be in the future?

MS McCARREY: Look, definitely technology. Technology, and then probably community education needs to constantly be a focus. Technology is getting smarter and smarter in the rail system. You know, we are seeing huge step forwards where because there's an increased use in technology - even protecting track workers working on track - particularly there's some great developments happening overseas in this space now.

We do see now the introduction of driverless trains in Australia. We actually see the Metro Train Sydney system and of course the Rio Tinto in the north of Western Australia, where contrary to what is popular belief doesn't always reduce the number of staff you have in a company, because they often use and have a different role, but it does actually remove human error, and that technology is getting smarter and smarter, is being used

across - so it's basically your train communication system and your train control system. So it's the way in which the rail systems are using IT, or what we call operation technology, OT systems, to manage the movement of trains, which actually includes ensuring that the trains remain separated, which of course is what we want.

So technology is getting better and better in that space, a little bit like I think most people who fly now are aware that, you know, the pilot is there and can intervene and does intervene on many cases, but is actually often being flown by an automated system. So that's where I think the greatest safety benefits will be, trying to make sure we use that technology in the best way in Australia where we get that, but the other one is that community education, because regardless we have that constant interface and every single time I talk publicly, and probably my friends even get tired of it at a local barbecue, is reminding people level crossings never ever ever - and that constant community education campaign around not breaching the lights, the stop sign.

If the lights are flashing do not cross. If the train crosses don't try and zip across, because chances are there's another train behind it, you won't know that. Don't assume. We often find in regional areas in particular, 'That's that one train a day, I can go now.' They don't know that another train has actually been put on there. So, you know, that constant community education, because I think it was about 95 per cent of those sorts of rail crossing accidents are caused by the road user, whether it be car or trucks.

MR LINDWALL: Yes. I imagine that's true because people get complacent, and I know where I live near Canberra you see one train going past and you assume, I'm sure people do, that there's no one following. Anyway, Malcolm, did you - - -

ROBERT C: Just a couple if you don't mind. Julie, thanks very much for your help with this inquiry. A couple of perennial problems or questions, and this has been a very helpful briefing. On productivity, so clearly the rail sector has strong commercial incentives to improve its productivity, and regulators have a supportive role in that. In some cases as with the NHVR the regulator does have a clear productivity mandate which it must balance up with its responsibilities for safety. In the course of conversations we've had with stakeholders the view has been put that rail will benefit from having a body with an explicit productivity mandate or responsibility. No one has actually suggested how this might work, or who might do it. Do you have any thoughts, is this a matter for a different architecture around the COAG Ministerial Council or is there some other way forward that you would suggest?

MS McCARREY: Look, it's often sort of talked about, the sort of similarities. I think people forget there is quite a difference too between the national rail safety regulator and the national heavy vehicle regulator. The people sort of ultimately responsible for safety from a legal perspective on the road tends to be first of all the road owner and the police. Under the rail safety I actually have some pretty powerful legal responsibilities for rail safety. It's one of the reasons why governments agree that there should not be a board because you cannot have two entities with that legal accountability for rail safety. In any strong governance model you cannot have those two.

With the national heavy vehicle regulator with trucks on roads the key prosecutory agent for major incidents tends to be the police. That's why there's a very close working relationship obviously with the national heavy vehicle regulator, the police who are involved in sort of that ultimate sort of policing if you like of the road rules, et cetera, out there. That's not to say that the national heavy vehicle regulator doesn't have a role within that, they have a very important role with that, but it's quite a different system where in the rail system the national rail safety regulator has that key legal accountability and prosecutory powers. So even that sort of role around prosecutions of rail entities it's not referred on to a local - public prosecutions is the word I'm after, which happens in other spaces, not necessarily heavy vehicle, but in other spaces, whereas under the rail safety national law the single decision as to whether or not to prosecute sits with the regulator.

So they are different systems for a reason. One of the key set-ups, and part of this as my previous role was obviously involved in setting up the national reforms as a deputy director-general in Western Australia, was around - in the first instance was around access to roads. So when we say it has a productivity mandate with the national heavy vehicle regulator that was about having somebody who could actually facilitate allowing trucks on to roads where road managers are obviously saying 'No'.

So it's an access issue. We are about rail safety on behalf of the community. Somebody is out there watching for that rail safety. So that's why there were set up differently. Having said that to say we have no productivity mandate is actually not quite right. First of all I mentioned those outcomes in the reform, it was looking for productivity, but we also have elements in the law which actually requires that if I as a regulator am requesting a rail company to do something that would really impede financially that organisation, and there are no major safety benefits, in other words the cost benefit is not there, under the law that can be challenged and a rail company can actually challenge that decision, and

therefore there is a requirement for then a cost benefit analysis to be undertaken and for the decision to be reviewed and looked at.

So there are mechanisms within the law where that can be taken into account, but we are different organisations. I guess one of the frustrations is a lot of the savings that were seen to be this national reform, and if you go back and look at the documentation it was because they were saying because we've got seven different regulators that's why we can't get a single set of national network rules and access requirements. Seven years down the road with great frustration nothing has particularly changed in that space. I would be frustrated too if I was - and in fact I am frustrated that we haven't seen that change.

So then it's how do you facilitate that. I think it can be facilitated. I'm not sure it's the rail safety regulator's role to do that, but I think there are other entities, you've got National Transport Commissions. As I mentioned pretty much all of the track in Australia is owned by governments, Commonwealth and state. They are privatised some of them, but that's usually through a leasing arrangement, so therefore ownership actually sits. It's a different set-up in the Pilbara in the north of Western Australia, but of course they are isolated lines, they're not integrated. So therefore the issue doesn't arise. So I think there are ways in which this can be tackled. I think it's kind of too easy to say the rail safety regulator should fix it.

MR ROBERTS: The point is well made and I understand there's work underway as part of the rail plan. A question around compliance and regulatory cost, and I recognise you started from an inconsistent base. Like most of the regulators we've looked at when state and territory responsibilities have been rolled into a national body different practices around different states, different levels of cost recovery and it's messy, and the impact on operators will vary from place to place, and on occasions might be seen as a cost by them because of their circumstances of pre-harmonisation. But I'm just wondering about whether you see there are possibilities now that the national regulator has been placed across the country to look at some of the points that have been raised with us, instant reporting for example and arguments around the reporting times and the threshold for instant reporting. You probably know where some of these comments have come from.

MS McCARREY: Yes. Yes, I do.

MR ROBERTS: But it would be interesting to know whether you see potential there to look at the reporting framework.

MS McCARREY: Absolutely. One of the things I mention in the presentation, but very quickly, is we actually did instigate a review through the national data strategy. We're working very closely with industry, because one of the things what we are trying to resolve is we have a requirement for industry to report certain things to us. A lot of them have responsibility to report to their government entities in their state. They will have a reporting requirement to somebody else. Some of them can actually have a huge number of different entities they're actually being asked to provide data to, including their own industry bodies like the ARA and the Rail Industry Safety Standards Board.

So one of the things we instigated, and it's a project that on ONRSR's behalf Julie leads, is a review into the whole national data set, and what we're trying to do is say, look let's not focus on who owns the data at this stage. If we had, particularly with modern technologies now with data, if you had a central repository area where this data could go, and then I have authority to pull the data that I need, each of the governments has authority to pull what they need, industry has authority to pull what they need, but at least that industry is only reporting it once. That is exactly the goal of the national data strategy, which I have to say we have pushed to get up and going and is now being done in partnership with the Australasian Railway Association for that very reason.

The other thing we're reviewing as a part of that is the timeframes of reporting. It is something that we have inherited around - there's not a huge amount of argument around what we call our category A incidents, and they are the sorts of incidents which you see on the track. In fact those who track these things on the media would have seen an incident last night in Victoria. We need to be notified immediately for that, for very good reason, we have powers to actually protect a site. So we have powers to protect evidence, we have powers to get out there and do drug and alcohol testing with everyone involved. Therefore we need to be notified immediately, and we were.

What we have then is a whole range of incidents which need to be reported within 72 hours. Now, we're questioning that. We have gone back, we're the ones who are actually leading this space saying we need to review - what do we need within a 72 hour period because we might need to ask further questions to see if it was more serious than what they thought. What could we get quarterly, six monthly or annually. All of that is part of that national data strategy which we're under way and doing. Now, of course that's not an easy task, these things do take a bit of time and we're working as I said in partnership with ARA. There's a reference group that they've got from industry who are working with us which is working really, really well, and also representatives from the Rail Industry

Safety Standards Board are working with us well. So there's a great piece of work actually being done reviewing all of that.

In the meantime where we've seen an obvious fix we've made a change straight away. There are some things which they were being asked to report monthly, they don't need to report monthly any more, they can report annually. So where we've seen an easy one we say, no, let's just fix that now. We are actually doing that and there's a couple of others coming up which we will probably fix fairly quickly as well. Without going into sort of too much detail, but there's certainly around - the big freight trains unfortunately hit an animal for example out in the middle of the desert, it's not great for the animal and as an animal lover it's not great, but it's not a safety issue for these big trains. So therefore should they be reporting to me immediately that they've hit a kangaroo. No, I don't need to know that straight away. But looking at it as a trend across the country (indistinct) potentially.

So that is a major piece of work that is already under way. I guess part of the issue is trying to make sure. Because we are working with a reference group with industry and there are certain companies involved I often find others aren't up to date with the work that's out there, and even sometimes in these organisations their staff are involved in the project, the CEO doesn't always know about it. So I think that's again a frustration of trying to get that communication out there as to what's happening.

MS BULLAS: Just on that one particularly from 28 March we will actually be going up to all the companies in a major consultation exercise running across Australia for two weeks. So I think getting the broader industry involved will happen, but obviously we have to do a lot of work to get where we want to go before we go out for a consultation, and they're actually workshops, it's not - this is what ONRSR and ARA, this is where we're going, and we will be spending quite a bit of time with all the people across the country come 28 March.

MS McCARREY: So there will be workshops in every capital city around the country.

MS BULLAS: Yes, and in industry groupings as well. So we're taking - investing a lot and taking it really seriously, but expecting to see some major change.

MS McCARREY: There's actually an industry, sorry, safety manager's group that meets three or four times a year and Julie and my chief operating officer, Peter Doggett attend every single one of those meetings. If you actually brought that group together they would know all about

these sort of things, but often you talk to the CEO of the company, 'I don't know anything about that.'

MR ROBERTS: Well, just one quick thing, what's your expectations around when the national data strategy might be settled and you've got a fair idea?

MS BULLAS: Well, the actual timeline of the strategy is 2022, and the reason for that is because of potential technology changes that industry have asked for to come in. I personally see some changes - - -

MS McCARREY: And legislative any requirements (indistinct words).

MS BULLAS: And legislative, yes, but those things that don't need legislative requirements to change, after consultation we're going to then say 'Okay, we've - this is what you've said. Let's implement. I personally would love to see if from one 1 July, those ones, yes.

MR ROBERTS: Very good, thank you.

MR BAXTER: So what happens in the case of Sydney where the tram track actually goes alongside the main road but then traverses it, which is the road of course out near the stadium? Who takes responsibility for that and who's got the ultimate say so as to what happens?

MS McCARREY: Yes. Within the rail corridor, which is the tram corridor that you see.

MR BAXTER: Yes.

MS McCARREY: That is myself. Sorry, I've got this frog this morning; it doesn't seem to want to go. My apologies to everyone.

MR BAXTER: Not at all.

MS McCARREY: Within the rail corridor, the tram corridor, that's us, also including where they actually - because you're intermixed with road signals that interact with the tram, but there's usually, in these modern ones, like the one just over in Sydney, there's actually a signal for the tram driver; that's us. So if they breach that signal, report it to us.

MR BAXTER: Yes.

MS McCARREY: Obviously we do work - because they're on the road system too, so if there's an accident at a crossing with a tram, so a car with

a tram, which happens far too often for my liking, the police will often be involved, but we have MoUs - Memorandums of Understanding - with all of the police, and we actually work with them. So, we'll often be on the phone to them saying - and the police will say that 'We're going to investigate this', because it's often road user behaviour. If, for example, it looked like it wasn't necessarily road user behaviour - maybe it was to do with the tram operations - we will take the lead in the investigation, but we have that conversation. In the same way we do, if somebody is injured in a depot, for example, a rail depot, if it's the type of accident or incident that could happen in any depot anywhere, then often the work health and safety organisation in that jurisdiction will take the lead on the investigation and keep us informed.

If it was an injury due to actual rail operations, movement of trains, working on a track in a depot, we will take the lead and work with. So we actually have those conversations on a regular basis, but yes, the tram system, the actual signalling system related to the movement of the trams, we regulate where it is, tram drivers, and within the track, that's us.

MR LINDWALL: Okay, do you need anything else?

MR BAXTER: No, no I don't.

MR LINDWALL: It's quite appropriate that we're hearing the rumbling of trains (indistinct).

MS McCARREY: Yes, we are.

MR LINDWALL: Talking a bit more about that - the safety risks, obviously level crossings is one. There must also be, I would have suspected, the quality of track in some cases, where there's a tight corner and a train driver going too fast around it and derails it. How big an issue is that and how does that get addressed, and what's your role, in, saying to recommend the - a pinch point or a danger point?

MS McCARREY: Look, certainly those things can occur. Can I say, in Australia the one - the sort of example you use, going too fast around a corner, very rarely. The last one that I remember, certainly in the five years that I've been in the job, was the one that was in Tasmania, not long after I started actually. So, it does happen occasionally but not very often. It's almost like got two tracks. So first of all there's when rail lines have been constructed. So when they're actually being constructed one of the things we do do as a regulator is we are looking at what is the design that's being used, and if we see that the corners are too sharp we actually - part

of our job is to say 'No, you've actually got too sharp a bend', but can I say, the rail industry is pretty smart in Australia.

MR LINDWALL: I would have thought so, yes, yes.

MS McCARREY: We're a bit beyond some of that now, so you know, they generally know there are engineering design standards that say if you want to run a train at this speed your curve cannot be more than, you know, so - and those standards exist and they're generally constructed to that. If we do have an incident occur we will, as part of any investigation, we will then look at, well what caused that derailment? You know, when you talk about going too fast around a corner, that can be did the driver lose situational awareness?

MR LINDWALL: Yes.

MS McCARREY: So they didn't know where they were, and we've seen some incidents around the world where there has been a complete loss of - I think the Philadelphia incident, where a complete loss of 'I thought I was somewhere else on the track'.

MR LINDWALL: Yes.

MS McCARREY: So then we'll actually look in to training, how - what are the training records of this particular driver? Did the organisation actually provide the briefs and training that this driver needed to be able to do their job? When was the last time - yes, that's when you look at rosters and fatigue. Did they actually lose situational awareness? So an investigation into an incident like that will be very thorough and look at what actually caused that to occur, which obviously then helps us in dealing with that operator, and obviously that's where I make decisions as to is there any penalty that needs or be applied, but also helps us with learnings across the industry. So if we see something that we - well actually, there's a really good learning out of this investigation that we can spread to the rest of the rail industry we'll do that.

MR LINDWALL: Yes, yes.

MS McCARREY: So it all depends on, yes, generally if it's exceeding track speed, and then we'll look at if it's a busy enough rail system should there have been other systems in place to actually detect that that train was going too fast? And there are a lot of sort of modern systems, particularly in the metropolitan systems where, you know, the train control system knows that a train is actually going too fast through a section and can intervene in some of those. So there are different systems around

Australia, but generally we'll do a complete thorough investigation and try and - what caused that to actually occur? Is that a major issue in Australia? No.

If you ask me what are the biggest issues, we've touched on suicides, which unfortunately is largely out of the rail operator's control. Level crossings are one of the highest risk areas in Australia, and to suggest that we grade separate every single level crossing is just totally impossible. So it needs to come down to that constant education of community and community awareness. The other issue which is very much a focus, yes, it's a concern about track condition. Is the track condition at the level it needs to be for the rail operation that's running? It's a very different track condition for Sydney trains and the type of operation, the speed, and the frequency of trains than it is, for example, in a regional area that has one or two freight trains a day travelling at 40 or 50 kilometres an hour, but is it the right track condition for the operation that's running?

MR LINDWALL: Yes.

MS McCARREY: The other area that's very much a focus for us is track worker safety, and the safety of those people who are out there trying to keep these systems running so that people can actually get to and from work on a regular basis. So, we have a very strong focus on the protections in place for those track workers and we are working very closely with industry on some of the new technologies that are starting to be used elsewhere around the world.

MR LINDWALL: On level crossings, if a person violates a - through, say, a flashing light, do they get an automatic penalty now?

MS McCARREY: If we have - yes. A lot of the time the - the front facing cameras of trains are very clever nowadays, will actually often pick up the number plate of the car. We actually report that - well, we don't. The operator generally is quicker than us.

MR LINDWALL: Yes.

MS McCARREY: That's reported to the police, and the police will regularly prosecute based on the road rules. Depending on what the actual incident is, sometimes the powers under the Rail Safety National Law can be used, particularly also, we get (indistinct) people who hitchhike rides on freight trains. Please don't do it. We've also had some very nasty injuries as a result of that, of people trying to get off the train.

MR LINDWALL: I'd imagine, yes.

MS McCARREY: And we have had fatalities and major lifelong injuries as a result. We can then - we - I then give a delegation to the local police to use my delegation under the Rail Safety National Law to prosecute some of these incidents under the Rail Safety National Law because there's often a stronger penalty because they've interfered with safety systems, particularly when they're interfering with the safety systems of a railway. So again, we work pretty - and the operator themselves work really closely with the police. They have this regular - 'We've got the number plate; here it is'. The police are out there, bang, absolutely, prosecuting or fining the person who breached the system.

MR LINDWALL: Final question from me, relating to suicides, because this is an issue that also affects heavy vehicles obviously too, where - - -

MS McCARREY: Absolutely.

MR LINDWALL: And it affects families and other people. Is there anything that comes to mind or that we should be talking about in our report, or generally government should be thinking about how to reduce the harm there?

MS McCARREY: Look, it's a really complex issue, and I am not a mental health expert, and I think that's where, when you're talking about suicides on the rail system you're talking about sort of almost the end of the line. Where we have been able to we have worked with mental health organisations. Often our data is useful to them, because they can then look at where the - it's awful to talk about it, but the hotspots are on the rail system.

MR LINDWALL: Yes, yes.

MS McCARREY: And you do have areas that tend to be. Now, that can be because it might be close to mental health facilities. It may be - one of the things we do work with, where we do have hotspots, we'll work with rail operators is about access, but you can't again fence an entire rail system, and you can't fence stations.

MR LINDWALL: No.

MS McCARREY: People have to be able to access and get on and off. It's a much - where we can we work with - because it's a much bigger issue on suicide in society generally. Rail is just one of the methods that's chosen, so where we can we work with them, and can I absolutely hold out, the rail industry themselves set up the TrackSAFE Foundation

specifically to help deal with this. TrackSAFE isn't - is a wonderful organisation. It provides support materials to train drivers and all other rail workers who are faced with these issues, and they do a terrific job, and that has been purely set up by industry and funded by industry.

Where we can we need to work with those organisations who are the mental health experts, and where we can we do. We provide them any information we can, but it is - it's a wider societal complex issue around suicide as opposed to it just being a rail issue, but yes, where we can, and I know TrackSAFE have facilitated some - in every single state across Australia now with all of the government ministers involved, a suicide round table discussion. We have participated in each of those, so wherever we've been able to provide information. But there is no easy answer, because there's no easy answer to the complex issue of mental health and suicide in Australian society.

MR LINDWALL: Exactly. Yes.

MR BAXTER: Sue, a technical question. Who determines the amount of ballast that was put in underneath various sections of rail?

MS McCARREY: My goodness, that is a technical question.

MR BAXTER: Well, I notice that in some cases that you've got a low volume rail which has got minimum ballast underneath it.

MS McCARREY: Yes, almost dirt.

MR BAXTER: And other cases you've got it there, there'll be minimum but certain stages it will go to fairly substantial ballast underneath it. Are there a set of standards?

MS McCARREY: Yes.

MR BAXTER: That either you set or somebody else sets?

MS McCARREY: We don't set in the sense that it's actually set by - the rail company themselves has to determine 'What standard am I going to use?' My job is to make sure it's the right one.

MR BAXTER: Yes.

MS McCARREY: So if they're actually using a standard for a - so if a major freight line that is taking huge amounts of heavy freight trains, like iron ore or coal, et cetera, if they are using a standard of track that you

might see in a grain network that gets one grain train a day during a seasonal harvest period we - 'No, not good enough', and we say 'It's not good enough. You are not managing the risk.' So there are - but there are standards that exist that actually says if you're running trains and it's around weight of trains - so it's the axle load. So if you are running trains of a certain axle load you want to run trains at this speed, this frequency, then these are the track standards that exist.

Included in that track standards is the sort of amount and ballast, and the formation that sits underneath the track bed. So you'll see, in some of the old grain networks around Australia, particularly ones that they might be used once a year to move grain, they will often almost be sitting on dirt, but those trains run at incredibly low speed. So, one of the productivity gains that can be made in the rail industry is investing in some of the older track networks to lift those standards, which will allow faster trains, closer together, more often, higher frequencies.

So often it can be an investment in that infrastructure, but until that investment is made there then is a restriction on the speed that the train can run, so then if you do - often these are, you know, 20 kilometres an hour, so if there is a derailment it's almost a slip off, it's not a major incident, but yes, those track standards exist right through to the formation, which includes the ballast. If the rail operator is not using the right standard for the type of operation, that's where we step in and say it's not good enough.

MR LINDWALL: All right. Well, Sue and Julie, thank you very much, and I would also thank you for - - -

MS McCARREY: Sorry, I did all the talking. Poor Julie (indistinct words).

MS BULLAS: I'm used to it.

MR LINDWALL: I'd like to thank OSRSR for, also, its submission and helping us, you know improve our final report from our draft report, and your contributions here today, and look forward to future interactions, so thank you very much.

MS McCARREY: No worries. Thank you very much.

MR LINDWALL: Our next witnesses are Penny Howard and Garry Keane from the Maritime Union of Australia. If anyone wants to grab a cup of tea first please feel free. At around 10.40 or so I understand

morning tea will be brought in, so something more substantive, but just - so if we could - yes?

UNIDENTIFIED SPEAKER: Just to clarify, Penny is unavailable, so Fiona Lloyd is with us (indistinct).

MR LINDWALL: If you could both, when you're ready - no hurry - just sit down and say your names and positions for the record, and give us an introductory statement.

MR KEANE: For the record, I'm Garry Keane, a National Officer with the Maritime Union of Australia, division of the construction forestry (indistinct) Maritime Union of Australia.

MS LLOYD: I'm Fiona Lloyd. I'm a policy advisor with the MUA.

MR LINDWALL: Thank you, Garry and Fiona. So, who would like to start?

MR KEANE: Thanks for the invitation to appear again today. I'd just like to make an opening statement and then refer back to our latest submission, which you guys advised me you've got copies of.

MR LINDWALL: Thank you, yes.

MR KEANE: Probably just kick off with, when the Productivity Commission released its draft report on long-running economic impacts on transport and regulatory reforms agreed by COAG in 08/09 relating to heavy vehicle safety and productivity rail and maritime safety, and to make recommendations for further reforms towards a more integrated national market for transport services, just around about 90 pages. It took a bit of getting through. My secretary actually, when I sent it to her, a couple of things to print off, I had that as a - as one of the attachments, and she printed off the lot for me, which I thought was - - -

UNIDENTIFIED SPEAKER: It's good reading, Garry. You should - - -

MR KEANE: It was, and single-sided on the page, so it actually sits about that high.

UNIDENTIFIED SPEAKER: Go and see the mental health report. That's about three times as long.

MR KEANE: So, the MUA submissions. We've made a submission in August. It's covered similar material to our - as our submission on

AMSA, including recommendations regarding regulations, incident reporting, training, health and safety issues, as well as recommendations regarding ports, reducing transport emissions and measures to improve the competitiveness of shipping in the domestic transport sector. Some of the key points that the MUA made include the importance of properly trained seafarers in the Australian - to the Australian economy, the problem of having dual regulations on both the Navigation Act and the inadequate DCV Act, inadequate training of domestic seafarers, the necessity of having appropriate regulations in a safety environment, the inability of the ATSB to investigate the majority of marine incidents, and the overly complex and ineffective WHS environment.

MUA issues in the PC draft report: In the Productivity Commission's draft report you have picked up on some of the issues that we raised. Some of these have been expanded on and recommendations made to correct them. In chapter 7, 'Assessing the national regulator', the PC was very critical of AMSA's performance as the national regulator. Issues identified included the lack of effective stakeholder relationships and poor preparation for the national system transition. Other submissions to the Commission were critical of the AMSA board and organisational culture. However, the PC has decided to refrain from commenting on this at the time of the draft report, and the Commission is also recommending that the scope of AMSA's responsibility be reduced, and suggests that hire and drive vessels be returned to the jurisdiction of the states and territories, and we'll go into some of this stuff when we get to the latest submission.

The PC draft discusses types of regulations and how they affect innovations, as well as the types of regulated community that benefits from differential - different types of regulations. It says that an innovate regulated community has an evolved safety culture as well as the ability and skill to evaluate and manage risk and benefit from nonprescriptive and risk-based regulations. However, AMSA acknowledges that there is not sufficient data to operate a risk-based regime and that there is not a reporting culture, and that's referred to in page 251. The PC does not go so far as to say that there is a poor safety culture in the domestic fleet, unlike the international fleet that was recently the subject of a safety culture research project. No such study has been conducted on the domestic industry.

The Productivity Commission finds that the grandfathering of vessels leads to significant variations in consistency between the states, who will I've some operators a competitive advantage and encourages a use of older vessels past their used by date. These arrangements lead to significant safety issues which are covered on pages 123-126 of the report, and 167-169, whereas the PC recommends that the grandfathering be phased out

and indefinite grandfathering ended. The PC finds that the range of DCVs of larger states still regulate recreational vessels. The Productivity Commission recommends transferring the regulation of hire and drive vessels back to the states on page 255. They also make a request for input regarding shifting other vessels or operations back to the states.

The Commission finds that AMSA is not far enough along in capabilities and systems for implementing the DCV Act, lacks incident data, and lacks vessel data. There has been no significant change in safety incidents since the introduction of the DCV Act; however the data that is available is not sufficient to draw conclusions regarding safety trends. There is a lack of safety data regarding domestic commercial vessels. AMSA acknowledges that there is no reporting culture in the DCV fleet. The Productivity Commission recommends that AMSA improves incidence reporting and also that the ATSB is funded and legislated to gather data and carry no blame incident investigations for all DCVs.

The Commission notes the importance of an external body investigating safety outside the remit of an investigator, recommended improvements in reporting, and that the ATSB be requested and appropriately funded to investigate safety incidents in - on DCVs. Both the Productivity Commission and AMSA's submission agreed with the MUA that WHS is complicated and unclear. AMSA is quoted in the draft report as saying while the COAG intergovernmental agreement specifically stated that occupational health and safety regulations was outside the scope of the national system, and would operate in conjunction with the national laws, the delineation of responsibilities and obligations between AMSA and the WHS regulatory authorities is unclear.

There is a need for greater clarity, education, and awareness of the role of ASMA and co-regulators' particularly important role at state and territory work health and safety regulators play in ensuring that domestic commercial vessels - that our workplaces are safe. Other points in the draft report are that cost recovery is one of the areas where AMSA is lagging behind rail and heavy vehicle transport regulators. The federal government is continuing to subsidise AMSA's operations as well as DCV sections of AMSA being subsidised by AMSA's other operations. It is unclear how much the DCV Act costs ASMA to regulate. Consistent arrangements across the three transport regulators will eliminate the risk of distorting intermodal choices.

The Commission offers the suggestion that for domestic commercial vessels a tiered surveying regime could be used to improve safety, with survey requirements for vessels set according to risk profiling. The problem with this kind of targeting approach is that AMSA does not yet

have adequate data to create risk profiles for domestic commercial vessels. The Commission draft includes a substantial section on emerging technologies, and for the new technologies, such as autonomous vessels, AMSA will need to manage transitioning technologies with flexible regulations until requirements are established.

The MUA issues that have not been sufficiently dealt with in the PC draft: although the draft report picks up on some issues that the MUA have raised there are several that are not sufficiently addressed in the draft report. The report focuses on the introduction of the DCV Act and ignores the previous existence of and significant changes made to the Navigation Act that were made in conjunction with the introduction of the DCV Act. We do not believe that the PC draft has placed enough emphasis on the consequence of large numbers of vessels changing jurisdictions from the Nav. Act to the DCV Act, and the lack of synchronisation with these change with the WHS laws and the investigation report of the ATSB.

The jurisdiction of the issues that the MUA believes should be further considered by the PC for the report are the jurisdiction of the Navigation Act and the DCV Act. Removing interstate vessels from the Navigation Act was a significant change as part of the reforms. This affected the regulatory regime of hundreds of vessels, yet this change has not been addressed as part of the draft report. The MUA holds the position that certain vessels will be better regulated under the Navigation Act than the DCV Act. This change has and will continue to affect training, quality of - quality and quantity of Navigation Act seafarers, and exasperate the skill shortages that will affect the productivity of this country.

Navigation Act seafarers not only crew international trading ships, they are required to fill many vital shore-side roles such as pilots, harbour masters, loading masters, lecturers, and ship surveyors. The draft did not pick up on the fact that state WHS laws do not apply to all DCVs. The (indistinct) and the reporting by ATSB applies to DCVs on interstate voyages. This arrangements means that both WHS and reporting obligations can change on a day to day basis. Unlike road and rail, vessels can and often do operate outside of the Australian EEZ, the limits of the reach of the - outside the reach of the limits of the DCV Act.

While also meeting state and national requirements, many vessels in their lifetime also need to comply with international laws. Fishing vessels often operate outside the EEZ. Vessels working in the Torres Strait cross in and out of Australian waters. Offshore support vessels operate in the Joint Petroleum Development Area, and some are built overseas, go for dry dock and maintenance periods in Southeast Asia, and can be sold

when no longer required in Australia. These vessels can be granted special exemptions, temporary licences, and permits to operate in these circumstances. This creates a non-transparent and uncompetitive environment for ship operators with small profit margins.

When addressing the productivity and safety of the Australian maritime industry it is necessary to investigate how the entire industry has been turned on its head since the COAG's reform. The freight that is carried to and from - to, from, and around Australia passes through many regulatory environments. The carriage of dangerous goods in package form is standardised in the global environment - global marine environment. In Australia, however, a shipper must know how to package and transport goods for transportation in different states, countries, and on different modes of transport. The DCV Act has no regulation regarding the transport of dangerous goods, leaving up to individual companies to develop individual safety management systems.

The International Maritime Dangerous Goods Code, on the other hand, lists thousands of goods and their compatibility for transport with other goods and passengers. Any shipping containers that come from overseas are packed and transported in accordance with these rules. However, DCV's transporting these goods around the coast are not required to comply. This is a definite lowering of the safety standards since the introduction of the DCV Act, and as some of these vessels also carry passengers, have the potential for catastrophic risk.

The opportunity for improving safety and lowering emissions and reducing road congestion by shipping freight onto ships, the need for Australian domestic freight markets to operate on a level footing, along - among all modes of creating competitive neutrality between all modes of transport - part of this would be to ensure that road and rail and shipping are regularly subsidised, and our final point is the functionality of intermodal freight terminals and supply chain efficiency. That's our opening statement, and we would refer back to our submission for discussion. The only one thing I would say with that is, where we've outlined the dangerous goods we think is just the perfect example of the dangers of going away from regulations in an industry that has the potential - touch wood it never comes up, but in any analysis of a significant or catastrophic incident on some of these vessels, the first thing that would be attacked is the fact that we went away from a regulated position that prevents it from happening, and we are doing it at a rate of knots. Thank you.

MR LINDWALL: Thank you, Garry. Could I start just by clarifying something? Firstly, you know, at the time of the COAG reforms, which

introduced the DCV regime for AMSA, there - was that coincidental, or was that you're saying it's related to the Nav. Act itself was strengthened under the Safety of Life at Sea Convention? Was that related to the COAG reforms or separate from it?

MR KEANE: Part of the - not specifically related to it at the time, but it was dealt with by changes to the marine orders, and the marine orders are related to AMSA's detailing.

MR LINDWALL: Before the COAG reforms the DCVs were in the main regulated by state and territory jurisdictions. So if I clarify, there's X number of vessels which were formerly regulated by state and territory, now regulated as DCVs under AMSA. Also, as you're saying, there were some that were formerly under the Nav. Act that are now under the DCV Act. Could you quantify the latter, and also perhaps reflect on how the DCV regime varies in safety, from your perspective, compared to the state and territory regime? In other words, are they less or more safe than they were under the state and territory, including under dangerous goods transport?

MR KEANE: Yes. Basically what it's come down to now is the only vessels that really need to be covered by the Navigation Act are foreign-going vessels. The number of vessels that have come across from having been covered by the Navigation Act to be covered by the national law has been massive. It has been such a big shift across that it's definitely got an impact on the fair trading abilities of those that are maintained in the Navigation Act, and some of the - got to be careful in the way you put it - some in the industry have taken advantage of going across to a far less structured regime of safety, training, all of the things that we've outlined in here, to the extent that you can have, now, under current proposals, under the original state acts, where you may have had deckhands working in enclosed waters in harbours, et cetera, under a training regime that took nearly four to five days, maybe seven days to train up a deckhand. That's changed to, now, that deckhand having possibly two days' training and being able to trade up to 200 miles out at sea. That's madness.

MS LLOYD: Can I interrupt you for a second?

MR KEANE: Please.

MS LLOYD: Right, so to start with I think what we're really trying to get you to understand is that prior to 2020 there were state systems, and there was a national system.

MR LINDWALL: Yes.

MS LLOYD: And the national system ran along the same lines as the international system. Changes to the Navigation Act were made at the same time as the Marine Safety National Law came in in 2012. The changes to the Navigation Act in regards to updating it along the lines of international regulations with the SOLAS Convention - Safety of Life at Sea Convention - were generally in line with the Maritime Labour Convention. So, the Navigation Act got updated and reviewed from the 1912 Navigation Act into a new system under - - -

MR LINDWALL: That's right.

MS LLOYD: Well, pretty much the same, just a little bit updated into the 2012 Navigation Act. With those changes the implementation of the Marine Safety National Law, when state systems were transitioned into the national system, the Navigation Act was changed - the jurisdiction of the Navigation Act was changed. So previously Australian vessels that traded between states were required to be regulated under the Navigation Act. State vessels - all state vessels - including hire and drive, are now regulated under the Marine Safety National Law. To give you a bit of context, it's easiest to look at Tasmania when you look at the Spirit of Tasmania and the toll ships running between Tasmania and Victoria.

So previously they were required by law to run with the Navigation Act standards. Today, with the Marine Safety National Law, they are not required, although they do, opt in to be regulated under the higher safety standards of the Navigation Act. Recently, as part of the EBA for the toll vessels, we have actually asked them to put in their EBA protections that those vessels will stay as Navigation Act vessels. So, instead of being regulated to a higher level of safety we're pushing for those safety standards as part of EBAs, which is - we don't believe that we should be pushing for safety standards in industrial relations in that way. So, if they chose, those vessels could be regulated under the Marine Safety National Law. So we're talking about really big roll on/roll off vessels.

MR LINDWALL: Yes, but what you're saying, they are regulated by the Nav. Act?

MS LLOYD: They are because they choose to be.

MR LINDWALL: They choose to be.

MS LLOYD: Yes, okay.

MR LINDWALL: So what are examples of - if you wanted to continue, please, but I just wanted to ask, what are examples of ships that were regulated under the Nav. Act who are taking the opportunity to get the MSNL and haven't decided to, well in fact downgraded their safety is what you're saying?

MS LLOYD: Look, it's really difficult to tell because there is no public record, of which vessels are DCVs and which vessels are RAV. In fact, you can be sailing on those ships and not know, but we can identify that there are vessels in Queensland, and we're generally talking about the major trading fleet. So, passenger vessels: Currently there is only one, we believe, regulated Australian passenger vessel, but the - - -

MR LINDWALL: It's mainly the trading fleet, you think?

MS LLOYD: Yes, so we - - -

MR LINDWALL: Because I assume the fishing fleet, which of course is a notoriously - they're probably the ones that are the least safe; I mean, you've got trawlers and so on. They probably were operating under the state regime and now under (indistinct).

MR KEANE: They were.

MS LLOYD: Yes.

MR KEANE: And we believe that's part of - that creates part of the problem, where the - and we have it in the submission, where some of the recommendations from the Commission finding are around the hire and drive going back into state regulations. We believe there's scope there for fisheries to be covered by the state regulations again. We don't believe that throwing them - all of the trading vessels into the one bundle with that was ever effective or beneficial to the industry under any circumstances. Again, we come back to one of the major things with this, being the level of training for crews on board these vessels, where I was referring to that issue around that deckhands being able to do a couple of days' training and go 200 miles out to sea.

Under the Navigation Act the Australian seafarers have got to go through 12-15 months training to become qualified in a graded ratings. Now, that's a significant difference to a couple of days' training to throw some - it could be a backpacker that's come out for a bit of work, throws two days' training in, jumps onto what was intended to work around the harbour or a river, and all of a sudden you're 200 miles out at sea on a domestic - on a commercial trading vessel.

MR LINDWALL: Yes.

MR KEANE: It's - we just don't see that that is an acceptable position (indistinct), sir.

MR ROBERTS: If I could ask you, Garry, this might be a bit - you know, a very particular question, but in taking that example a little further, was there a consistent approach, when regulations under the states and territories, to that issue?

MR KEANE: No, that was a part of the problem; there was no consistency between the states, and part of the COAG idea was to get a regulated position nationally and - but the strict terms of that were without reducing safety. It had cut costs, which we're all in favour of, but without reducing the safety. This has dramatically and identifiably opened up safety issues.

MR LINDWALL: And you're saying mainly in the trading vessels; is that right?

MR KEANE: In the trading vessels, or - - -

MS LLOYD: We mainly look at the trading vessels. On page 14 of our original submission there's a list of vessels and what we think arrives in DCVs.

MR ROBERTS: Yes, yes.

MS LLOYD: One of the larger ones would be the Wunma and the Donnacona. We believe Donnacona's still a RAV but it doesn't look like Wunma is. (indistinct). The Toll Osprey - we think that used to be a RAV. So it's a little bit hard to tell, and we have no idea basically, so it will be - - -

MR KEANE: And AMSA hasn't been able to answer those questions when we requested (indistinct).

MS LLOYD: No. If you ask AMSA 'Is this vessel a RAV or a DCV?' you'll probably getting umming and ahing for half an hour before they can tell.

MR BAXTER: Hasn't the Wilmar vessel disappeared?

MR KEANE: It has now, yes.

MS LLOYD: Wilmar?

MR BAXTER: Yes.

MS LLOYD: No, I believe it's up in the Gulf. It was in PNG.

MR KEANE: It's still running. Come back (indistinct words).

MS LLOYD: But I believe it's come back to Australia as a RAV and then got transferred into a DCV.

MR LINDWALL: This was the one that they had operating out of Perth with the trade through to the Middle East?

MS LLOYD: No, that would be a RAV, but that wouldn't be Australian.

MR KEANE: No.

MR LINDWALL: It was originally, I think, Wilmar, Australian flagged vessel.

MS LLOYD: Sorry. Sorry, I was talking about Wunma, which is the major trans-shipment barge up in the Gulf.

MR LINDWALL: Yes, okay. No, I was talking about Wilmar. That's good we've clarified it, yes.

MR BAXTER: Now we're getting very detailed.

MR LINDWALL: Did you have anything more? Sorry, because I know Malcolm's about to ask a question, so.

MR KEANE: No, no, no, that's fine, as I'd said.

MS LLOYD: No. So, also in the - one of the appendixes of our original submission we've got a table that goes through the specific sections of, and details the differences between the Navigation Act and the Green Safety DCV Act. As Garry says, the differences of training for ratings is especially bad, but if you look at things like whale watching outside of Sydney, those vessels are DCVs. They're under 24 metres. A master less than 24 metres AMSA says is a low complexity qualification, but you can go out to 200 miles with a master less than 24, and the vessels that go outside the heads watching for whales, they've got more than 100

passengers on board and we don't see how that is a low complexity qualification. That's quite - - -

MR BAXTER: It wasn't on the day I went out.

MS LLOYD: You know, to operate these vessels, you know, they might have the experience and the knowledge and training to do the job. We're not saying they don't. We're just saying that AMSA says it is a low complexity qualification and there are similar international standards, for example, a master less than 500 tonnes, which is a longer process, more involved, and you have to go to AMSA to sit an oral exam before you could get that with a master less than 24, the registered training provider - - -

MR LINDWALL: Yes, yes.

MS LLOYD: : - - - can assess you as being competent and we think that's a bit of a conflict of interest there.

MR LINDWALL: : Well, that's your other inquiry, isn't it, Malcolm.

MR BAXTER: Yes. Yes.

MS LLOYD: : So, you know, just to summarise some of the differences between the Nav Act and the DCV Act, physical standards of survey are different. Working conditions, as I mentioned before the Navigation Act actually sets out specific conditions, working conditions for seafarers. You know, just one of the random ones is that if you're a seafarer on a vessel that's regulated under the Navigation Act you're exempt from jury duty when you're at sea. If you're on a domestic commercial vessel, that could be precisely the same - precisely the same operation, you're not exempt from jury duty when you're at sea. Things like that, things like that your employer has to return you to your home port, that's a Navigation Act provision, not a DCV Act condition.

MR KEANE: The basics of crewing.

MS LLOYD: Yes.

MR KEANE: The numbers and the requirement for vessels, in our opinion, should not be left to safety management systems.

MS LLOYD: Yes.

MR KEANE: You get a skipper or an owner, whether he be, you know, reputable or irreputable, and I think the reality is in such a vast industry you do have non-reputable out there having the ability to say what training their crew has and how many of them will be on board a vessel, that may be pertaining to carriage measures or anything else is just not acceptable. There should be minimum legislated standards that have to apply.

MS LLOYD: Yes.

MR BAXTER: Hasn't this matter been raised on several occasions by magistrates in Queensland in particular?

MS LLOYD: : Yes.

MR BAXTER: Where there have been deaths and accident of a serious nature and - - -

MR KEANE: Well, there's the - - -

MR BAXTER: - - - nothing appears to have happened?

MS LLOYD: : Yes, - - -

MR KEANE: Part of the problem around the DCVs is that you don't really have some regimes that can do the investigations. The ATSV was referred to in our submission and I know they've put their own in. Don't actually do investigations.

MR BAXTER: No, because they're not funded for it really.

MS LLOYD: No.

MR KEANE: Yes. Well, not even funded. They're not - it's not legislated. They don't - AMSA don't do investigations in some of these vessels in serious incidents. It's left to the police force who have no expertise or no skills in maritime structures. The - AMSA will insist obviously, but it's - to us it's - the ATSV should be involved.

MR LINDWALL: So when it comes to the actual regulation, though, that's not - AMSA applies the law as it is, right? So you're arguing that, aren't you, that what you want is a tightening up of the DCV legislation, or perhaps even to put it into the Nav Act with a different - - -

MR BAXTER: Well, perhaps if we go to the submission.

MS LLOYD: The Navigation Act and the DCV Act allows AMSA to make a regulation under those laws.

MR LINDWALL: Yes, yes.

MS LLOYD: : So we can still have the DCV Act, but the regulations that AMSA is making under the DCV act are all risk-based regulations.

MR LINDWALL: Yes, yes.

MS LLOYD: So it basically says, 'Do a risk assessment. Sort it out for yourself'. The Navigation Act has a suite of marine orders as well and they're specific regulation that says, for example, that you have to have a certain number of people or you have to have a minimum safe manning document that's assessed by - - -

MR LINDWALL: And all this comes from the SOLAS type connection.

MS LLOYD: : And this is coming from SOLAS, but - - -

MR KEANE: And the IML, the International Maritime & Logistics.

MS LLOYD: Yes, those marine orders are made by AMSA under the Nav Act.

MR LINDWALL: Yes. Yes.

MS LLOYD: And AMSA could apply those marine orders under the DCV Act as well, but the regulation that they have made under the DCV Act is non-proscriptive and risk-based, and we're saying that that doesn't work. So under the, as Garry was saying, crewing numbers under the DCV Act are assessed. There is a minimum number. For example, it's two or three for whatever size of vessel that you like, but you make a risk assessment to decide your own crewing for your own operation.

If you have a regulated Australian vessel, bearing in mind that these are exactly the same vessels doing exactly the same operation, that you have to submit your crewing - you have to submit your crewing numbers to AMSA and they have to approve that. That then has to be issued in a document that's available for the crew to see so they know if their own ship is being undermanned.

MR KEANE: And you mentioned before the fishing fleet.

MR LINDWALL: Yes.

MR KEANE: There's quite a lot of angst inside the fishing fleet itself about being tangled into where, at the moment we believe there should be a division between that, whether it goes back to the state structure or reverts to some vessels coming back under the Navigation Act. Maybe if we actually go to the submissions that we've put in from yesterday.

MR LINDWALL: M'mm.

MR BAXTER: The bottom part's over to findings which support - - -

MR KEANE: Yes, yes, that we agree with. 4.3 was support, 5.4, 5.5. These are all logical things that we comply - you know, that we believe are necessary. 8.3, 'The government should impose a general safety duty on all parties with significant influence over the safe operations of autonomous transport details'.

MR LINDWALL: Yes, no argument.

MR KEANE: Draft recommendation 9.3, 'Australian and state and territory governments should formalise the role of the Australian Safety Bureau to investigate all serious incidents involving domestic commercial vessels and agree with funding models to support this role'. Absolutely we believe this must. 'Agree to a funding model to enable the ATSB to radically carry out its established role as with the investigation of rail safety.'

9.4, 'The remit of the Australian Transport Safety Bureau should be extended to include any incidents where autonomous technologies at or above SA Level 3 autonomy may have been involved'. We just - anyway, so they're - - -

MR LINDWALL: You're all happy with that?

MR KEANE: Absolutely, yes.

MR LINDWALL: Yes, I don't think you need to go through it.

MR KEANE: No.

MR LINDWALL: I mean, we have read and we've - it's more, what I really want to understand is what's different about maritime compared to rail, say, where a risk-based approach seems to work quite well in rail and probably also to some extent in heavy vehicles, but it's - you're saying it

doesn't work in maritime and why is that? I mean, what's the nature of the business?

MR KEANE: Well, when you're talking heavy vehicles, they've got an underlying regulation that's required for them to be operating.

MR LINDWALL: Yes.

MR KEANE: You take the changes that have come about going from the Nav Act to the DCV Act. It's like taking a lot of the requirements out of that heavy vehicle system. You can't, for example - the owner or operator of the heavy vehicle has to have a minimum requirement licence. Now, technically the operator of a DCV, as - - -

MR LINDWALL: Yes.

MS LLOYD: Yes.

MR KEANE: - - - Fiona was just saying, depending on the length of the vessel, has certain requirements that come up at certain, you know, like, so we believe, as Fiona just pointed out, some of those have tightened up for the - - -

MR LINDWALL: Yes, yes.

MR KEANE: - - - operator or skipper of the vessel, but coming under that, the requirements under the DCV as opposed to the Navigation Act for skilled seafarers is totally inadequate. As I said, the prime example is deckhands being able to go 200 kilometres out to sea. That was just never an intention of anyone, and yet it's come across now to a position that, again, if you're talking about a fishing vessel going out to sea, they shouldn't have to be burdened with some of this stuff that the trading vessels and that should be burdened with. The dangerous cargoes, the prime examples. We've got - an example we raised at the Senate Select Committee hearing about vessels carrying passengers that also carry some dangerous cargoes, that has applied to increase the number of passengers which is, really, the regime itself will probably allow that, whereas if you look at the international regime would not allow it under any circumstances.

MR LINDWALL: Yes.

MS LLOYD: I think one of the - so why we don't believe it respects regulation is - is it's - we don't believe it's suitable for most DCV operators at the moment, and that's because there are lower training

standards between the DCV Act and the Nav Act, so people aren't getting the training that they need to do that. On page 30 of the draft, you've got a table, Figure 8, that says various models of safety regulation relevant to transport, and that says, I mean, and you have said this of us, - - -

MR LINDWALL: Yes.

MS LLOYD: - - - that highly prescriptive regulation is suitable for operators with low capacity for developing and documenting systems and processes, and we would say that most DCVs, I mean, there's a massive range of DCVs.

MR LINDWALL: Yes, there is.

MS LLOYD: A lot of them are masters operating their own vessel.

MR LINDWALL: Correct, yes.

MS LLOYD: With very poorly trained crew. Like, as Garry was saying, you can get a backpacker, put him on a fishing vessel. We've got a master with a master less than performing in coastal operating out to 200 nautical miles. He doesn't necessarily have the capacity for developing his own safety management system.

MR LINDWALL: Yes, yes.

MS LLOYD: And deciding what is appropriate.

MR LINDWALL: He's like the small owner/operator truck driver - - -

MS LLOYD: Yes.

MR LINDWALL: - - - who should have a more proscriptive set of regulations, sort of thing.

MS LLOYD: Exactly.

MR KEANE: But the thing with a truck driver, he doesn't have a crew underneath him that he's responsible for their safety.

MR LINDWALL: He could have a small owner/operator business with a few truck drivers, but I'm trying to compare it to - - -

MR KEANE: But on a particular truck.

MR LINDWALL: Yes.

MR KEANE: You've got the driver and that's it.

MR LINDWALL: That's true. I'm more thinking about the very large providers which are in the trucking business, that'd be the Tolls and the - - -

MS LLOYD: Well, speaking of.

MR LINDWALL: - - - Linfoxes and so on.

MR BAXTER: Speaking of?

MS LLOYD: You have to have an understanding of the risk and the way that seafarers work is that they're very comfortable with the risks in their own operation. However, when it's - it's actually quite perverse because when you get to a bigger operator they might not actually understand fully the risks in their own system, and those risks have been dealt with around the world for the last 100 years in proscriptive regulations, so there's actually not a massive understanding of the underlying risks, and that's what AMSA's doing, is that they've taken away all those proscriptive regulations, said, 'Look after your own risks', but there is actually no guidance saying what those risks are.

So we'll go back to dangerous goods because it's something that keeps coming up for us is that, for example, the IMDG Code sets out segregation of dangerous cargoes on vessels, so you don't put gunpowder next to pyrotechnics - - -

MR LINDWALL: Oxygen cylinders.

MS LLOYD: Yes. We don't like putting gunpowder next to - like, it makes sense, right? But we know that because we know it's a bad idea, just the same as at home we deal with Domestos and bleach and we know that if you stick both of them down the toilet you'd pass out. Cargoes carried on vessels are a lot more complex than that and they've been dealt with with this big book that you run down the columns of the books and you say, 'All right, don't put those things next to each other', but it doesn't say why. So people around the world don't really need to know why. They just say, 'All right, we won't do that', and that's fine and that's how we deal with the risk.

MR LINDWALL: Yes.

MS LLOYD: Not understanding the risk is a massive issue. For example, hay is a dangerous good because it self-combusts, but if you have an operator that doesn't have a proscriptive regulation and forgets to check that hay is a dangerous good, then they're putting hay next to petrol on the same boat, and AMSA doesn't look at that.

In AMSA's most recent submission to the PC Commission on page 25, they've got a section about Operation Holiday, and I don't know if you remember there was a big diving vessel incident in the US.

MR LINDWALL: Yes.

MS LLOYD: So AMSA's response to that is that they went around and they looked at diving vessels, and this is them in the submission trying to look good, but they actually say that the laws which are currently grandfathered don't require smoke detectors in accommodation spaces on passenger vessels where passengers are staying overnight, and AMSA can't make them to it. So they've said, 'Well, you need to assess the risk', and the operators are apparently saying, 'Well, we've assessed the risk and we don't like smoke detectors', and AMSA has to walk away and do nothing about it.

MR LINDWALL: They could do a marine order presumably.

MS LLOYD: So why not have a marine order have a marine order that says you must have smoke detectors. It's not difficult, it's not hard, but if these companies aren't even assessing the fact, the risk appropriately to stick a smoke detector in accommodation spaces, that's not an appropriate safety culture to be having risk-based regulation.

MR LINDWALL: Okay.

MS LLOYD: So we're saying that in the WHS laws they talk about due diligence.

MR LINDWALL: Yes.

MR BAXTER: Yes.

MS LLOYD: In the DCV Act there's nothing about due diligence. So you must assess the risk, but there's actually no requirement for appropriate risk assessments, good safety management systems or having due diligence in the law.

MR KEANE: One of the recommendations that we put in is that we seriously believe that having two national overlapping jurisdictions with very different standards is a major issue that we believe should be - must be addressed in the final report. We think it's just a recipe for disaster.

MR BAXTER: Yes, that point comes through clearly.

MS LLOYD: It's also economically uncompetitive because it's cheaper to operate a vessel under the lower standards, create risk assessments that remove all the risk, but you've got the operator next door that's decided to remain around because they think it's safer or operate their DCV with good risk assessments at a slightly higher cost, maybe adding more crew, but the person next to them isn't required to do that and won't get into any trouble until there is an accident.

MR KEANE: Well, either adding more crew or having sufficient, or what we believe should be sufficiently crew.

MR LINDWALL: We haven't got much time, so if you want to - - -

MR BAXTER: Just a quick question. How do we compare with New Zealand?

MR KEANE: Less. Our standards are less than New Zealand. New Zealand has a regulated process.

MR BAXTER: Right.

MS LLOYD: New Zealand's just recently reorganised their system as well. Interestingly, though, there is - New Zealanders can use their qualifications over - their domestic qualifications over here, we can use ours over there, but they've recently reorganised the system to go straight through from the domestic system to the international system, so you can go, say, from your master 24 to master less than 500 and we don't actually have that option in Australia. It's very difficult to change from the domestic system to the international system.

MR BAXTER: Okay.

MR KEANE: And the New Zealanders are saying that's not sufficient.

MR LINDWALL: No. I'm sorry, - - -

MR KEANE: I can see the time, so.

MR LINDWALL: No, one final question on then which we should ask which is about grandfathering. You know, we have recommended it to be cost effectively looked at and we said five years as a period to bait it out. I mean, we've had some feedback since the draft report that, you know, some of the - well, you can't build a fishing vessel in Australia. It's very hard and expensive to get, so it can be quite prohibitive to say that you have to have a - get rid of grandfathering totally, and then someone can't operate their shop and they've got no choice because it's not viable. What do you have - how do you assess that in terms of the grandfathering, the economics of it, that is for the operator, which oftentimes in the case of fishing trawlers are operating very close to the bone versus improving safety.

MR KEANE: That again depends on what you're looking at. I know some of the exemptions that were handed out were - there was rail size, rail height. Those exemptions weren't given a time factor to fix that. They were rolled over.

MR LINDWALL: Yes.

MS LLOYD: Yes.

MR KEANE: If you're rolling over exemptions, the exemptions come as the norm, and that's exactly what other people in the industry are saying, 'Hang on, he's getting away with doing that. I've got to get this nice new boat that comes up to speed and has everything else. I'll just buy one of the old boats'. Again, you've got some variation between the fishing fleet to where we're sort of specifically talking about, and maybe handing fishing fleets back to state regulations or - because most of the fishing fleets aren't particularly travelling between the areas.

MR LINDWALL: No, they're just going to one - in and out, yes.

MS LLOYD: I think it's also important to say that it's not just physical standards that have been grandfathered to operational standards. So if you've got a grandfather operation you can continue those crew requirements.

MR LINDWALL: That's right.

MS LLOYD: Say that you had a poor operation, a poorly regulated operation under the state, is that that operation and the requirement that you only need two crew on board, for example, is grandfathered with the vessel. So the whole of the vessel is one thing, but grandfathering the

operation without a finish date seems to be very silly. Vessels themselves have an incredibly long lifespan.

MR LINDWALL: Yes.

MS LLOYD: But it's not that people are buying grandfathered vessels and not making changes to them because then they cease to be grandfathered. So if you increase the rail height on a vessel, for example, then the entire vessel ceases to be grandfathered, so small changes to - - -

MR LINDWALL: That's a discouragement from doing something.

MS LLOYD: Exactly. It's - it's - - -

MR LINDWALL: That's a good point actually.

MS LLOYD: Yes.

MR LINDWALL: All right. Garry and Fiona, thank you very much for your time. We've run out of time unfortunately. Thank you for your submissions and look forward to further engagement, and much appreciate you turning up.

MR KEANE: Just to finalise, we would reiterate that we believe the dual system isn't working, and that the final court ruling must look at that as part of your - thank you very much for us being here today.

MS LLOYD: Thank you.

MR LINDWALL: Thank you very much. Now, I think we're supposed to have a short break now for a coffee or something. I think the food's supposed to be coming in. I'll just check that.

ADJOURNED **[10.51 am]**

RESUMED **[11.02 am]**

MR LINDWALL: Well, if you could all just introduce one after the other yourselves and then maybe an opening statement.

MR LAWRENCE: Yes, sure, I was going to do that, yes. Thank you.

MR LINDWALL: At your leisure. There's no hurry.

MR LAWRENCE: Yes. Yes, so good morning. I'm Stephen Lawrence. I'm the Vice-President, Rural and Regional of Local Government New South Wales. Our president, Linda Scott, is on a tour of bushfire affected areas and she sends her apologies. To my immediate right is Kelly Kwan.

MR LINDWALL: It's probably better for them to say.

MR LAWRENCE: Certainly. Please.

MR LINDWALL: To link the voice on the microphone.

MS KWAN: Kelly Kwan. I'm the Executive Manager for Advocacy at Local Government New South Wales.

MS PARTRIDGE: I'm Jane Partridge, Strategy Manager, Planning & Transport, Local Government New South Wales.

MR SATHIAH: And I'm Sanjiv Sathiah, Senior Policy Officer, Roads & Transport.

MR LINDWALL: Thank you.

MR SATHIAH: At Local Government, New South Wales.

MR LAWRENCE: Yes, so thank you for the opportunity to appear today on an issue that is of obvious importance to local government and the communities that we represent, being the commission's draft report on National Transport Regulatory Reform.

As the peak body for 128 local governments, we request the commission to consider the concerns that our members have with regards to aspects of the draft report, those pertaining to heavy vehicle access in particular. Local Government New South Wales, in New South Wales is concerned that some aspects of the heavy vehicle reform agenda are driven by an industry-first perspective. This is distorting debate in our view around the perceived need for changes in the current heavy vehicle law, particularly with regard to heavy vehicle access.

With councils in New South Wales responsible for around 90 per cent of the road network, we maintain that the views of council need to be given equal consideration, particularly where legislative reform impacts on the role and budgets of councils. Our role is to ensure the wellbeing of our local communities.

Increased freight access carries obvious inherent safety risks, concerns about the long-term sustainability of our infrastructure, the road network assets and lack of funding to upgrade and maintain those assets, as well as concerns about the amenity of local communities. Local government is cautious of any changes to heavy vehicle law that could undermine our fundamental role in managing our local road networks and any inherent risk to their communities.

I won't obviously take you through the entirety of our submission, but I - - -

MR LINDWALL: Thank you for the submission there.

MR LAWRENCE: I might just take you just to two key points, firstly, our recommendation 2 which I think you will find on around pages 4 or 5 of our submission.

MR BAXTER: Yes, at four.

MR LAWRENCE: It's our view the productivity gains sought by industry in this regard will not be realised from changes to the permit approval process or the legislation, but through the necessary investment from federal and state governments to bring aging bridge and road infrastructure up to a standard capable of supporting the movement of restrictive access heavy vehicles in a way that is efficient, safe and sustainable.

Lastly, in terms of some specific reference to our submission, we do take particular issue, I suppose, and this is encapsulated in our recommendation 3 in relation to a key point made in the draft report stating, 'approval processes for access to local roads can still be inconsistent, slow and lack transparency', or it's our concern - we have a concern with the accuracy of that statement and would see its amendment or deletion, I suppose, and you will see under our recommendation 3, so National Transport Commission statistics are drawn from its current review of the heavy vehicle national law which show 96 approval rate, only 4 per cent being declined and 93 per cent of applications being processed inside the one week period.

So just in conclusion, I suppose our key positions are that councils should retain its legislative role as road managers of the local road network. Councils and local government should be engaged in reform as equal partners with state and federal government. Councils are doing a good job of managing local road network access and this is supported by the data.

Access improvements will not fundamentally be achieved through legislative changes. Access improvements can continue to be achieved through ongoing collaboration between councils, industry and the regulator of the NHVR.

Significant gains in heavy vehicle access, in our view, will only be achieved through the provision of better data to councils regarding freight movement. I understand that's a particular issue at the moment with the industry not flowing that data to us and therefore limiting our various capacities, but most importantly through increasing funding for roads and bridges. So those were the key points I wanted to make by way of opening statement.

MR LINDWALL: Thank you.

MR LAWRENCE: Thank you.

MR LINDWALL: Are you aware of how Tasmania, and I know it's a smaller jurisdiction, has done - set up a system where truck operators can find that they want to go from A to B and it gives them recommended routings and helps - and it builds information about where are the bottlenecks and where are the pinch points; how this bridge has this much capacity and this road has that much capacity and so on. It's all nicely mapped out. That doesn't happen in New South Wales. Is that something that might be very helpful to local councils?

MR LAWRENCE: It sounds so. I'm not aware of it. I might refer that in the first instance to Ms Kwan. I might refer it on.

MR SATHIAH: I am aware of it and I think it is universally agreed that that is the gold standard that we've all been waiting for. Obviously I think there's a lot of reform and issues that are sort of moving us in that direction. The national freight data hub, for example, would be a good starting point, but you know - and we need to undertake full road network assessments to be able to achieve that and there's no simple task and no cheap task. It's going to be quite expensive, and obviously our roads are substantially more complex than in Tasmania.

MR LINDWALL: Yes.

MR SATHIAH: But, yes, that would definitely be the ideal way to go if we can do it.

MR LINDWALL: Now, what about for councils now. Of course, some councils are fairly large. They have a pretty good capacity and they have -

are fairly well-resourced, and other councils not so and some councils have a lot of traffic going through them, and a lot of potential traffic going through them. Some might only have one or two applications a year.

How is it best you see – and I make that point because I understand Local Government Queensland has some – they've tried helping the councils in more remote parts of Queensland – is there something that the LG New South Wales could be more involved in or the New South Wales Government? How do we assist the councils that don't really have the capacity to do the work?

MR LAWRENCE: Yes, I wonder whether this could be something dealt with through the joint organisation process, but I refer that again.

MS KWAN: Yes. Look, I think capacity and capability is a key issue for local government, particularly in, as you mentioned, smaller council areas. Yes, obviously the bigger councils have often the skills and capabilities and the right systems and the data in terms of reviewing their assets and managing access applications. So we do have the joint organisations, which is I think a fairly recent feature, which essentially brings together a number of regional councils under sort of the umbrella organisation, and Local Government New South Wales is working with those joint organisations in terms of potential collaborative initiatives that we could pursue.

I think, certainly, something like building their capacity and capability in that area, sharing of resources amongst the smaller councils is obviously a really big part of that.

MR SATHIAH: I could just add to what Kelly had said, and that is that familiar more with Local Government Queensland, where they have got a support officer, jointly funded by the NHVR and LGAQ, and I believe the OSOM recommendation suggested that the other jurisdictions investigate that particular approach. Transport for New South Wales has approached us about that. But it would be about around the funding of that role that – you know, that doesn't sort of sit with us in terms of how our model operates, LGAQ may be a bit different. But that sort of role, undoubtedly, as shown in Queensland, would help if they did have that subsequent liaison role, undoubtedly.

MR LINDWALL: Do councils appreciate that sometimes a high performance vehicle which can theoretically carry more freight but has a lesser impact upon the roads and the bridges than some other vehicles, and perhaps fewer movements?

MR LAWRENCE: I might refer that to Ms Kwan, sir.

MS KWAN: Yes. Look, absolutely. I mean, obviously one of the key principles of councils is improving amenities into their local – reducing the impacts of freight movements on their local communities. So I think local councils are supportive of performance-based vehicles, high productivity vehicles, and granting access where they can. I guess that just needs to be balanced against things like – well, any adverse impacts, in terms of road safety, and also impacts on assets such as bridges and that sort of thing.

So I think there's definitely a commitment to trying to accommodate access to high productivity vehicles where possible, but it's just that balancing act.

MR LINDWALL: So how would you feel or how would councils feel, do you think, if there was a slight change whereby for example an approval for a particular type of vehicle was given in the past, and because of that, for this particular part of the road network, because of that there should be, not an automatic approval, but a more streamlined approval process for future applications for permits by similar or same type of vehicle?

MS KWAN: Look, I think councils, again, are supportive of streamlined processes that would potentially reduce the administrative load on them, but I think a key concern is having visibility of those access approvals. As an example, I suppose if you've got a vulnerable bridge, you may decide to approve a permit application on the basis that that particular vehicle is crossing that bridge two or three times, within the limits of that permit. If you then extend that sort of blanket approval process, and you've potentially then got 10 vehicles making multiple trips, that obviously would impact that asset.

So I think again it's a bit of a balance between being able to streamline processes for both industry and local government, but also at the same time understanding the potential impacts on assets.

MR LINDWALL: Malcolm, did you need to ask some questions?

MR ROBERTS: Well, I think we respect the fact that local government is the asset manager and has to take into account amenity and community opinion, safety, all those different factors, and thanks for the reference to the NTC paper and the data around approvals, that's helpful, appreciate that.

If 93 per cent of applications are being completed in seven days, and most are being approved, it suggests that, with goodwill on all sides, there must be a way to improve that process so councils are freed from the paperwork burden of that. So just a general question, an open one, as to whether there's anything that local government is thinking about how you might be able to reduce that requirement on local government. Because we've seen evidence that councils that receive most of the applications are also quite timely at getting the decisions made, so they've built capacity and they understand the task.

But the high incidence of approvals and reasonably quick approvals, you know, suggests that there's a lot of unnecessary work that possibly could be circumvented if we got our procedures right.

MR LAWRENCE: I'll pass that to Ms Kwan, but I know that our fundamental concern is that we do maintain that approval role, and that's because we ultimately are the level of government with the grassroot linkages and we are accountable for movements ultimately.

MR ROBERTS: It's your asset.

MR LAWRENCE: So with those few comments, I'll pass that to Ms Kwan.

MS KWAN: Yes, I might pass to Sanjiv.

MR SATHIAH: Yes, so with regard to – we're certainly amenable to the idea of notices and gazettals, and I think the NHVR annual reports have shown over the past several years that there's been strong progress in that area. So we don't see a need for a change to the legislation to continue to facilitate that, because the fundamental underlying principles are appropriate: we're talking about safety, sustainability, amenity.

So what we'd call for is a continued dialogue and discuss between operators, the NHVR and councils to continue to see those gains made where considered. We would caution against removing time limits on notices, we think that it's important that they do remain in place so that one can undertake a review of the network, at the time of notice, might be due for a renewal, so that we can assess whether it continues to be suitable to support that movement.

So yes, there's no question that where notices are possible and gazettals are possible council will adopt them.

MR LINDWALL: Including with the conditions that they have a need, like not driving through night or limited number of movements per day, or something like that.

MR SATHIAH: Yes, that's right. So we've seen a lot of positive steps in that regard, and that continues to improve year on – it may not be at the pace that industry necessarily wants, but they'd like us not to be there at all and just have general access whenever they want. So unfortunately, because there is an ongoing mismatch between the quality of the network and the types of vehicles that need to move on them, councils have to continue to play this role.

MS KWAN: I'm not across the detail of necessarily the permit process, but I suppose, yes, council would have an ongoing dialogue with NHVR in terms of the sharing of information of past permit applications and things like that, so that if there has already been a number of approvals as a similar vehicle, there's some kind of notification from the NHVR to the council to say this is a new one, but you've previously approved X, Y, Z, which would potentially make it then an easier process for the council to say yes, proceed or we have concerns because of the terms of the access.

MR LINDWALL: Yes, it's a register of the types of approvals.

MR LAWRENCE: Past decisions.

MS KWAN: That's right, yes, and some kind of – a more streamlined system.

MR ROBERTS: I think that would fit into one concern that has been raised, which is, naturally enough, if you ask for something and you don't get it, you'd normally like an explanation. And that explanation, in turn, could be helpful directing future requests and decisions that have to be made by council, so if there's a track record of applications and decisions that are explained, it might be helpful for all parties.

The guidelines for granting access which have been developed through the NHVR, I think they've been updated last year, and from a practical point of view are they proving helpful to road managers, is that a good process?

MR SATHIAH: Absolutely, yes.

MR ROBERTS: That's all.

MR BAXTER: The only question I've got relates particularly to rural and regional areas. Is there any evidence that the timing of getting the

approvals is not sufficiently quick and quite often the number of people who run say the trucks will in fact use the phrase "run the gauntlet" and hope to get away with it. Is there any evidence that comes from councils to suggest that that's either a substantial number of people or is it just a few at the fringe?

MR SATHIAH: Yes, well, what I understand is that the industry generally want to do the right thing and they don't want to run and hide if they can avoid it. So if I understand the extent of the problem, I actually don't think we've got the level of visibility over general freight movement and what happens out of sight, yes, unfortunately I don't think we can capture. So we would support tracking, if at all possible, in return perhaps for improved access.

MR BAXTER: Right.

MR SATHIAH: I think industry is starting to become a bit more amenable to that.

MR LINDWALL: It certainly seems to be the case that when the HVNL was first created and applied and there were problems because of all the permit applications, that it seemed like there had been many movements by trucks which had never sought a permit, even though they should have under the previous regime, and that's not entirely surprising. So in the way, the new regime has led to better enforcement of laws that already existed in one sense or another.

Could I ask, what do you think about – the Productivity Commission on various occasions, and I'm sure we've spoken to LGA New South Wales past on this, has proposed road pricing and a road fund, by which we mean that the users of the road would put money to a fund which would be for a region, probably, and that fund would then be used to build or improve new infrastructure in that area. Is that something that you've thought about or what do you think about that idea?

MR LAWRENCE: Yes, I might pass that to Ms Kwan.

MS KWAN: Yes. Look, I think Local Government New South Wales would support some form of road pricing. I think that with the climb in fuel taxes and things like that, it'll be inevitable that that's the way it may need to go in the future. I suppose the key concern would be that it doesn't then reduce the overall amount of funding, and particularly if it's in certain areas, I suppose one of the issues with road pricing is that if it's very much user pays in particular areas, obviously in some of the more rural and remote areas that have less freight movements, that could - - -

MR LINDWALL: Well, I think in our reports we've always said there'll be a level of cross-subsidy for remote areas or regional areas where you can't imagine it would be viable to be fully cost recovering.

MS KWAN: Yes, that's right. Yes. But yes, I think certainly given some of the historical under-investment in roads, I think some form of road pricing may seek to address that issue.

MR LINDWALL: And could I ask, and this is of course in respect of what I – I note that the PC has done a report on natural disaster funding a number of years ago, and in relation to the bushfires have affected badly in New South Wales, of course, there'll be – in that report we did note, for example, that rather than just repairing a particular bridge in a particular location to what it was before, there should be some flexibility that maybe the bridge was in the wrong place, maybe there was a wrong design, maybe there should be scope to have a better thing, even chipped in with separate money. What do you think about that?

MS KWAN: Local Government New South Wales has had a number of discussions with the Office of Local Government, state government departments, and is about to commence discussions with the Federal Government as well in terms of betterment and resilience. So yes, absolutely, I mean, we're advocating quite strongly for the funding to not just be like for like, but also to actually incorporate betterment and resilience, which I understand under some the Federal Treasury guidelines around that funding, at the moment is like for like.

So we'd certainly want to see a change in that position so that, as you said, if a bridge is in the wrong location or it needs to be redesigned to be made more resilient for future disasters, we're absolutely advocating for that. I think one of the other issues with the like for like is that – an example that was given the other day was that if a bridge is currently rated as a sort of 3 out of 5, it was already sort of in some form of disrepair, that the funding would only cover the cost of getting it to that particular standard, and then local government would need to chip in essentially the rest to make it sort of five star.

Given that some local government – or all of the local governments that have been affected by these disasters are already suffering quite significantly, that would just add an additional financial hardship to those local governments. So absolutely, I think very strongly advocating for that sort of betterment and resilience and, more broadly, I think, not just for bushfire-affected areas, but more generally - - -

MR LINDWALL: Any natural disaster.

MS KWAN: - - - greater funding for resilience for the future, to mitigate any impacts of future disasters.

MR LINDWALL: Anything else, Malcolm?

MR ROBERTS: No, no.

MR LINDWALL: Because we've got a bit of time still.

MR ROBERTS: But I think the submission brings home the points of concern for you, and I suppose our emphasis here is trying to work out if there's anything that we can hopefully suggest that might improve the process which doesn't take away local government's control of its own asset base and its responsibilities to community.

MR LINDWALL: Which we strongly support, by the way. I can't think of any more questions because you've thoroughly addressed them, apart from the things that slowly get progressively less relevant to this inquiry, which we could go on all day. I could start talking about nuclear power or something, but that's not very helpful.

MR BAXTER: The only one that comes to mind about the consequences of the bushfires, both in the south of the state and past the north-west, or north-east, I think, is it possible that the state government may have to in fact provide additional supplemental funding to some local government councils for road restoration, and how would that be treated?

MS KWAN: Certainly. I think there is already, I think, some committed sort of Federal and state government funding to bushfire-affected councils, not necessarily specifically for road rebuilding, but sort of I guess untied funding that councils could then choose to use for repairing roads and other things. So sort of untied funding. But yes, certainly I think that's – some of that money has already been allocated and we'd certainly be advocating to make sure that that money is sufficient.

MR LINDWALL: Well, I think, unless – did you have any final points you want to add?

MR LAWRENCE: No, I don't think so, thank you.

MR LINDWALL: Well, thank you very much, Local Government New South Wales, for coming today and we much appreciate your help.

MS KWAN: Thank you very much.

MR LAWRENCE: Thank you.

MR LINDWALL: Today in Sydney we've got one more presentation; I'm happy to continue straight on to Dr Richard Tooth. Richard Tooth?

DR TOOTH: Yes.

MR LINDWALL: Hello, it's Paul Lindwall.

DR TOOTH: Hello, Paul.

MR LINDWALL: Good to see you. Now, Richard, at your leisure, if you could just introduce yourself and give a bit of an opening presentation, then you can then ask your questions and – it's a fairly informal process.

DR TOOTH: Yes, sure. So my name's Richard Tooth, my day job is a director with a consultancy called Sapere, where I largely do economic consultancy for a range of organisations including public and private sector and non-profit organisations. I also have a few other affiliations, but the submission I'm doing is on behalf of myself and it's based on previous research that I've undertaken.

So I'm focused on one aspect of the draft report, which is related to safety regulation and insurance, and that comes up in chapter 8 on Transport, Technology and Data, and I'll just read from the submission I sort of wrote and put forward to the Commission, which I assume you've got.

So just in quick summary, as noted in this chapter, there's potential for insurers to use telematics data to reduce safety risks and, secondly, that the uptake of telematics-based usage-based insurance is limited by insurance regulation which, as I've elaborated in research that you've cited in the draft report, includes unbundling of compulsory third party insurance from motor vehicle insurance and pricing regulation.

So just to be kind of clear, just to give you a simple example, in Australia, as we'd all know, we – at various jurisdictions, we buy two insurance products when we – and this applies to households, whether they're using it for commercial or non-commercial use. So you buy two insurance products, one is your motor vehicle, which covers your motor vehicle, and secondly, you buy what's commonly called CTP, compulsory third party insurance.

Compulsory third party insurance is heavily regulated, it's what we often describe as community rated, where effectively – which I think you've quoted what I've sort of stated in the report – which basically means it doesn't matter how badly you drive, how dangerously you drive, what you drive, within certain categories, you pay the same. So it's clearly not risk-based or cost-based.

Now, we contrast this to the UK, and the UK's the best and clearest example, where you buy one product, there is a level of insurance is compulsory, which in the international literature is more commonly referred to as motor third party liability insurance. So there's a mandatory level of cover that you must have. But it's effectively one product. So people coming from the UK come out here and find this kind of strange, what we have.

Similarly, most jurisdictions you'll go to it's one product. So pretty much everywhere in the US it's one product you purchase. I'd look at most English speaking countries, it's one product. I think there's a few other exceptions where it is unbundled.

But the unbundling – so in the UK there's very little regulation, and so effectively the insurer is able to price and manage risks so effectively they price for risk. So this applies to young drivers, but also applies to truck drivers. So then the insurer does a lot to actually manage risk. So they have the incentive and the ability to actually do a lot around risk management.

That's where I sort of get to, and I've done quite a bit of analysis on this, looked at what happens internationally, looked at the international research, and effectively insurers can do – they can influence what you drive – well, first of all they influence whether you drive.

MR LINDWALL: Yes.

DR TOOTH: Secondly, they influence what you drive and then, very importantly, influence how you drive. Now, with telematics that has greatly improved their ability to influence how you drive, and historically it's always been the case that insurers influence whether you drive and what you drive and also how you drive, because of a rating basis.

There is an awful lot of research which demonstrates that when you regulate those rates, you remove the incentive and ultimately it just leads to more crashes. So effectively you've got regulation which is resulting in loss of life and injuries.

So that context. Now in the draft report, the Commission concludes with a sentence which I said is in the form of, "A shift towards a more risk-based approach to CTP does not appear warranted at this time". So I'm extremely concerned with that conclusion. So in my opinion, the draft report fails to appropriately discuss the evidence on the case for reform and also a point there, there may be valid reasons for this conclusion, I don't think there are, but if there are valid reasons, and I'm always open to that possibility, they, in my opinion, are not articulated in the draft report.

In the draft report the conclusion is justified with – there's a clause there – "given the many questions raised in box 9.6", and then if I go through and refer to box 9.6, I have to conclude that, in my opinion, that the analysis in that box is flawed, most of the analysis in there appears to be more appropriately applied against maintaining the status quo. That's what I sort of elaborate there.

So I guess there are a few other things, just in sort of opening as well, of the importance of this. Road safety is a massive social issue, it's a good day if only three people have died on the roads today. And then the number of people who are seriously injured, it's horrific, and if you've got children, think about this. Here we have this reform, potentially of doing insurance reform, I put up as being the most cost effective, significant thing we can do.

No one's challenged that – no one's seriously challenged that. You get the odd comment obviously. There's no serious challenges to that. There hasn't been, in my opinion, a decent review of road safety regulation. When the Productivity Commission reviews an area, it's an opportunity. Which is why I sort of took the time to make this submission. And there's been a variety of other things on road safety, but when the Productivity Commission chooses to do something, you pay attention and take the time to actually make a submission.

So I've been working on this area, looking in this area for quite some time, it's not something I'm doing for any client, but it's just one of those areas where - - -

MR LINDWALL: You have an interest, yes.

DR TOOTH: It's societal interest, I mean, it's a fascinating issue. But my goodness, if I had to rate the issues that we face in society in terms of the significance and the ability that we can easily do something about, this is in the top right hand corner.

Now, I know your scope is around sort of effectively the freight transport area, but this, to my mind, is the one that opens the door for everything else. And when you actually go down this route, and really what we're talking about here is using less the command and control process around managing risks, societal risks. It doesn't stop here; this is potentially – the opportunity is massive.

So I just push forward a few other things. So I mentioned that one hypothesis. I presented at an annual conference of road safety a few years ago and I put forward the hypothesis, the most significant cost effective policy to reduce the road toll involves reforming vehicle insurance markets. I said, please come and challenge me if you think that's not the case, I'm willing to bet on it, putting the words "by a large margin" in front of it.

I've spoken to basically the leading road safety research experts. Privately, they say we can't fault it. Publicly, there's some challenges in pushing this forward. I've also said vehicle insurance market reform provides a cost effective means to managing most key road safety issues relating to safe vehicle speeds and road users, including autonomous vehicles.

Finally, we cannot cost effectively meet road safety goals without reforming vehicle insurance markets. Now, that one I sort of say potentially eventually disappears when we have fully autonomous vehicles. But the others, I think, apply.

So as I've said, I've discussed this with road safety researchers, economists and a variety of stakeholders. I don't think anyone's seriously challenged this. You've quoted a key paper of mine in the report, but you haven't brought through some of the key things in there, the findings and that, which I project – I do, a hard as it is to do projections of the benefits. And they're massive, they're absolutely massive. And that's in terms of lives saved, reductions in serious injuries, which I don't quantify in there, but then I put also an economic value on it.

We're talking tens and tens of billions of dollars in present value. And that's just the direct benefits around societal costs – reduction in societal costs of people killed and injured, when you throw in some of the ancillary benefits if you had reduction in regulation. By the way, at all times, as I sort of say, you can always make something look good if you compare it to something worse.

The command and control system right now, you think if you – most of the road safety regulations, if we look at them right now, we compare

them against the worst outcomes. If you compare them against taking a more insurance-based approach to this, a lot won't stack up. And I guess this is the other big issue, this potentially leads us to much less burdensome regulation. You sort of hear lots of discussion going on right now about reducing speed limits, and there's a lot of damage that can be done and a lot of good things, if we are taking a more open-minded approach.

So that's kind of in a nutshell, and then I've got in there quite a few other specifics. Another issue around affordability, I do talk about. Just often one of the concerns is around affordability, and I think we can knock that one on the head. When you also look at how no one really examines how affordable the current system is, and it's horribly unaffordable, and if you look, that's the burden of the regulation, who pays fines and penalties, it's usually the poor who are impacted.

The other one I sort of found amazing in this is that there's statements in the draft report which talk about well, this might sort of result in – this might not address – capture everyone who's breaking the law. And ultimately – something along those lines – and I'm thinking, ultimately, you know, imagine a world where we've stopped road crashes but we haven't caught everyone breaking the law. And now, think about that. What world would you rather live in? So this is about changing the law, this is about – we're not interested whether people break the law, we're interested in whether people are dying.

MR LINDWALL: Yes.

DR TOOTH: I mean, if anything you want to change, get rid of those statements. So that's kind of the opening, and you've got the detail there, happy to elaborate.

MR LINDWALL: Thank you, Richard. Just could you – well, let's compare again with overseas. I lived in France for a while, and you're right, there is a single insurance product. There was variable, that's a mandatory component of it which effectively is that third party, injury-type part of it, but you could calibrate it to be effectively what I'd call comprehensive insurance, versus a third party property insurance, but it was a single product, and you're right, it was risk rated to an extent.

Is that what you're talking about basically?

DR TOOTH: Yes. So the regulations change everywhere, so there are – so when you look at the uptake of telematics, usage-based insurance – by the way, pretty much every young person in the UK will check it out – my

calculation is around about a third of young people have telematics usage-based insurance in the UK, and yes, the evidence suggests it's reducing crash rates by 20 per cent and up. And there are reports there where people are saying this is – a variety of people are concluding this is the biggest thing we've been able to do around road safety.

But the regulations do change country by country, and so the uptake of telematics varies country by country, and I couldn't – it's really hard deciphering why, trying to work your way through regulation, particularly in a foreign language, is tricky. However, so it turns out in France there is a - they're largely free to price, but there is also kind of a residual type of scheme, which then kind of puts a limit on how – anyway.

So France is not the most beautiful example, so the uptake in telematics isn't as strong in France as it would be here. But the broad idea is yes.

MR LINDWALL: I mean, could I then clarify a few things? Firstly, you're not against compulsory insurance that affects - - -

DR TOOTH: No, you need it.

MR LINDWALL: You need at least compulsory.

DR TOOTH: Well, I think you need it. I've got to admit, I haven't – I would say I haven't done the full analysis, but my going in hypothesis would be yes, you do need it.

MR LINDWALL: So what you're really talking about here is a community rating of that part of insurance. In other words, there should be price differential depending upon behaviour. I mean, insurance is a great product, as you know, for moral hazard, as there is a moral hazard issue to it, and there's an adverse selection part of it too. So insurance markets work in a variety of ways, as you say, and in an ideal world, you should have an individualised price that is judged upon the risk that you as an individual is placing upon whatever you're insuring of course.

DR TOOTH: Yes.

MR LINDWALL: Otherwise you open the moral hazard issues where the high risk person is paying a low premium and it doesn't discourage that behaviour. So I agree with that in principle. The usual reason trotted out for having compulsory third party regulated to a price, which effectively it is, although in New South Wales of course you go and get a quote but it doesn't vary terribly much, is more along the lines of the health insurance, which of course is also community rated. You take

private health insurance out and it doesn't matter whether you're a – there might be something on smoking I think, but not much else.

So is there something that you could conceptually differentiate between health insurance and driving a car that makes you – I mean, would you support getting rid of community rating of a health insurance for example?

DR TOOTH: So community rating does an awful lot of damage, but part of the key reason, and it does an awful lot of damage in a lot of insurance markets. I've closely looked at it in disaster insurance, and you – the flood insurance in the US is a disaster, and we've avoided that disaster here in Australia. But in health, I haven't done as much work on looking at it, but my understanding is, from anecdotal evidence, is yes, there is an awful lot of health problems as to the health outcomes of improving the risk, reward would be dramatic.

Now, key question of course is the issue around equity. Now, if you wanted to get clever as to how you could address the equity issue, I'd love to talk to you at another stage, and very happy, I've given thought to that, around health. But it's not an area where I've done a lot of work. But - - -

MR LINDWALL: It's more though I would have thought you're trying to capture a behavioural thing versus say a DNA test that you – a person is at a higher risk of a disease than someone else because of their genetics, you wouldn't want to punish that person, but maybe you'd want to discourage the bad behaviour.

DR TOOTH: No, absolutely. And this gets to a key thing with most of what we do on the road is choice, right. Pretty much everyone in the room can drive as safely as the other person, there's very few limits on that. Right now you can think of the current system as subsidising the high risks, it is a very – effectively it's an incredibly targeted subsidy to high risk driving and high risk behaviours.

MR LINDWALL: Yes.

DR TOOTH: Now, obviously there are some issues where you do have these sort of equity issues, and you worry about sort of grandfathering type of matters, but - and obviously you worry about young people. But if you're going to subsidise young people, subsidise them for being young, not for being high risk and, you know, no one can fake their age - well, you know, obviously you do in nightclubs, but - - -

SPEAKER: And elsewhere.

DR TOOTH: Yes, I'm a bit past trying to fake it.

SPEAKER: Yes.

DR TOOTH: But you can do extreme - if you're really worried about the issue, do the targeted subsidy, you know, and do - there is a range of things you can do, but don't sacrifice people's lives and sacrifice people's families, the devastation for the sake of what is really convenience. So, this gets to the affordability. The affordability matters. So, yes, I'm very much - equity is a key issue but, by the way, if you're going to look at equity, look at the current system and you'd be appalled.

MR LINDWALL: Yes. But you're happy with the compulsory nature for the third party?

DR TOOTH: Absolutely.

MR LINDWALL: What about, then of course then you get the - if you don't have compulsory insurance, say, you can imagine with bush fires where a lot of houses were not insured and some are, and some were under insured.

DR TOOTH: Yes, yes.

MR LINDWALL: What about compulsory in that for third party property or even comprehensive third party; where do you draw a line on compulsory in this?

DR TOOTH: So, and we're just getting to a broad ranging topic, some of the key issues in - the key reason for - let's actually sort of take a step back around the safety issue.

MR LINDWALL: Yes.

DR TOOTH: And if you go - what is the fundamental problem with safety? And by the way you do touch on it in the draft report, but to my mind you don't go the level of depth that you should be going, which - and that's the other thing, it's like you really want to go deeper and this is a chance to go deeper. The fundamental problem with safety. Why do we regulate safety? You know, we don't - and ultimately there's two key - I'd sort of characterise this, two key issues, is one where there's the classic externality; how I drive affects others.

MR LINDWALL: Yes.

DR TOOTH: Another is the behavioural one and I'm always a bit - quite a bit of work on behavioural matters but I'm always a bit careful around behaviour but, you know, the most - it is one of the most, you know, strongest areas where you do see there's behavioural evidence that on - you know, if you survey people about how good a driver they are, you get the statistical impossibility that everyone is better than average.

MR LINDWALL: Of course.

DR TOOTH: Yes.

MR LINDWALL: I can assure you I am.

DR TOOTH: So there is an over confidence aspect to it. There is another one which is even - people - which I think needs to get more addressed but, you know, we're - if we really want to push the envelope on this stuff as well, is that someone's, even your value to your own life, people - there's next to no associated with that. And I often sort of think about, you know, when I was a young man driving, the main reason I regulated my behaviour was more about caring about what my parents thought. And there is, you know, strong evidence that people - and you know I'm a parent, you'll - they put more value on their kids' lives then they do on their own, and that's - so there is another reason why you do want - so that's another underlying issue. So we have these underlying issues which are affecting the choices. Why the choices aren't optimal and why - the rationale for Government intervention.

Now one nice thing you can say, if there's anything nice about road fatalities, it's very clear when a fatality happened and very clear who's involved, and these days it is - you know, there can be detailed analysis of what's going on. So you can attribute the cost. You can effectively attribute fault extremely well. So you can have very, very targeted, potentially, targeted incentives.

Now this is where you get to the insurance problem, is that if, say for instance I break this microphone, I'm assuming it's not that expensive but I'm assuming I could cover it, right, and if I impulsively broke the microphone I assume I could - I'd probably have to deal with (indistinct), but I could presumably pay compensation for it. I assume there's nothing unique or personal about it. Right. And that I could - and it would be detected; you know, I'm here in a public setting and if I broke this - you know, there's a transaction cost associated with, you know, recovering it from me but, you know, moving those away - thinking those away, just abstracting away from those for the moment, yes, I could compensate it. And then effectively that gives me the sufficient incentives. So if I'm

stumbling and falling over and I'm - below me is that microphone and below me is a pillow or something else which is of less value, I will - can deviate my way. Anyway, so effectively the - effectively the compensation that I would have to pay provides the right incentive.

Now you get problems when we get to safety. First of all, the lifetime compensation costs around a seriously injured person. Let's do that one. They can be in the order of $10m. I don't have $10m. I expect most people in this room don't have $10m.

MR LINDWALL: Certainly not.

DR TOOTH: Yes, and so you get to the case of 'so sue me', which is why you need insurance. So if you're going to effectively price that you need insurance. Now the beauty about insurance as well, you know, whereas I might be an over confident driver, the insurer is not over confident about my ability and they're not - they take a realistic view. So that's another - so effectively you solve that one as well. So there's a beauty about transferring into insurance. Then you get to the question about why - where the Government command a control or whether you get - or whether insurance. And you then very much ask the question, 'What can an insurer do that a government couldn't do?' and you immediately, when you're getting into telematics, hopefully it becomes pretty obvious. Yes. How many of you would willing have a mobile phone when it's provided by the government and they are tracking you?

MR LINDWALL: Certainly not.

DR TOOTH: Yes, and willingly, yes. You know, the privacy issues. People willingly. You know, my mobile phone provider can pretty much work out - track my movements today. Do I care? A little, but you know, ultimately if word got out that they were using that information badly they're destroyed. And so they have that - they have that benefit. The other key benefit is the power of competition. And it's not that, you know, they're more capable or anything but if they make a mistake they would correct it darn quickly. If there's a way of doing it better, they will work to find it and people will copy. Regulation doesn't work like that, and so it's the innovation, it's the discipline of competition which drives the innovation to find ways of - and if we can - if ideally we can price things correctly, and I think in road safety we come pretty darn close, then you get that power of competition to innovate, to find the ways of addressing, balancing the burden of regulation and the costs that are the benefits from safety.

MR LINDWALL: But it all comes down to compulsory third party then, because I mean there's no community rating as far as I understand for comprehensive insurance.

DR TOOTH: That's correct.

MR LINDWALL: Yet I don't recall, and you know I've got my car insured with comprehensive, - - -

DR TOOTH: Yes.

MR LINDWALL: I don't recall them saying that they'll give me a huge discount if I get telematics on it.

DR TOOTH: No.

MR LINDWALL: And the comprehensive insurance, I can't remember, my one's probably about $500 and, if I recall, my compulsory third party is about $220 or thereabouts, something like that.

DR TOOTH: I don't think you can be from New South Wales.

SPEAKER: I was going to say I don't know where you live Paul, but it doesn't sound right.

MR LINDWALL: Well I'm a low risk driver because I've never had an accident.

DR TOOTH: Yes.

MR LINDWALL: Maybe there's - but I mean I can't remember exactly what my compulsory third party is, but whatever it is, I thought it was in the 200 range.

DR TOOTH: Yes.

MR LINDWALL: But maybe I'm wrong. What type of price differentials do you imagine would come if you were (indistinct)?

DR TOOTH: You see this in the U.K. By the way, the other key issue which gets back to the microphone example; this microphone can be replaced.

MR LINDWALL: Yes.

DR TOOTH: Say the technician over there had, you know, a personal - a highly personal item, something from his mother or something where - and that happened to be sitting on the desk, something that's irreplaceable. You know, the value - - -

MR LINDWALL: Yes.

DR TOOTH: The value of replacement doesn't come close to the value of preventing that in the first place.

MR LINDWALL: Yes.

DR TOOTH: And that is the key problem with - that's the other key problem around safety. And that's a problem we've still got in the U.K, that's why the U.K hasn't solved it despite - they've still got safety issues. But anyway, so - just so you know on that. So then how would the prices vary? Well, you know, you look to the U.K and, yes, the young drivers pay an awful lot more; however they get massive discounts for things like - - -

MR LINDWALL: Telematics.

DR TOOTH: Telematics. In the report that you sighted, if you go digging into that you'll see an example where automotive emergency braking - autonomous emergency braking. In the U.K, someone like us, you know, at our age would probably only get a £10 discount for having installed that. A young person gets something - some ridiculous - it was over 100 quid, I can't - but it was much, much larger.

MR LINDWALL: Yes, yes.

DR TOOTH: So the incentives - - -

MR LINDWALL: They're targeting to where the risk is, yes.

DR TOOTH: End up being targeted, whereas we have this sort of blunt way to try to introduce autonomous emergency braking. And the report I quote is in the - I sort of calculated roughly, is that if this - so there's two problems. One is the unbundling of motor vehicle and CTP. So I have my two insurances with two different parties, and so - and also the innovators tend not to be in the CTP space already, so you - so immediately you split the incentives.

MR LINDWALL: Yes.

DR TOOTH: And that's roughly halved, you know, in terms of the cost. Secondly then, the - I think I actually sort of say that - I think I sort of say this; if we were to - I quoted in the report, but if you were to remove the - if you were to - yeah, I just make that the restrictions roughly quadruple - I've got a typo here - it should say I estimate that if you remove the restrictions you'd - it should say remove the restrictions you'd roughly quadruple the incentive for insurers to address road safety. Now then if you could go the full hog and try to then go to the - worry about the value of prevention, - - -

MR LINDWALL: Yes.

DR TOOTH: I think you'd get an eightfold increase. So this is this level of incentives you can get.

MR LINDWALL: Malcolm?

MR ROBERTS: Richard, you have given us a great submission to work through and this wasn't obviously a primary part of our enquiry but it's come up as an issue because we're trying to anticipate the potential innovation to improve safety. I think I'd just like to say I'm going to give a bit more thought to this. The notion that - I presume in the U.K arrangements have been worked through where - so the young driver does have a reasonable incentive, you mentioned through being pushed, if you like, towards giving the insurer more information on their behaviour as, you know - with a very clear incentive structure in place to make sure that they're aware of that and that it can presumably provide them with a benefit, provided they travel. No, I think this is very worth thinking about and I thank you for the submission.

DR TOOTH: Good. Yes. Thank you.

MR BAXTER: Well I'll start with the fact which impressed me because if you're involved in a motor accident one of the things that happens pretty quickly is the police are there. Is they do the testing for blood and all the rest of it. Why hasn't somebody picked up and taken the logical next step of segregating that out and having a policy which says very well, if you are involved in an accident and you - there's no blood alcohol and the rest of it and it was perhaps not your fault, why hasn't it been picked up by the insurance companies?

DR TOOTH: Sorry, to do?

MR BAXTER: To actually introduce what you're suggesting.

DR TOOTH: The clear reason why, you know, we have a million plus policies to - UBI policies in the U.K, (indistinct words), about a third of young drivers in the U.K and hardly anyone here, is the regulation. Is just purely the regulation. There's no technical reason. I've talked to the - you know the technical providers. Nothing - there's nothing stopping it.

MR LINDWALL: But it must be the community rating side of it because - - -

DR TOOTH: That's the big point, the big one because - - -

MR LINDWALL: I understand that but the unbundling doesn't entirely make sense. I agree you generally - you have two policies, but is there a legal barrier to stop, you know, Allianz offering a product, a single product - - -

MR BAXTER: A discounted product.

MR LINDWALL: Compulsory third party.

DR TOOTH: Yes.

MR LINDWALL: And comprehensive in the one product? I don't know.

DR TOOTH: Yes, there - well, officially you could - I think officially you might be able to do it in some jurisdictions, but I think the evidence is pretty clearly it's too darn hard.

MR LINDWALL: It's probably - it comes - I think the problem is that when you go and get your car registered you have to firstly get a roadworthy done in New South Wales, then you have to get the green slip, and then you have to go and pay for the registration.

DR TOOTH: There's a whole bunch of - but even just working through it, I mean you talk to the insurers, and the insurers have tested various things but ultimately, you know, it's just like anything else, if you - with a, you know, a cup of coffee, if you just sort of mandate that now cups of coffee are at half the price, how good a quality of a cup of coffee are you going to get? You know. And then, well, they could produce a good cup of coffee, yeah they could, but we're not giving them the incentive.

MR LINDWALL: Thank you, Richard. Look, from my perspective as an economist, I'm not a great fan of community rating and I agree on what you've said. I would like to reflect on it some more.

DR TOOTH: Yes.

MR LINDWALL: But, I mean it - but you've made a lot of sense and you're right, the difference between the U.K and Australia in terms of the take up of telematics is quite stark and we need to look at this more, and thank you.

DR TOOTH: And just to - I'm very happy to - very happy to be contacted and provide more information and I am concerned about my typo.

MR LINDWALL: Thank you very much, Richard.

DR TOOTH: Thank you.

MR LINDWALL: Now, ladies and gentlemen, we have the opportunity, if anyone wants to come and say something now, you're most welcome to. No? In which case I think we'll adjourn these proceedings. We resume tomorrow, Friday 31 January in Brisbane and thanks everyone for coming today.

SPEAKER: Thank you everyone.

MR LINDWALL: Thanks to the transcript.

ADJOURNED UNTIL FRIDAY 31 JANUARY 2020

Australian Government
Productivity Commission

PRODUCTIVITY COMMISSION

PUBLIC HEARING INTO NATIONAL TRANSPORT REGULATORY REFORM

MR P LINDWALL Presiding Commissioner
MR M ROBERTS, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT CENTRAL PLAZA 1,
LEVEL 1, 345 QUEEN STREET, BRISBANE
ON FRIDAY, 31 JANUARY 2020

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RESUMED **[9.35 am]**

MR LINDWALL: Good morning. Welcome to the public hearing for the Productivity Commission Inquiry into the National Transport Regulation Reform Inquiry. My name is Paul Lindwall, as the presiding Commissioner here. I'm joined here by Malcolm Roberts and one other Commissioner, Ken Baxter, is an apology today. I mention and acknowledge any Yuggera people from Brisbane here today.

The inquiry started with reference from the Australian Government in April 2019. The purpose of the inquiry is to investigate the economic impacts of the 2008-09 COAG Transport Reforms; examine the implementation of the National Transport Regulation Reforms, including the development of the national regulators and the capacity of local governments in supporting the implementation; the delivery against agreed COAG and intergovernmental agreement objectives; and finally, to assess the scope of future reforms to National Transport Regulation, including areas for further harmonisation and integration of the transport sector and a remit to the regulators.

We have talked to representatives of the Australian, State and Territory Government service providers and their peak bodies, unions, academics, researchers and individuals with an interest in the issues. We have received 44 submissions prior to the release of the draft report and a further 34 so far since the draft report, which was released on 12 November. We are grateful to all organisations and individuals who have taken the time to prepare submissions to talk with us and to appear at these hearings.

The purpose of the hearings is to provide an opportunity for interested parties to provide comments and feedback on the draft report. This is the second public hearing for the inquiry. Following the hearings, we will also hold hearings in Canberra and Melbourne, and then we are working towards completing a final report, having considered all of the evidence presented to the hearing at the hearings and submissions and elsewhere.

The final report will be submitted to the Australian Government in April. Participants and those who have registered their interest in the inquiry will be notified of the report's release by Government, which it might be up to 25 parliamentary sitting days after the completion. As an aside, the airports inquiry was released right up to the limit there. Three months or so it can be, though I don't expect it to be the same this time.

We like to conduct all hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken. For this reason, comments from the floor cannot be taken, but at the end of the day's proceedings you will be

provided an opportunity to make a brief presentation or react to previous comments by other participants.

You are not required to take an oath, but are required under the Productivity Commission Act to be truthful in your remarks. Participants are welcome to comment on issues raised in other submissions, of course. The transcript will be made available on our website within about a week of the hearings.

Any media representatives attending today have some general rules applying. Please see Tim at the back up there if you are a media representative, although I don't think there are any at this stage but who knows. Maybe one of you is incognito. Participants should be also aware that media representatives, if they were here, may be using Twitter or other internet mechanisms to convey information online in real time, as one might expect in today's society, hopefully reporting participants' remarks accurately but one cannot guarantee this in today's society.

To comply with the requirements of the Commonwealth Occupational Health and Safety legislation, you are advised that in the unlikely event of an emergency requiring the evacuation of the building, we will evacuate through the back here and down the stairs to between the Post Office Square on Queen Street. Please use the stairwell and, if you are unable to, please see one of the staff to help with the evacuation.

Participants are invited to make opening remarks of 10 minutes or so, keeping them fairly brief to allow an opportunity for interactive discussion.

Now I would like to welcome Sal to talk from the National Heavy Vehicle Regulator. Welcome, Sal, if you could just give your name and title and introductory remarks at your leisure.

MR PETROCCITTO: Done. Sal Petroccitto, Chief Executive Officer of the National Heavy Vehicle Regulator. Thank you for the opportunity for us to be with you. I, and my organisation, has enjoyed the relationship that we've probably built with the PC on what is a complex piece of work that is being undertaken. In that regard, we do want to thank you for I think taking the time to comprehend the complexity of what is before us and call on your opening comments. Eleven years since the legislation in effect was considered, six years as a regulatory entity, the timing of this review linked to the work being undertaken by the entity is probably an opportunity that I don't think I'll see in my lifetime again.

On that note, I think something that we should not undervalue in terms of the logic and steps that need to be taken to end up with a sensible piece of regulatory reform. Fundamentally for us, the concept is right. The development of national entities to regulate the complexity that sits within State jurisdictions, from our view, is the

right thing to do. It is probably one of the largest change programs that will ever exist in this country and it won't happen overnight.

To some degree, some of the challenges and, I suppose, obligations that were placed not only on our organisation but on the other two regulators at the initial start, might have been a little bit ambitious. In saying that, and with now five years under our belt, I think we have achieved a hell of a lot more than anyone would have probably envisaged.

With the Victorian State Government transitioning their functions to the regulator in December, we as an organisation now represent the larger proportion of regulatory functions being undertaken in the country, with a very strong commitment from the two remaining jurisdictions to continue that agenda. From our view, the journey towards at least a national regulator in the eastern seaboard is definitely there.

I still believe as a country you can't not achieve the outcomes and requirements until the two remaining jurisdictions in some way, shape or form are part of that process. You have rightly identified that in your recommendations which we support. In doing that, I think we need to take a pragmatic approach as to what that adoption may look like.

I don't believe the industry can sustain having to deal with three pieces of legislation and three different interpretations of that legislation. The benefits that come from a single entity being able to administer and implement through a common approach has huge benefits not only to safety, but in our mind, productivity as well.

We are moving towards the concept of a modern regulator, a regulator which really starts to embrace and understand how this industry does work and it is a diverse and complex industry. There are players in this industry that generally want to do the right thing, be it from a safety aspect or in terms of both the productivity benefits that come from their operations and, unfortunately, I think we have a legislative framework that restricts that.

If we can through this process start to address some of those issues in a way that considers but doesn't undermine the important role that we play around public safety, then I think we're definitely on the right track. The five years of experience that we've had as a regulator have started to demonstrate to us where there are benefits and where there are challenges and your report had identified some of those.

Derogations can't continue. Individual views in what is the modern-day age and the activities that have occurred really need to be put by the wayside and a common approach which embraces industry as a partner, as opposed to the

recalcitrant undermining devilish individual that everyone believes wants to do the wrong thing has to go. We fundamentally believe that they have probably approached change and embraced some of the benefits that come from technology innovation better than regulatory entities and government agencies, and for us that's probably one of the challenges.

The underlying remit of the review and the law itself and the original intent we still think is sound. It just needs some appropriate tweaking to ensure that we deliver on those outcomes. As an agency now that has four jurisdictions, we are moving to a concept of borderless enforcement. Borderless enforcement would definitely start to provide benefits to the industry from the point of view of efficiency and consistency. That, in itself, will have to contribute to better productivity and efficiencies in the way they operate as entities and agencies.

The complexity of the role that I play, the complexity of the legislation that we deal with, with the multitude of players, regulatory agencies, including police, is very complex. I think you've started to identify that in your findings as well. For us, there are probably two key areas where we see that real positive change. We fundamentally believe that it is a collective responsibility on all of us in the regulatory sense to recognise that safety and productivity go hand in hand and you really can't dispel one from another.

As an agency, our fundamental first will always be the safety of the broader Australian community, but if we don't have a productive industry, we don't have a broader Australian community. Probably the recent natural disasters have demonstrated the value of the transport industry in the movements of goods and services in that regard, which is very critical.

We also believe that the adoption and uptake of innovation in both vehicles, processes system can also help the broader Australian community and it's something that we need to embrace. While it may not be one size fits all, we need to do it within a framework that is considerate of those points.

Improving safety outcomes from us is also another key area. We need to move away from the complexities that sit within the current restriction of the laws. It is a facet of federation and we accept that, but we have an opportunity to get that right. We fundamentally believe that the law and the reviews should still have elements of prescription but also the flexibility to provide those that can actually demonstrate through appropriate safety measures, systems or procedure and practices that they can be a trusted entity.

The balance or the trick will be getting that right, which is why we fundamentally believe that the work being undertaken by the NTC, which we fully support, needs to be informed by the work that you are doing and ultimately the recommendations that come from your report. In that regard, we would seek to encourage that some

appropriate timeframes are put into that fundamental review to consider your final report.

We believe that the sharing of information and data is also critical but that has to be a mutual sharing of information and data from my organisation, from industry and from government. It's pointless us holding a whole lot of information and not sharing that and allow an industry to be proactive in the way it undertakes it. We also fundamentally believe that that would be beneficial to the productivity outcomes that we see.

We will continue on our agenda. We believe that the recommendations that you have tabled largely align to our strategic direction and in our discussions that we have had with you and in the individual discussions we have had with you, I think you can start to understand and comprehend some of the focus that we are taking in that space. It's not going to be simple. The remaining jurisdictions that we need to transition are complex and bring some level of sophistication that needs to be considered in that, but we have to keep going. Industry will demand that we take a sensible, proactive approach in the way we do that.

In summing up, I would just like to thank the Commissioners. I'd like to thank your team for the level of interaction and engagement that has occurred between yourselves and your team with my staff. I think it has been valuable to both of us and we look forward to the final report.

MR LINDWALL: Thank you, Sal. Could I also acknowledge that your team has worked very closely with ours and we've been very pleased with that interaction too. Now, end of this mutual admiration society, but if we get down to the thing about mutual recognition, you have a Western Australian system and it has an accreditation regime itself. Let's leave aside Northern Territory for the moment. Do you think there is some scope, at least in the short term, to have a level of mutual recognition of the two accreditation schemes, your one plus the one in Western Australia, leave aside the TruckSafe one, that where governments might be able to reach some level of concordance on that as a first step to getting across the border?

MR PETROCCITTO: I do, Commissioners, to the point that we've actually already written to the Western Australian Government and we are in discussions now around what that might look like.

MR LINDWALL: Yes.

MR PETROCCITTO: If you look at the two schemes, there's not a lot of differences. The Western Australian accreditation framework, and to some degree our AFM, advance fatigue management principles around fatigue, there's not that much separation in that space. We actively are engaging now with Western

Australia in joint operations around enforcement and compliance. We're already doing a significant amount of data sharing and information gathering. I believe that some form of recognition this year will occur between the two regulatory agencies.

Can I stress that there are two regulatory agencies that administer a regulatory scheme. I think in that sense there's still a lot of confidence that needs to be demonstrated to jurisdictions and other policing agencies that that can be done appropriately by a regulatory agency before you potentially consider it to be broader and open up to third parties.

MR LINDWALL: I think that's a good point. I mean if I recall from yesterday's conversation with ONRSR, they made a very good point I thought, which was that you can have one set of regulation with multiple regulators that lead to inconsistencies because of the way they're interpreted.

MR PETROCCITTO: Yes.

MR LINDWALL: This mutual recognition, I see it as a short-term step forward but, ultimately, I would have thought it better to have a single regulator.

MR PETROCCITTO: Yes. We share a similar view. Our concern is if you potentially go too hard, too quickly on a multitude of individual players, you may end up with a more complex environment that may put an extra burden on the industry that it doesn't realize that it's actually coming down the pipeline.

MR LINDWALL: In terms of your own accreditation scheme, how do you monitor the safety impacts of it as an accreditation scheme? If you divide it at the moment between very prescriptive legislation for the majority of smaller operators, versus ones that go to the accreditation scheme and get some level of derogation – not derogation, that's the wrong word – some level of change from the prescriptive legislation, how do you monitor the safety impacts of that?

MR PETROCCITTO: It's a good question. The Commission will be aware that we inherited the NHVS. It was one of the first services that actually came to the regulator in 2013 and it had largely been administered by the jurisdictions in multiple forms.

MR LINDWALL: Yes.

MR PETROCCITTO: The unfortunate events that happened in Mona Vale had required that both the regulator and the NTC look at provisions in that space. Our submission to the Ministerial Council late last year looked at fundamentally changing elements of the business rules. It has asked to put more focus and onus on how industry actually reports to us on matters and situations within the

organisation ourselves, as we start to consider moving towards safety management systems and moving it from let's say an accreditation system to a safety management system, but looking at an overarching framework.

That work is still in play because we fundamentally believe that it needs to be aligned to the regulatory policy framework which the NTC is developing. If we don't have that right policy framework, whatever supplementary system we may develop may not have the appropriate provisions or powers.

MR LINDWALL: Yes.

MR PETROCCITTO: We're evolving that. That discussion is occurring with industry. I believe we probably need more powers around some type of mandatory reporting back to the regulator. At the moment, that doesn't occur. We need to be cautious as to the way that's done and that will need discussion. I think it has to be a mutually developed program, but it really needs to be a single national program.

MR LINDWALL: Yes.

MR PETROCCITTO: In that regard, the sharing of information that may then go to police agencies or other regulatory bodies as well, and depending on where the Commission does land in its final report with what the role of the ATSB will be in that as well, that delivers another level of complexity as well. My view around the provisions, we've asked probably for some "no blame" powers to be given to the regulator which allows us to then go in and check.

MR LINDWALL: Yes.

MR PETROCCITTO: It's a little bit different to probably what the ATSB does.

MR LINDWALL: Yes.

MR PETROCCITTO: The ability to go in and see but the ability to have systems that capture, operators to report, to self-manage, and to some degree provide solutions that may resolve the problem which we then can go through and audit. That's probably where some of our thinking is currently sitting.

MR LINDWALL: It's basically about trying to collect the type of evidence that shows that this behaviour or this activity is likely to lead to good or bad safety outcomes?

MR PETROCCITTO: Correct. We don't have that prior data. Once the trucks hit something or there has been an incident, well that's in effect too late.

MR LINDWALL: Yes.

MR PETROCCITTO: Yes, you can learn from that but we're really keen to start to capture some of that early reporting and industry starts to do that now. It does have "near miss" reporting. It has it within its own entities with its own structures. But how do we bring that to another level that maybe shares that with the regulatory body.

MR LINDWALL: I've got plenty more questions.

MR ROBERTS: Well continue. Just leave me some time.

MR LINDWALL: Definitely. Telematics obviously are something that can greatly improve the collection of information and help to change behaviour. We had testimony yesterday from a person who testified about insurance and how our regulated insurance market is such that let's say compulsory third party. It is a highly regulated system compared to say the UK where it's more flexible. I mean it's still mandatory but it's one insurance product if you like and they can then price discriminate against people, and if they have telematics, they get a much lower premium if they have good behaviour, if you like.

MR PETROCCITTO: Yes.

MR LINDWALL: Is that something that could be usefully thought of in Australia?

MR PETROCCITTO: I think the adoption of technologies because it may not necessarily need to be telematics.

MR LINDWALL: Yes.

MR PETROCCITTO: Because you can still have a very robust safe operator that is old school and we shouldn't penalise that safe operator because he's got the appropriate culture processes and principles or procedures. The use of technology we think is definitely beneficial. I am cautious to look at something that mandates a particular type of technology because if you look at the current framework of where the law may land and by the time it gets finalised, debated and developed into the house, it could be three or four years.

MR LINDWALL: Yes.

MR PETROCCITTO: Technology at this rate is moving probably every six months. We could get caught. So, if we look at it as a generic utilisation of how technology delivers on an outcome to either achieve a safety or a productivity benefit but doesn't specify a particular type of technology, if we can agree on the data framework, the data capturing aspects and why we will use the data, then yes,

I think there was a lot of benefits. But if you go down a particular "you will have that type of thing and you're going to use it this way", nine times out of 10 it will be overridden by an operator that can actually look at doing things in a different way because it doesn't suit their commercial benefit by having mandated reporting.

MR LINDWALL: Yes, sure. Now, in a previous report of the Commission on financial services, we made comment about there's a tension between regulators. In this case we were talking about the Australian Prudential Regulation Authority which had a tension between two objectives, one of which was financial stability, the other was improving competition in the markets. In the case of APRA, in that report we basically said they focused entirely on financial stability and forgot about the rest of it.

MR PETROCCITTO: Yes.

MR LINDWALL: Now, you have two objectives too, safety plus productivity. How do you balance those two? I'd assume, of course, you'd say, as you should rightly say, that you would not sacrifice some level of safety for buyer productivity. How do you balance those two?

MR PETROCCITTO: That's an interesting question and one that the jurisdictions are currently sort of pondering whether our remit is correct. Our fundamental view is that the operators that do invest in safety and safe systems are actually a productive operator. We now have evidence that we can start to demonstrate that through what we're seeing. For us or Commissioners it's really no different to what's probably already been happening over the last 100 years when State agencies had the both functions.

MR LINDWALL: Yes.

MR PETROCCITTO: But it's now been brought forward to one single entity that actually can look holistically across the country. So, everything we do that looks at productivity is always done with a safety lens. At the end of the day, safety will always be paramount, but what we are trying to do is develop a framework which considers safety in the context of the risk or the productivity outcome that needs to be determined.

So, we don't have a problem with dealing with it. We think we've been able to manage appropriately within the organisation through the appropriate development of systems, structure and approach, that the two go hand in hand.

MR LINDWALL: Yes.

MR PETROCCITTO: Separating the two, I think one will suffer and potentially the one that may suffer could be the safety remit that we really want to deliver on

because if we're driving just for a productivity outcome without a framework which considers what needs to be put into that productivity framework, safety measures, systems, processes, the ramifications could be worse. So, I think that's the one bit that COAG did get right where they did give us the productivity remit.

MR LINDWALL: Yes. What's the role of driver education and proficiency and how can that be improved in terms of safety outcomes?

MR PETROCCITTO: Another good question. Licencing is probably currently a discussion that's really been doing the rounds over the last 12 months. We probably want to move it from a word of licencing probably to more a word around competence and capability. Once again, we think that that should be based on the risk of the task that's being undertaken and the complexity of that task. We fundamentally believe that more should be done.

We're still working through with the State agencies the role that we play, but we also believe that that I suppose education and competency building should not just be in the heavy vehicle industry, it should be in the light. Your data would have identified that the majority of incidents that occur in our sector are actually as a result of the light vehicle driver, as opposed to the heavy vehicle driver.

This industry has in good operators invested a lot of time and energy in making sure it does what it does well. But I think we've dropped the ball in the broader general community around education, training and understanding as to how you manoeuvre or operate around a heavy vehicle. So, that's probably an area that I think government should consider. It's something that we're looking through within our own programs around how we increase awareness to the general community, around how you manoeuvre and operate around light vehicles.

This is where you potentially come back to the concept of what a national framework of accreditation may lead to with competencies and risk, and maybe there are requirements that says everyone should have at least a minimum standard. I'm not aware of any State agency at the moment that actually requires a truck driver to go back and refresh their driver's licence. I don't have to do it on my car.

MR LINDWALL: No, but you do if you're a pilot.

MR PETROCCITTO: Correct. So, I think there are some learnings potentially from some of the other sectors that would not necessarily create a burden on the industry if it's done properly, and that's probably the challenge.

MR LINDWALL: I should let you have a few questions.

MR ROBERTS: No, you've covered a few points that I was going to raise with Sal. Sal, it's interesting your comments around marrying productivity and safety

and productive operators also being safe operators and vice versa. Certainly, in consultations with people there has been some wistful thinking - that's wistful, not wishful - from some sectors that feel that they would like to see their safety regulator have a productivity mandate and they can see synergies between the two.

MR PETROCCITTO: Yes.

MR ROBERTS: When we look at your accreditation scheme, are you monitoring the safety outcomes being achieved by these businesses? We're very clear around the productivity benefits that are being delivered.

MR PETROCCITTO: Yes.

MR ROBERTS: Is there good data available to you at the moment to also have a good sense of what the safety outcomes are?

MR PETROCCITTO: I wouldn't say it is exceptional data. I would say we are building the data.

MR ROBERTS: Yes.

MR PETROCCITTO: The recent changes to the business rules will allow us to do that. We copped some criticism from industry that we were putting an unnecessary burden on them. We don't think that was the case. We think that that capturing of that baseline data and the Commissioners have now seen the sophistication in our data systems.

MR ROBERTS: Yes.

MR PETROCCITTO: Building that case history and being able to provide that back to the operator, we've also been able to utilise that. Then whether it's the next audit or it's the next assessment that's to be done, I think we are on the right track. I think that we probably need some extra provisions around the type of information that should be provided, as opposed to "I might provide it". I think that's the challenge.

MR ROBERTS: Yes.

MR PETROCCITTO: So, in that space we probably do think that some more forceful provisions around reporting would be beneficial, but we think it would be beneficial because it actually adds value back to the operator as well.

MR ROBERTS: That's right, yes.

MR PETROCCITTO: Our approach has been to date that whatever we capture in the system, where it's not of a regulatory compliance type nature that we need for our operations as a regulator, our view is that this should be publicly available back to the operator, so he or she can see their previous performance or their previous order, or their previous incidents. Well, we think that's got a lot of benefit.

Where that then may take us is then the ability then to produce a report that then in effect determines the state and health of the industry from a safety perspective. Now, our on-road compliance activities are identifying that operators that invest in well maintained and roadworthy vehicles are being held around 13 minutes in an intercept. Those that aren't, anywhere from 35 or 40 minutes. If you've got a fleet of 100 trucks, seven days a week, 365 days a year, well you can start to correlate where investment in safety has a significant beneficial benefit in productivity and efficiency of their operations.

MR ROBERTS: Yes. You mentioned in the post-draft submission, and thanks very much for that, that a real development power would be helpful.

MR PETROCCITTO: Yes.

MR ROBERTS: Possibly on working hours or record keeping.

MR PETROCCITTO: Yes.

MR ROBERTS: I presume that would help you perhaps in your discussions with the WA regulator and the Northern Territory Government as well.

MR PETROCCITTO: Very much.

MR ROBERTS: Is there genuine interest in using that as a way to try and close the gap, if you like, between what is a prescriptive HVNL that you're obliged to enforce and the difference between State and Territory arrangements?

MR PETROCCITTO: It is but it also, from our perspective, allows us to address the diversity and complexity of this country. So, operations in Brisbane, Sydney, Melbourne and completely different to operations in Darwin and Adelaide, or Adelaide and Perth and everything else.

MR ROBERTS: Yes.

MR PETROCCITTO: Having the ability to make rules which then in effect can address the particular type of risk associated with the task in a geographic location, allows us to be a more responsive regulator but not necessarily compromised on

the safety outcomes. But also consider, as you've mentioned, with what WA does or ultimately what the Northern Territory may do.

Our fundamental view however is that the safety of the driver and the safety of the general community should not be put above anything else, and however we might determine what those rules may be, they need to be done in a way that considers the right outcome.

MR ROBERTS: Sure.

MR PETROCCITTO: But being an operator that's driving through the Nullarbor and you hit your hours and you're supposed to stop in 45-degree heat doesn't make sense to us.

MR ROBERTS: No.

MR PETROCCITTO: Having a rule that says "to the next safest location for both the driver health and safety and broader safety" is beneficial. We don't have that flexibility at the moment.

MR ROBERTS: Animal welfare might be a factor in many cases as well.

MR PETROCCITTO: Exactly right, exactly right.

MR ROBERTS: Another point that came through in your submission is NHVR's interest in a proactive and cooperative working arrangement with local government for road access.

MR PETROCCITTO: Yes.

MR ROBERTS: I think the submission was quite positive. It might even be described as optimistic about what might be achieved.

MR PETROCCITTO: Yes.

MR ROBERTS: One of the interesting aspects there was the sense that you might be able to move towards more "as a right" access through notices in areas where there's history of industry use, if you like, and maybe piecemeal approvals from local government.

MR PETROCCITTO: Yes.

MR ROBERTS: Can you tell me a little bit more about how you might be progressing with that?

MR PETROCCITTO: We've probably done a fair bit of work with my local government colleagues here from Queensland. Queensland has probably led the way from an LGA perspective in that regard. The portal itself is now starting to develop a level of data sophistication on routes that require commissioning. What we're starting to see is that in a lot of cases that the process does not add any additional complexity or conditioning.

Now, if it's the same task on the same truck on the same route and there's no change in condition, be it infrastructure, safety or anything else, our view to the local government agency has been can we move to a pre-approval process or could we move to a decision-making authority that you delegate back to the regulator or move to notices.

It's been met with mixed responses across the country. Of the 400-odd councils that we deal with, there are many that are more progressive. There are many that are generally concerned about the condition of their infrastructure and their asset, and that is a complex one because we aren't an infrastructure body.

MR ROBERTS: Yes.

MR PETROCCITTO: We do believe that there is probably education, capability, investment that probably needs to be put into local governments. Engineers, and I apologise for any in the room, they're normally the most risk-averse, and normally in local government probably the most risk-averse, so they're concerned about that. The way we probably mitigate and give them some protection that the decision that they may take will not compromise the safety outcome, excepting that the regulator does have a chief engineer, has probably one of the best PBS engineers in the world and in that regard, the way they utilise that. We think more work definitely in that space.

What I would like to say is that I think over the last five years in certain parts of local government, I think they have embraced the provisions and their responsibility far greater that some State agencies have. Over the last 12 months, what we're starting to see in at least the majority of State agencies is they're now starting to comprehend what the concept of productivity networks may look like, the way you do commissioning or conditioning. Bringing them into the regulator and having that data definitely assists them because they now have a repository that they can go back and get history and data on. A lot of that didn't exist. But there is still an infrastructure problem in this country with condition of asset.

MR ROBERTS: That's probably a good segue into a general question around the national freight hub. Clearly, you've got a lot to contribute to the development of that model. Any thoughts you'd like to share on how that could be integrated into helping local government decision making and industry decision making?

MR PETROCCITTO: It's a really good question. I am supportive of the freight data. I think what I am keen to probably see is what's the problem we're striving to solve and what is the data going to be used and how will it be used. I think that definition needs a little bit more work. Once we've probably then defined that and, again, coming back to then what type of data. Now, if it's identified freight movement data on a particular route, fantastic. At the moment, as you would know, a permanent vehicle doesn't have to tell me how many times it moves on the road.

MR ROBERTS: Yes.

MR PETROCCITTO: It's got a permit. If it has a three-year permit, it could move three times, it could move 3000 times. We capture some basic movement data and commodity-type data. But again, unless you link that data capture to land use planning provisions and outcomes and their utilisation in broader strategic land use planning as to where DCs, residential precincts, types of networks that you might want to establish based on a particular commodity, forward planning and information that may come from agricultural agencies that says we're in for a bumper crop of X, that will mean X type of truck movers that need to do. We're going to need this type of gazettal notice in play. I think that's where the benefit of it comes from. If it just becomes somewhere to dump stuff in I'm not sure it's going to be beneficial.

MR ROBERTS: Yes. Well clearly it needs to link back then to the policy planning, a host of government functions, so you get the full integrated value of the information.

MR PETROCCITTO: Correct.

MR ROBERTS: One of the difficulties I think everyone is probably wrestling with - certainly we are - is it might be easier to find the capabilities that will be required for the owner or the operator of the hub - harder to find who the ideal party might be to look after that responsibility.

MR PETROCCITTO: Yes, and it is a discussion that we have started with the Commonwealth. We believe that we could assist them, definitely with the level of data that we are capturing. That's a discussion the Commonwealth is progressing at the moment, which we've continued to offer our support and advice if they wish to capture it.

MR LINDWALL: Could I say - I'll talk a bit about some of the enforcement; I mean some of the concerns that have been raised with us is that, you know, the NHVR might permit some - well for example, you've seen electronic diaries, logbooks, and then a policeman comes along and enforces something that's unrelated and then punishes a driver for that, and now theoretically that could be

taken to court and the breach could be thrown out because of other evidence, but there's a reluctance by truck operators to do that because it's expensive to go to court and that. I mean, is there something that the NHVR could assist operators in that respect?

MR PETROCCITTO: Yes. My personal view, I think this whole issue has been totally blown out of perspective. That's my personal view. Yes, we know that officers, and there's X number of them across the country, have delegated authority to do whatever he or she wishes to do as a policeman, but I'd be very surprised whether we would see a raft of one minute breaches being issues to drivers by policemen, because I'm pretty sure that there'll be a chain of command or a discussion come around that says 'Well hang on, let's have a look at what's really practical and appropriate here'. In saying that, however, we think, and what we are hearing, is that a large number of the very big corporates will adopt an electronic record as soon as one is approved, and the magnitude of that could be into the thousands.

Now, we expressed some concerns when the original provisions were developed by the NTC around the misalignment between the electronic record time constraints to the written diary time constraints. Our view at that stage was that they should have been aligned, so if there was a 15 minute increment in the written book potentially in the electronic there should have been a 15 minute increment. To some degree my view was, well, actually if they're an electronic record they're probably more committed to actually being an honest operator, and I'll use that cautiously, because the time is already being recorded, so if I'm seeing, be it the enforcement officer or the operator's seeing the record it's a more accurate record. Does it matter if they've gone over 30 minutes? Because the - it might have required them to actually take that extra time to get to a safe location.

The last seven day period has said they've met all of their obligations under time recording. What's the problem? So again I think it comes back to building confidence in our policing agencies that moving to an electronic record does not compromise safety; it's robust, it's auditable, and being electronic it is - actually should be more accurate than potentially the implications that come from using the written book. We should avoid drivers being penalised for spelling mistakes and putting the black line in the wrong line.

MR LINDWALL: Yes.

MR PETROCCITTO: But it then comes back to the fundamental discussion around what is the right fatigue approach moving forward. Now, my view has been if you're actually starting to use some of the fatigue monitoring technologies and devices the book's useless. Capturing fatigue there of the driver and being monitored in either two minutes or whatever increments is a probably more accurate measure of fatigue. Recording how someone works and how long they

work again probably needs a discussion, because the approaches that we're now starting to consider is more about how much sleep have I had, and how much sleep has that driver had before they get behind the wheel?

So that's the discussion that we have definitely put forward as part of our submissions to the NTC around what does a contemporary fatigue management framework look like. In saying that, we are also of the view that you will still need some basic prescriptive provisions, but they can't be the 85 or whatever pages that currently sit within the law that no one can comprehend.

MR LINDWALL: And in terms of chain of responsibility, of course, which is something that has a lot of merit in trying to - that it's not always an operator; it can be under a lot of pressure from the employer or the contracted party.

MR PETROCCITTO: Yes.

MR LINDWALL: How is that progressing and what do you see are blockages to that, or what type of things could be done to improve the effect of that, or efficacy of it?

MR PETROCCITTO: I don't personally see blockages. I think what I see is the law is still only some 12, 15 months new. It came into effect in October 2018. We are - as an organisation we are still working through what will probably be some of the first prosecutions under a primary duty arrangement, and can I say no state agency has prosecuted under the primary duties? So we will be the first in that regards. Like everything, I think some of it's going to need to be tested in a court of law to determine its appropriateness. I'm concerned a little bit that there might be some complacency being introduced into industry because they're not seeing prosecutions, but as a regulatory agency we want to make sure that these first prosecutions are evidence based and appropriately done, because the consequences of that could be more detrimental.

But our view is, at the moment we think that the provisions around the primary duties and chain of responsibility are largely right and probably don't need too much tweaking. We think that we probably could expand it to include vehicle manufacturers and repairers; that probably adds that other chain.

MR LINDWALL: Yes.

MR PETROCCITTO: But again, and probably witnessed by the introduction of some of the ride share companies that came in that caught government off guard with inappropriate frameworks in legislation, don't restrict the legislative framework that then inhibits us to then develop provisions or rules or guidelines to then address some of those concerns. More education needs to be done in the chain of responsibility space for sure. We are seeing that the good companies are

definitely putting provisions in play, but I'm concerned that some of them are probably taking it too far, which means that they're putting additional burdens on operators by wanting to do their own independent auditing, and that's, I think, adding a layer of complexity that was never intended in the law, which again comes back to my earlier comment around if there is a single regulatory agency that's administering a national accreditation framework or an auditing regime, and if that meets the obligations of the law that should be accepted by the upstream customer, supplier.

MR LINDWALL: Yes.

MR PETROCCITTO: They are always going to want to do their own checks and balances, but we have to stop what I'm hearing are complex audits that can be in the vicinity of 10 to $15,000, and you might have to do three or four of those because shopper A, shopper B, and shopper D wants to do their own. That's not efficient.

MR LINDWALL: No, no, it isn't. Yes. On the - going back to permits, you've got an online route planning tool. What do you feel about having the public availability of information about permit approvals?

MR PETROCCITTO: My view, and I think you guys might have picked this up in our discussions, I have a view that we should be outward facing as much as we can, to everyone, as quickly as we can.

MR LINDWALL: Yes, I thought that. I just wanted to get that on the record.

MR PETROCCITTO: Yes, and I personally believe I don't think we use geospatial mapping adequately. I think we could do a lot more in geospatial mapping. I also think we could be doing a lot more in pushing data back out to whether it's telematic systems, Navman devices, whatever it may be. There is a wealth of information there. What is probably improving is the quality of the data. A lot of effort has gone into that, and it's probably come evident through the recent bushfire disasters that probably more work could be done around route identification or blockages in real time. So it's probably something that we may need to consider moving forward in that space as well.

MR LINDWALL: I've got a few other questions but I don't - - -

MR ROBERTS: In terms of time you should shoot through yours.

MR LINDWALL: Also because the team had wanted to ask questions about does the NHVR support the recommendations of the Medlock Review?

MR PETROCCITTO: The Medlock Review was an independent review. It was an independent review that was undertaken to gauge the three different regimes that exist in accreditation.

MR LINDWALL: Yes.

MR PETROCCITTO: The steps that we have now taken through the endorsement of TISOC is that we will now work with state agencies and industry to look at developing what a national accreditation framework will be. That has now been linked to the work being undertaken by the NTC, because if we don't have a policy framework which in effect gives a head of power to actually say that we're going to move to a national framework Medlock Review - well, his work - Peter's work will be considered in that determination, but the discussions are still out with the jurisdictions as to what the framework looks like.

MR LINDWALL: A slightly different topic. In our report we said that effectively (indistinct) prescriptive law is good for a lot of smaller operators who want the clarity of it, but that doesn't mean they want it to be so prescriptive or so excessively burdensome, and so the review of the law itself is - to simplify it is valid, but on the other hand, having a system where more sophisticated operators can improve their innovation by having safety management systems, that characterisation you would generally agree with, I guess?

MR PETROCCITTO: Fully support. My background is land use planning, and land use planning has already gone through this debate around the basic prescription around what the intent or outcome is needed, and you follow the rules, to an outcome solution that can be demonstrated by a very innovative landscape - an architect or a planner to achieve the outcome. We fully support those provisions. The reason we think you still need some basic prescriptions is there are still a very large proportion of the industry that is above four and a half ton that is not (indistinct) itself to be a heavy vehicle driver, and that's a plumber or that's a bricklayer, or that's wherever, and there's a large number of those registered vehicles.

They still need some basic law in terms of how they manage and operate a vehicle safely, to the other end of town, which might be your Tolls, your Linfoxes, or even a very smart, small operator who's invested in technology that can demonstrate to us, through systems, processes, and capability, that he or she can do exactly the same thing. The law has to have that flexibility. The law has to have the flexibility not in the law. The law should provide the lead of power, but it should be either in the regs or guidelines, which allows us to be responsive and agile in then amending where we can.

MR LINDWALL: Now, we went out and participated in a number of your outreach activities, which were very positive, and we - in quite a number of locations in Australia, and I understand they're a regular feature.

MR PETROCCITTO: Yes.

MR LINDWALL: That's part of your educational role of course, or outreach, and are you able to gather from that a sense, maybe through surveys, about how the regulatory burden is changing over time and the perception of the operators to that burden?

MR PETROCCITTO: This industry is never backwards in telling what they think. Just hop onto Twitter. But we are. We do - we're using multiple channels at the moment. It's direct feedback from the officers. We do use social media a fair bit. The feeling that we are getting at the moment is that the change of approach that the regulator is starting to adopt in terms of its enforcement approach, which is inform, educate, and the hard heavy hand, seems to be resonating with the industry, and they are appreciating the more customer friendly approach that our office are trying to bring to that discussion. So, it's early days but the information that we're starting to see is that it's going in the right direction.

That discussion is continuing with state police agencies. I meet with the assisting commissioners of police now every six months, and that discussion is occurring around how we then instil, I suppose, our philosophy around enforcement and compliance with some of the activities that they do. More work needs to be done in that space; we acknowledge that. The assistant commissioner has acknowledged that, but I think there's a desire there to probably relook at the whole enforcement and compliance approach. What we're not going to move away from, however, is if someone is doing something wrong we're still a regulator.

MR LINDWALL: Of course.

MR PETROCCITTO: And we will use the powers, and to some degree the powers are pretty strong at the moment, and we'll use them.

MR LINDWALL: Is there any scope for bringing the road managers together in, say, an annual conference or something like that, to share the learnings, or how do - since councils vary and the road managers vary in their aptitude and how frequent the movements of their permit applications and so on, to actually help them understand some of the better practices from other councils?

MR PETROCCITTO: Yes. We've done a number of those. We've had a couple of engineering sessions where we brought local government engineers. We're now - excuse me - I believe we have in program for this financial year two additional programs. We've got one currently being planned by Mackay City Council

actually, so we're going there. We work closely with the local government associations. Yes, we think more can be done in that space. What we're also seeing is that more of those probably need to be taken to the regions.

MR LINDWALL: Yes.

MR PETROCCITTO: Which we're considering as well. Now, there are cost and resource implications to that, but we - we're starting to see that the uptake of those engagement sessions has been beneficial. We're also starting to see that the utilisation of the portal in some cases is starting to add value to the road managers. Bringing the state agencies together is not complex. They're a smaller number. There are a number of forums that we do in that space, but we are definitely going to do a lot more. We're working with South Australia at the moment. I believe the South Australian government will appoint a local government liaison person shortly, similar to what Queensland had done, and we understand that the Victorian Local Government Association is still considering a similar type approach. So yes, a lot happens in that space.

MR LINDWALL: And in terms of the Australian design rules, is that an issue, because a few people have told us that acts to prohibit or discourage safety that might be able through (indistinct) cameras and so on?

MR PETROCCITTO: Yes. It's definitely a discussion that we are having with the Commonwealth in terms of the vehicle standards and the Australian Design Rules. There are some complexities in terms of Australia's commitment to UN standards and stuff, but I personally believe that a more pragmatic approach on some of this stuff does need to be adopted. We are losing out on significant safety benefits in innovation in technology in vehicles because of some of these provisions, but it's something that we have to work with the Commonwealth on.

MR ROBERTS: That would be mainly about the width standards and - - -

MR PETROCCITTO: Well widths, lights, length. There's a few there, Commissioners, that we think don't inhibit or impact on the network. Like, you know, and Garry may have mentioned it in his comments, but moving to a 20 metre length vehicle adds a whole lot of safety benefits. Having a 19 metre combination that can't have a bull bar that runs on the Nullarbor is stupid because he's going to be 100 mil over. That's some of the crazy restrictions that we currently have, so that's where I think more flexibility for the regulator to assess the impact of what's being asked for on the conditional network. Now, having that on West Pennant Hills Road in Sydney is probably ludicrous, but in the outback of Australia you probably wouldn't want to drive a truck without some of those safety features.

I think width is definitely something. I also - and I acknowledge, and I'll put it on public record, that local manufacturing in this country is important, but it can't come at a cost of impacting on what safety benefits may be able to introduced by operators to improve their safety performance.

MR ROBERTS: sure.

MR PETROCCITTO: It's a fine line that we have to work through, but it's something that will probably be a Commonwealth decision, not mine.

MR LINDWALL: Yes. Did you have any questions (indistinct)?

MR ROBERTS: No, conscious of time.

MR LINDWALL: I think that's - Sal, thank you very much for your time today, and much appreciated.

MR PETROCCITTO: Thank you, Commissioners.

MR LINDWALL: We look forward to continuing (indistinct).

MR PETROCCITTO: Thank you, sir.

ADJOURNED **[10.28 am]**

RESUMED **[10.37 am]**

MR LINDWALL: Thank you. If you could introduce yourselves and give a statement that'd be perfect.

MR CHOW: My name is Robert Chow. I'm the transport logistics lead at LGAQ.

MR BRITTON: Scott Britton. I am the acting team leader infrastructure, economics and regional development at the LGAQ.

MR LINDWALL: Thank you.

MR BRITTON: Commissioners, thank you for your time. It's great to see you once again, and as we have done previously throughout the course of this inquiry, happy to continue our discussions. I'll just start off by saying that, you know, obviously the Local Government Association of Queensland is the peak body for local government in Queensland. We represent the interests of Queensland's 77

councils. It's those 77 councils that are they key provider and manager of infrastructure, including community facilities, roads, bridges, storm water management, waste water, and water supply, you know, and this infrastructure really supports the operation of regional economies and the communities that they sustain.

Councils are under constant pressure to increase the number of and expand the range of services, including as a result of rising community expectations, increasing demand from other levels of government, some pressures from above, and obviously changes in standards and legislation. You know, obviously the - I guess the creation of the regulators and transport reform has added to that burden in this regard. Local governments obviously recognise their critical role in responding to the growing freight task, but however councils face a delicate balancing act when it comes to the need to improve productivity of road network versus the responsibility to preserve their infrastructure for the use of their community.

As Sal highlighted a fair bit throughout his testimony, the Local Government Association of Queensland has taken a bit of a proactive approach in this regard. We've worked with the regulator through the establishment of a memorandum of agreement back in May 2016 which led to the creation of what was known as the Heavy Vehicle Access Liaison position at the Association, which was put in place to work with councils to really work around capability and capacity support, education, and development with those councils in order to progress down that pathway from permit to preapproval, and in many cases now in Queensland, as of right networks.

You know, the freight task typically starts and ends on a local government controlled road, so there is obviously a need to respond to those increasing demands, given the growth in the overall freight task, but this also poses a number of challenges for councils in the sense of community expectations, road standards, and ultimately funding. So I might leave that as just the opening statement. We've been through quite a lot of this before and in our submissions in greater detail, and we're happy to take questions and have a dialogue today.

MR LINDWALL: Thanks for that. I think - thanks very much for the cooperation that we've received in this inquiry. Could I ask, I mean, I think it's fair to say that Queensland has the most diverse range of councils in the whole of the country, because you have the single largest one, Brisbane.

MR BRITTON: Yes.

MR LINDWALL: Down to probably the smallest one perhaps; I don't know, but pretty much, anyway, and it's obviously for - very well resourced and councils having the capacity to understand the type of task and their assets is much easier

than for some of the smaller ones, and your liaison position is helping there too, but what other ways in which, say, the state government or the federal government could assist in the smaller councils in that task, where they may only have one or two applications for permits a year even?

MR BRITTON: Okay. Look, it is an interesting point, in that we do have, you know, Brisbane City Council, you know, the size of that organisation. Yes, often there's parallels drawn between its budget and that of other state governments in the south, but you can draw similar parallels the other way in terms of - let's use Tasmania as an example - the geographic area of Tasmania is equivalent to that of the Diamantina Shire, but yet Diamantina Shire itself is not dealing with a budget that's - of the magnitude of Brisbane, so there are those differences. I guess the primary avenue with which we've sought to undertake our proactive role has been through the regulator. However, that hasn't excluded us working with other industry associations or even TMR itself.

We've worked quite proactively with the Queensland Trucking Association, we've worked with the Crane Industry Council of Australia, and we've worked, you know, with TMR as well, and we've brought all of those people together to provide, you know, the necessary support to councils to aid their decision making and really assist them in understanding what it is that's before them. You know, an engineer in the council is responsible for bridges, roads, you know, the water - waste water treatment plant, a range of things. It's a challenging role whereby they've got a number of competing demands and they've got a range of things to deliver on a day to day basis, and then bits of pieces come along over the top in those instances where you have a - like, a government area where the number of applications they receive in a year may be small. It's almost like an 'Oh quick, I've got to get the handbook out again to understand, or find my password so I can log into the portal' - some of those simple things.

MR LINDWALL: Yes.

MR BRITTON: You know, we've had instances where Robby has taken phone calls from councils because they've sought to come to us because they didn't want to make the other call for the, you know, I guess the sake of being embarrassed, just some of those simple things. So, I think the ultimate answer to your question though is that ongoing education and support. That support can be in many regards. It can be that, you know, just the extra training, but in many instances that also needs to move into support in - around engineering assessments and understanding infrastructure, and more like - - -

MR LINDWALL: What their assets that the council has - - -

MR BRITTON: What the assets - what are they actually dealing with. You know, in the federal budget last year there was some money set aside to go through

to the (indistinct) to do some work in and around bridges. Those sorts of programs whereby some scale can be achieved to deliver a (indistinct words) of the network would be extremely beneficial.

MR LINDWALL: So have you seen what happens in Tasmania, and you mentioned Tasmania as a small jurisdiction in terms of understanding its own networks?

MR CHOW: Yes. I think the leadership that they've shown is a good example. So, as a starting point what this role has provided is it gives a lay of the land in terms of the risks. We collaborate with industry, like AgForce, whether it was with the Ag notice or the Crane Industry Council of Australia, to provide their perspective. I give them a general overview of basically 'This is the risk profile of the vehicle. This is what you have to consider, and this is the task that it's undertaking', and so what we've been able to manage in three and a half years is to get a lot of preapprovals and notices signed up, and what I would call the low hanging fruit, where it's kind of no-brainer. Like, a crane weighs what it weighs. We know what the issues are. Bridges are the main issue, so what councils have done is they've responded and they've said 'Here's the bridges we don't want you to cross'.

So, to sort of go one step further, what the Tasmanians have done is obviously they've provided a system that can help inform decisions for local government, but the - probably the biggest thing they've done is they've collaborated with councils and come in almost and shared the risk responsibility, and I think that's the key part. Also, some councils are tentative to make - you know, to jump from a permit to a full blown gazettal because of that perceived risk, but where a state jurisdiction has come along and actually said 'Well this is what we do. This is the methodical approach that we take to manage the risk', what you've seen is obviously, you know, a remarkable response to industry down there.

MR BRITTON: I think what I want to just add to that is that we obviously work with our interstate local government associations quite a lot, and you know, just through that dialogue we became more aware of what was happening in Tasmania. We actually led a delegation of councils down there to spend a couple of days with the Department of State Growth, to get a greater understanding as to what's happening there, and we're currently in the process of rolling out, I guess you could call it, a pilot project to look at the feasibility of actually adopting some of that here in Queensland.

MR LINDWALL: Could you tell me a bit about your reflections on how the road network in Queensland has evolved for heavy vehicles over - since - particularly since the NHVR has been created, and what councils have found have been the good parts of their interaction with the NHVR and where it could be improved further, I guess?

MR CHOW: Councils that receive the highest volumes early on have naturally responded and improved just through, you know, I guess - - -

MR BRITTON: Necessity.

MR CHOW: Visibility of what's happening. Councils that don't receive many, as Scott said before, a lot of them are sharing with, you know, one - you know, one civil engineer between four or five councils, but they're not getting that volume. So I think what you'll find in Australia is where you're getting the higher volumes councils will generally respond, but there's - obviously the big gap really is understanding the - their assets and what they can take. Some councils have spent quite a lot of money on bridge and culvert inspections. Mackay Regional Council, I think they had spent, as of last year, $450,000 on culvert inspections since the inception of the law, but they're one of our higher volume councils.

So there's - I guess the key part is where there's a high number of permits councils have responded and adequately resourced but, you know, across the whole state of Queensland I think we've only got one or two councils that have a full-time resource dedicated to heavy vehicle permits, and unlike a state jurisdiction, which has got a pavements unit, a bridges unit, and they know their bridges probably too well, yes, that's not the case in Queensland councils at least.

MR LINDWALL: Do you think that there's - the number of classifications of heavy vehicles is excessive for the purposes of local governments? Could there be a simplification in terms of the range that - - -

MR CHOW: Yes. So, I mean, the heavy vehicle classification frameworks, or however you want to coin it, has been around for a long time. I think from a local government perspective we would certainly like to see something where you could compare risk profiles. I think - I know of some state jurisdictions that have developed, for example, there's a whole heap of different type of bridges and culverts around the land, and they basically classify vehicles. So, you know, you could say that vehicle and these suite of vehicles are actually okay over that bridge, versus not okay over that bridge. So yes, definitely, if you're thinking around Queensland local government, the majority of the people that are responding to the permit application requests and the gazettal notice requests are generally civil engineers. You might get the odd bridge engineer, you might get a few RPQs here and there, but their bread and butter is not heavy vehicles, so guidance from, you know, chief engineers from the NHVR or some sort of enveloping or risk-based framework would certainly assist.

MR LINDWALL: The approved guidelines for granting access, which I think were updated last year, how well adhered to do you think they are, the guidelines for local councils?

MR CHOW: I know early on in my role I was - as part of our workshops that we were rolling out we were letting councils know that they were there. I was definitely using it as a reference tool. It is a very good document. I'm not sure if it's online at this stage, but I think they're close.

MR LINDWALL: Is that (indistinct)?

MR PETROCCITTO: In parts closed, Commissioner. I believe that the jurisdictions are just doing a final review to then allow us to publish it.

MR CHOW: But there is good value in that document because it does make you think about the whole great task and the whole picture when making a decision.

MR LINDWALL: Do you think your road managers would like the public availability of permit applications and their approvals?

MR BRITTON: It's a very good question. Again it comes back - I think the first point to my answer was ultimately it depends on the community expectations. You may have a community where a truck is seen as being big and bad. So the expectation upon that council would be obviously in line with the community's expectation. Yet on the flipside you have a community that actively embraces the core sense supports industry, you might have as Sal was talking about before, you know, associated land use with distribution centres and the like and major employment generations. They go hand in hand. It really does come to I guess the community expectation at the end of the day.

MR CHOW: I can say one thing from a geospatial thinking point. Restrictions on structures is one big thing that we worked quite heavily with the Crane Industry Council of Australia, as well as the NHVR through the Return of Delegations project, and what we were able to achieve is a mapped network for cranes for access by exclusion where you have got red dots on a map that basically represent where you can't go. The next level to that would be with certain cases, and obviously you can't speak on behalf of all 77 councils as Scott alluded to, but preferred routes certainly would be something that I would imagine that the majority of councils would be very supportive of. So, yes, red dots on a map where you've got critical structures, and it might be green lines on a map which is this is our preferred freight routes through town and that sort of thing.

MR LINDWALL: Could I reflect on something that we recommended in a previous inquiry at the PC, in two inquiries. The first one was in public infrastructure which I was involved in and it was about a road funding, (a) there should be a road price, and (b) that there should be road funds where the funds are allocated to regions if you like for the infrastructure there, and obviously we did reflect in that inquiry, John was on that too, that obviously some of the more

remote regions would need to cross subsidies to it because they don't have a volume for that. Is there a view the council have got of LGAQ about whether that's a good thing or not, or do you actively support it?

MR BRITTON: The funding for road, like a road network is typically comprised of council's own sourced revenue. You know, they identified road component of the financial assistance grants, another example, and then a lot of other grants and subsidy programs. So there can be a lump in nature to the funds the councils do receive. Whether or not a new system would deliver a smooth flow of funding is probably one thing, but, yes, there does need to be some examination of how we adequately fund a road network moving forward.

MR LINDWALL: What about permit applications and the revenue that's sourced from that which goes to the regulator of course. Is there any comment or reflection on how that should be allocated or received?

MR BRITTON: Well, I guess the answer to that is, yes, as you've highlighted we don't receive as a sector any revenue for that, so it is a cost imposed on local government to respond to a permit application. We did work with the association's legal advisers at the commencement, a law to shore up a position around that and provide advice to councils, because councils are able to set a fees and charges schedule, but unless there's an actual service that council is providing to support a movement there is no other fee chargeable. So if a council is required to come out and undertake a specific activity on a roadway that allows a vehicle to move through they can charge for that, but other than that there's no recovery for I guess the office type roles that they would provide.

MR LINDWALL: Of course road (indistinct) would sort that out.

MR ROBERTS: Okay. Thanks, Paul, Scott, Rob, thanks for your evidence and for the submission. It's always appreciated, and it's good to see Queensland doing a very good job and tackling an issue that's bedevilling lots of jurisdictions. That's my parochial comment. We heard from your colleagues in New South Wales yesterday. They quoted data from a recent NTC issues paper that effectively said that the overwhelming majority of permit applications were approved and they were approved within a seven day period. So that seemed very positive. On the other hand it also suggested that there's a lot of applications that are essentially non-controversial and end up being approved reasonably quickly. So that suggests there's a lot of paperwork involved for everybody, but not necessarily a lot at stake or a lot at issue.

So can we look at the process the local government goes through for approvals. We have had comments from industry that industry at times feels that process lacks transparency, that they're not all together sure in those instances where approval is not given, they're not necessarily sure what the reasons for that might be, and it's

also a tendency natural enough to wonder whether they should be in a position to have that decision reviewed by an external party. So transparency and accountability are sometimes raised with us by industry. Do you have any thoughts around how councils in Queensland are managing those expectations and is there a best practice model that doesn't necessarily have to be underpinned by regulation or by the requirements of NHVR, but could be something that councils should be doing?

MR BRITTON: I think a lot of the work that the regulator has delivered through the portal in particular provides, or it certainly increased levels of openness and transparency. You know, for a multi road manager journey you will be able to see where things are at for each individual road manager. I think again it comes down to, and to sort of pick up on the seven days being the sort of that rough over edge versus some of those ones that lag out, it probably comes back again to the volume of permits that are received versus I guess the size and the capability of the council to deliver that. So there would still be quite a few permits I would imagine going to Brisbane City Council as an example and their capacity to actually process those within that reasonable timeframe versus one of those western shires as Paul was alluding to before. They might get the one or two applications a year and you've got to scratch the head to think about the password and those other things first before you get on to the task, or that's just another thing that goes on to the pile of all the things you've got to do within your available resources.

MR CHOW: Yes, out of the 77 councils obviously the process across the 77 councils varies greatly. Obviously based on your - Brisbane has got a bridge team so they would probably send their applications off to the bridge unit. You know, you will get different teams having a look at it. The comment on the high volume permits too, obviously with higher volume of permits you've got a greater access network, and so councils that have got - like Mackay for example they've assessed their entire Paget Industrial Estate, because that's where all the mining vehicles might sit and then they go out. So their process would be a lot quicker than a council that doesn't receive permits very regularly, because they've obviously assessed the network. So, yes, the point in terms of the volume and the process.

MR BRITTON: There's an inverse proportion between the volume and timing it sometimes, because naturally enough you haven't had the opportunity or the need to develop a capability to assess those applications in some cases.

MR CHOW: In terms of the external review point though, and I think that came up during the national - the NTC heavy vehicle law review, what I will say is a lot of councils take on quite a bit of risk when they're applying - when they're responding to permit requests. Toowoomba Regional Council and Western Downs Regional Council for example, it's in the farming growing region, if you were to do a PBS (indistinct) assessment on half of the B-double and road train routes in

Toowoomba and Western Downs you'd find that it would fall short of the standards.

So in terms of councils as a road manager they will generally take a view, you know, community sentiment pending, that we support industry because this is good for our economy. So they will certainly take a risk when it comes to taking permit applications. So I think industry calling for external reviews is a bit of a risky one, because if you were to pay a consultant - if you were to pay a consultant to do a network wide assessment what you would find is consultants are held to engineering standards, and I think Sal mentioned how risk averse engineers are. The AS5100 - - -

MR PETROCCITTO: It's one of their many adorable features. They're great people, I work with many - - -

MR CHOW: Yes, the AS1500 code basically says that you have to assume that two heavy vehicles are at the maximum loading on that bridge, and in the case of, you know, mining vehicles a lot of those bridges you're not going to get two mining vehicles on it because you can't physically get two mining vehicles on it. So I'm just saying there's a bit of a double edge sword with the external review.

MR ROBERTS: That's a point well made actually, Rob. In your comments around Tasmania you pointed out how the State Government had helped essentially by - the words you used were essentially sharing some of the risk, or at least allowing councils to have some insight into risk. I am sure this is a bit of a moving feast because as you encounter more and more requests and the risks change, council have an appetite for that help from state governments. Is that something that you have given further thought to about what state governments might be able to at least here in Queensland, or more generally, to build in confidence that if there is risk to road infrastructure, because some things obviously like safety and community amenity that will probably be local decisions, other issues around quality of the asset, the maintenance of the asset, et cetera. Is there any arrangements there you think might help councils?

MR BRITTON: I think the - and your draft report touches on it very well about the sharing of expertise to the local government sector, so state jurisdictions who have large bridge teams, who have teams who look at specific parts of infrastructure as their broad role can provide support to local governments in that regard. The area of bridge assessment is a great example. The ability for councils to bring in those sorts of, you know, specialist services can be challenging, but to have that available whereby a broader network planning context is taken to assess a series of bridges that are vital to a network that would be of great use.

MR ROBERTS: Good. So the local bridge and infrastructure program that Sal mentioned earlier is something you think they've had wider application, possibly more appetite for that sort of assistance?

MR BRITTON: Definitely. Yes, definitely.

MR ROBERTS: The other thing, we've been very - we have had a lot of evidence around the portal, the NHVR office, and how that provides a level of transparency and assists with route planning. Do you see councils using that more for their own planning purposes; is that a tool that you get a sense that councils can see considerable value in?

MR CHOW: I know the national data freight company that you're talking about, and obviously the portal has been one piece of that puzzle in understanding, you know, what have I approved, what have I refused, rather than it potentially being housed in an Excel spreadsheet or worse case scenario in somebody's brain. I think the next piece of the puzzle is around transport technology, and what we have obviously done we've picked up the low hanging fruit, you know, you approved that on that road before so that's good for any of those vehicles and that's an easy quick win. I think the big - the next step that local government want to see, and we have yet to see it, at least in my time, is access to movement data. Even if it's anonymised just keep that - that informs maintenance decision making.

We spoke before about funding allocations and a lot of councils are very reliant on funding. I think well and truly more than half of Queensland councils are very reliant on funding. If you can say that this road gets used a hundred times a week, you know, that's something that builds a funding case, and we can then deliver the infrastructure required to support industry in what they're trying to do. I think I mentioned in submission to your draft report that we strongly support the national data freight hub, but from a local government perspective we would like to see a bit more of that technology, and from conversations that I've had with industry a lot of industry are actually saying, well if you open up our access we will happily give you - and so you will actually start to build the confidence - like you will get road managers building confidence because industry are sharing that data, and then obviously the next step up there from there is if industry aren't doing the right thing, which I assume that most do the right thing, you know, Sal and the NHVR can do some compliance and education.

MR BRITTON: I think the other aspect too is that the portal offers an opportunity for councils to send a signal to industry in the sense of here's our road network, here are our limitations. So the example I use is the local transport operator will be aware of the sign that says 10 ton maximum load on that bridge, because they happen to drive around that community all the time, whereas if you take an actual operator who may be headquartered in say Melbourne they may not even know where the town is, let alone know that there is effectively a piece of public

information on the side of that road. It's just not available in a form that can be consumed by that particular person.

So if we can get some of that information available through a portal we start sending signals as to where preferred networks would be. It would increase, you know, the likelihood of a positive response to a permit application, rather than say for example at the outer limits we're waiting 28 days to receive a response saying, no, we have got a dodgy bridge. You can see that straight away by saying, okay, well that bridge has got a 10 ton limit, we'll look for another route to go around that. If that happens to be the only route it doesn't preclude industry making that application, it just sends a signal then that there's going to need to be a further dialogue about how that movement can be facilitated.

MR LINDWALL: I think the final question from me is related to in an ideal world where everything was well catalogued and we knew the limitations permits were applied for and appropriately responded to, et cetera, et cetera, because it's not always the case. Now, Brisbane you walk around you can see plenty of cameras, so I'm pretty sure that they can find out bad operators who ignore the rules and drive anyway, but there's a lot of councils out there who wouldn't be in that circumstance, and I wouldn't be surprised there are the odd operator who would not - won't apply for the permit and will drive anyway and over the 10 ton bridge, or maybe 20 tons and not still do it. What more should be done for that, or is there anything - what are the councils view on that side of it, the dodgy operators if you like?

MR BRITTON: Well, I think this sort of refers to our position in and around telematics - you know, local government doesn't want to be big brother. Obviously a role of a regulator is to regulate industry and part of Sal's job is to ensure that there is a level of compliance with those sorts of matters. Obviously where councils can provide Sal with appropriate evidence that certain wayward behaviour is happening Sal would undertake the appropriate steps to ensure the appropriate enforcement was in place.

The flipside to that however is probably to marry access to confidence, that infrastructure is being used appropriately, an example being, you know, the SPB1, class 1 notice for small cranes and the like. Every council in Queensland has signed up to that notice. There are a couple of councils who have signed up to that notice with some restrictions. Brisbane City Council for example had some restrictions around eleven bridges within that notice. So those sorts of vehicles utilise the IAP system, so there's a reporting that goes with that. You know, that's sort of the old style, but if we can move through to that sort of de-identified style whereby we're using technologies whether they be telematics or other to get an understanding of how the network is being utilised, that one that creates that confidence, but then also allows for the appropriate investment planning.

Then furthermore I guess the maintenance planning that needs to go with these things, and (indistinct) Road might have a thousand vehicle movements a day, five of those might be heavy vehicles, the asset management planning for that network would be very different to a similar road of a thousand vehicles a day, but 20 per cent of those will be vehicles. It's that information whereby councils can then make investments decisions around renewal cycles, capital upgrades and those sorts of things, again all within the constraints of available funding whereby they can do their part to appropriately support the freight task.

MR LINDWALL: Did you have any final comments before we finish up that's been sort of - - -

MR BRITTON: I guess the - - -

MR LINDWALL: - - - that we have missed out on or something?

MR BRITTON: No. Look, I think the only other comment I would offer is that obviously the work that LGAQ has done in its productive approach in partnership with the regulator obviously that's been recognised and been recommended for adoption elsewhere. Sal touched on how that's progressing in South Australia and Victoria in particular. I think across the board it might be worthwhile the Commissioners giving some consideration to how similar programs could be established through particularly the office of the national rail safety regulator.

We are pretty well advanced here in terms of the interface agreements in Queensland. However again it's just one of those additional things that comes along that takes attention away from those day to day things like engineers are required to do. So really about ensuring that we have that continuous program of capability and capacity development support. A lot of that comes in and around understanding the requirements of those IAs and what needs to be achieved. As I said by and large we have done here in Queensland. It's probably the flipside, you know - the western areas are pretty simple because we're talking about simple upgrade crossings on a country road, whereas you come to the urban environments, you have got councils where there are a lot of interfaces and a lot of them are extremely complex. So there's a flip there in the sense of the organisations negotiating those IAs need that support to ensure that they're getting the appropriate outcome.

We have found in a couple of instances where the officers are negotiating on both sides of the coin, probably a bit too junior in the organisation whereby then they have got to go back and seek I guess reassurance or approval for what they've negotiated. So there needs to be some support there to get that particular piece of work completed, because there's definitely some benefit ensuring that we have that safe interaction between vehicle and train. In a similar fashion we need that

support from that regulator to ensure that all parties clearly understand the roles and responsibilities and what the task is in front of them.

MR ROBERTS: It's good you raised that, Scott, because one is represented here this morning.

MR LINDWALL: And they can say something if they wish to. Scott and Robert, thank you very much for appearing today. I think that we have got some goodies to eat, so we might have another ten minute break, or actually we're scheduled for a break until 11.30 actually, and then the Queensland Trucking Association. So please take the opportunity of refreshing yourself. The toilets are this way if anyone wishes to go.

ADJOURNED **[11.12 am]**

RESUMED **[11.33 am]**

MR MAHON: Thank you for the invitation today, Commissioners. And I certainly was very keen and willing to take up the opportunity to have a few words to say here today. My name is Gary Mahon, I'm the CEO of Queensland Trucking Association. I should also mention that just for any perceived conflicts that some people might perceive I'm also a member of the sixth member expert panel and its oversighting for HVNL, so I have contributed significantly in that space with both written and other participation, so I have not proposed to submit anything in writing for today. It was taking the opportunity for oral testimony.

And by way of background I have spent 40-odd years on the other side of the fence in the regulatory space, and - - -

MR LINDWALL: You're forgiven.

MR MAHON: - - -I'm now on the enlightened side and therefore my comments today are somewhat from the perspective of what I would call objective analysis of where we're at and where we think we're going, and I would like to reiterate that in that analysis it might be seen as somewhat un-emotive and cold and hard-nosed and it's meant to be an analysis that goes hard on the issues and not in any respect pointed at anyone or any organisation. It's simply a cause for reflection and I'd like to take the opportunity somewhat to pose some questions to the Productivity Commission and its analysis.

MR LINDWALL: Okay. Good.

MR MAHON: I should also say that I certainly do hold the PC in high regard and I am quite well known for quoting from many of your reports, so I do like to utilise the data and the perspectives that you generate, particularly as I appreciate the objective analysis that you bring to many issues across the board.

MR LINDWALL: Thanks Gary.

MR MAHON: My first observation is what are the fundamentals? We've got to be very careful I think not to enter into self-acclamation about how well we're going at implementing a system we invented and properly examine exactly what we're setting out to do and the efficacy of what that construct actually is. And in summary I'll point to five elements of the HVNL where I would pose some questions that I think warrant reflection particularly on behalf of PC.

In the drive towards harmonisation I think it must be remembered that the pursuit of harmonisation means the pursuit of lowest common denominator. When you put together the views of eight jurisdictions across the country with political relevance being applied that in effect is what you're setting out to do. You are going to reach a lowest common denominator to reach an agreement to implement a system wherever it might be. It doesn't matter if it's to do with cigarette smoking or heavy vehicle law or anything else that's where you're going to arrive. So here we have a country that's highly decentralised, a very large geography with a relatively low population, and our pursuit is to reach high standardisation which equals low discretion, so where you have a high standardisation environment you have low discretion being applied in every diverse element of this country.

In terms of what we're setting out to do here I think we need to reflect on the net effects of what in fact has been occurring. We have yet again another example of additive regulation, so I can't see too much evidence of anything being repealed when the Heavy Vehicle National Law was introduced. So we have 150 to $200,000,000 cost, we've added another 750 pages to the statutes, what is the efficacy of what we're setting out to do in terms of regulating an industry that is a key economic service agent for the country.

When a driver gets into a truck in this country they need to understand, and can be breached for, in excess of 2200 pages of legislation. That's not counting codes and a whole raft of other elements that are utilised to instruct them as to what they need to do. So one of my questions is what is the regulatory cost to move a tonne of freight? So when we go down the road with 32 pallets on board, are two, four or six of those pallets paying for the regulations and the rest contributing to commerce? We'd like to know what the answer to that question is. So we're certainly interested from a perspective of the industry to understand what regulations are being applied for what purpose and the efficacy of that purpose.

I should have added that I do pay due regard to the submission by the ATA, the associations around the states are in fact independent entities, but we are members of the ATA federation so to speak, and they have certainly put in a submission which I have read and contributed to in terms of the detail. I'm taking a more macro view and posing - - -

MR LINDWALL: Yes. Yes.

MR MAHON: - - -some different questions. I sometimes want to use a football metaphor in that there's a lot of excitement about the game of football, whether it's soccer, AFL, rugby league, it doesn't really matter. When you really get down to the rudimentary elements the game of football is about taking a bag full of air and getting it over a line. That's it. That's the net effect of the whole game. Now, we create this enormous industry around regulation, crowd participation, stadiums being built - - -

MR LINDWALL: Yes.

MR MAHON: - - -but the whole shebang that goes with simple game of getting a bag full of air across a line, well, in the road freight business our business is to move a tonne of freight from A to B. We want to do it safely and we want to do it efficiently. We want to do it in such a way as it makes this country competitive on the international stage for a variety of economic perspectives.

So we have a circumstance where, if you want to move a tonne of freight from an advanced manufacturing facility in Ipswich to the Port of Brisbane, it will cost you substantially more than it will cost you to travel it by ship to London or by ship to Shanghai. If you want to move a tonne of grain from Millmerran to the Port of Brisbane that will cost you substantially more than it will cost you to put it on a ship and send it to London or Shanghai. Now, I'm not suggesting we're going to be able to meet shipping costs, but we need to be striving to get as close as we can. If you look at the latest report from AgFutures about the cost of the gross value of production for agriculture, whether it be cattle, vegies, grain, whatever the case may be. I'll pick one out, and that is - let's just pick grain and vegies for example. Now, that assessment, which has only just recently been produced, is that 26 per cent of the gross value of production for grain and vegies is transport costs. Now, that cost is going up not down, and I'll pay some attention to the reasons for that. I'm selecting it out as an example because we like to deal with facts rather than emotion or supposition.

So I've made the point about additive regulation. I would also make the point about general access productivity. General access productivity, the last intervention ceased in 1996. There was a change in 2004 which took us from 25 metre to 26 metre B-doubles, but that was only for a couple of manufacturers to be able to fit their prime movers into that combination. It had nothing to do with

productivity. So the last general access change to productivity occurred in this country in 1996. By any assessment since 2000 the freight task has grown about five per cent year on year. Lots of people quote, you know, 26 per cent in the next six years or whatever the case may be. If you cut it down to, you know, relatively rudimentary averages you're in the vicinity of about five per cent year on year.

MR LINDWALL: Okay.

MR MAHON: So we've had a hell of a growth in the freight task with not much change to genuine productivity across the system. I'm talking about systematic change, not some elements of.

MR LINDWALL: Yes.

MR MAHON: So I would argue our biggest risk is group think and orthodoxy and I'll give a couple of key examples as to why that's the case with a couple of observations. So I've talked about gross value of production in the grain and veggie sector. You could pick out, you know, fruit, cattle, whatever the case, it's a relatively consistent sort of numbers. So let's look at a couple of examples of where we're at and examples of orthodoxy and group think. We have 750-odd pages in the HVNL, we have about 150-odd reasons why you need to be authorised, approved, sanctioned, et cetera for something that you need to be allowed to do. Not one of them can be authorised, approved, sanctioned or issued unless it's on a piece of paper. So here we are in 2020 where technology is seen as the nirvana of our future, and we apply it in all sorts of ways, but we anchor our systems in paper. So there's no issue of digital technology in any efficient mechanism for approvals, authorities, sanctions, whatever the case may be. And my lovely stand out example is in recent times one of the states has now moved to being able to carry a driver's licence in a packet in your mobile device. But we would still require every truck driver to carry their physical driver licence on them, and in fact that's being reinforced as recently in the last few days with one of the new changes where enforcement authorities insist that that law continue. Truck drivers are the only people in the country that have to carry their licence physically on them and/or are subjected to a $650 fine if they do not. They don't even get 48 hours to produce it.

So that's that contrast or the sort of observations I would make about the brutal analysis of where we're at and what we are in fact doing, and again I just want to reiterate this is not directed at anyone in particular or any organisation, it's just simply a cold hearted analysis of the structure within which we work.

MR LINDWALL: Yes.

MR MAHON: So that's about the lack of - where the permit system - and I would make this observation, the permit system was introduced in 1962. I wasn't in this

business in 1962, but some people think I am. So it was introduced in 1962 because moving things outside the general network of arrangements was unusual whereas these days it's almost part of normal business because people deliver things to us from all around the world and they don't fabricate them to agree with Australian, you know, infrastructure standards, so we've got to move things that are a little over-wide or a little bit this or a little bit that all of the time.

So a little over 60,000 permits are issued in this country per annum, and as an industry we wait about four-and-a-half million days for those permits to be issued, so there's an interesting metric in of itself. More than 90 per cent of those permits are inspected by nobody other than us, so it's entirely an honour system that we ask, that we wait, and we make sure it complies before it moves so it seriously begs the question why are we subjected to that process when there are a variety of other alternatives that could be applied. The use of intelematics is the obvious one. Why couldn't you simply log into or log us on to a system so that you can track where we're going and what we're doing, because the relative risks are quite low. Those permits that impact structures are less than 10 per cent. And we accept the process of assessment for those permit requirements. What we don't accept is the lack of consistency. What we're after is consistent decision making. We understand we need to be subjected to a process. We understand asset protection. We understand the assessment of structures for risk and so forth. What we ask of the system is for consistent decision making.

So then we move to PBS. Performance based standards have been around since about 1996 so it's not that new. The first B-triple was brought down the Toowoomba range in `96. The biggest combination that's ever been put on the road was put on the road here in Queensland, the Cannington Icon vehicle in 1998. To the best of my knowledge no combination or application has been introduced into this country that exceeds what the Cannington Icon vehicle did in 1998, which was within 53-and-a-half metres which is your standard road train type 2 configuration and it was running at a 166-and-a-half tonnes on 200 kilometres of public road. So it was a significant gain. So we had PBS vehicles that can achieve productivity gains of anywhere between 10 and 100 per cent. In many cases they don't do anything more than be perhaps a little bit longer than standard configurations. It's been established by objective measures by Austroads, which is the regulatory body, not something from the industry side, but from their own cadre of regulatory authorities to be a superior safety performer and yet we have a system where the hardest vehicle to get registered and the hardest vehicle to get access to the network is a PBS vehicle.

So if I draw a comparison to motor cars one of the things we introduced back in the 90s was the ANCAP program, which is a very, very interesting exercise in of itself and a lot of people don't understand the construct of it. I can just very quickly explain the ANCAP program has no legislative authority whatsoever. What we did was, there was an undue reliance on the ADR system, which I would argue suffers

a fair bit from group think and orthodoxy as well, and vehicles manufacturers saw that they had to do nothing more than aspire to meet the ADRs. What the ANCAP program did was say, okay, well, that's all very interesting, let's just go and take your car and crash it, see how it goes. And there were some pretty stunning results, and I could sort of wax lyrical at some other point about some of the earlier experiences with some of those manufacturers back in the early 90s. All of the gains that are being made in the ANCAP program by far and above substantially exceed where the ADRs ever went - - -

MR LINDWALL: Absolutely.

MR MAHON: - - -on the basis that the manufacturer simply doesn't want to see those test results against their vehicle being any worse than anyone else's. So the introduction of air bags and a whole lot of other characteristics to do with vehicle design were in fact influenced mostly and almost exclusively by the ANCAP program, not by the regulatory construct.

So in a PBS context here we have a vehicle combination that's considerably more productive, in many cases could reduce the number of truck trips for a given freight task by 30 per cent, so when you look at exposure, fuel burn, tyre wear, safety outcomes generally in the network and so forth it is a worthy aspiration to achieve and yet the hardest vehicle to get registered in our system and the hardest vehicles to get access for that system is a PBS vehicle. So when you look at the regulatory construct why isn't the aspirational goal to change the composition of the fleet to vehicles that are superior performers rather than put a construct of bureaucracy for you to need to churn through to try and find your way out the other side of which is quite intimidating from any operators. They lose confidence and I know the Productivity Commission in particular are considerably more understanding than in this space than I might be but there's that nexus between confidence to invest - - -

MR LINDWALL: Yes.

MR MAHON: - - -as against the outcome that you're looking to achieve. So if you can inject consistency and reliability into decision making and an understanding around the aspiration you're setting out to achieve you build confidence and that confidence will result in investment. Our people when they make an investment decision when they put a B-double on the road they're investing about $1,000,000 a combination, and the working capital 650 - 700, by the time you put a driver in, you got a depot and a few other overheads that go with it, you're in the vicinity of about $1,000,000 per combination. Most people if they saw a fleet getting around and 10 B-doubles they'd say, "Oh, he's on the smaller side". Well, he's got about $10,000,000 in play.

MR LINDWALL: Yes.

MR MAHON: That's a fair bit bigger than the average small business. The return on investment they'd be looking for at least eight years out of those combinations before they write them down, amortise them and so forth and move them on into other spaces. So you need to catch people at critical times about when they're making investment decisions or otherwise you're going to put a sort of decade lag into fleet investment. So the more you can build confidence and predictability and consistency into the system you'll get people making the decisions you want them to make from a systemic perspective at the right times. That's my point is the lower the level of confidence and the lower the level of sort of acceptance of consistency and reliability of decision making and so forth the longer you will wait to see a change in the composition of the fleet because they just simply don't have the confidence to make that decision which is a big decision for any fleet at any given time.

Fatigue, I've pointed out this many times over but I cannot resist making the point again. Log books and fatigue and hours were introduced in this country in 1938. That's about seven years before we mass-produced ball point pens. It's conceivable that log books were filled out in this country with quill pens and here we are in 2020 and we still have this unerring faith in this log book system where people are looking for all sorts of evidence as to why they should move from it. We have contemporary technology that delivers extraordinary results in real time of the actual state of the driver behind the wheel and we need to embrace that technology.

MR LINDWALL: Of course.

MR MAHON: We need a paradigm shift around what we're trying to do. We need the flexibility for regulators and others to be able to trial, test, give sanction to, authorise, whatever term you might want to use to embrace the new world and the contemporary world rather than being anchored on very, very strong orthodoxy. Permits, fatigue, vehicle design are all fairly strongly anchored in an orthodoxy that was established back in the 1920s. I can even produce to you Hansard extracts of when log books were introduced where in one case in one state it was the Premier himself at the time who introduced it, and one of the reasons in the rationale was to slow down competition so rail could keep up.

So that's the sort of history we have to genuinely examine and move to a different model. So we've got to be very careful again to not be into self-acclamation about how efficiently we've introduced the system we invented and we have to really make sure we're asking fundamental and difficult questions about the efficacy of what we're setting out to do.

So we are looking for a system that's got a balance of diversity and standardisation. Authorities need discretion to be able to make decisions to apply where that diversification is warranted. We need to have a genuine process of repeal along

with addition, so when we actually add something we need to be looking carefully at where we're taking something away rather than continuing to add. And we need to think very seriously about the outcomes that we're looking to achieve. Are we setting out to shape opinion or are we setting out to simply reinforce a construct around the cow trails that have already been blazed. And that's the sort of the more serious and significant question around what I'm trying to espouse.

Last, but not least, is chain of responsibility. Chain of responsibility is not new. Certainly in terms of the transport statutes it was introduced in Queensland in `99. It has been in the Criminal Code or the Common Law parties to offences since - pardon my primitive metaphor but since Adam played full back for the Arabs. It has been on our statutes forever. What it's about is giving the right tools to our authorities to be able to properly pursue so that all ends of the chain are properly explored because we, whether it's perception, reality, although perception is often reality in many people's minds, but it still seems to be fairly focused on the driver end of the chain. The standout example to us is the extraordinarily effective work that AUSTRAC did in the banking sector by looking at things quite differently and we think our authorities need to be given the appropriate tools and legislative authority to be able to pursue similar sort of thought patterns and/or exploring different data sets to be able to come to conclusions where the appropriate people are dealt with in the chain.

So in conclusion - I think I've probably had enough to say. I should also add in the agricultural sector that equates to about 3.3 million truck movements and about 400,000 rail wagons. We are very comfortable with intermodalism. I think some people sometimes point to the trucking industry, you know, as being anti-rail which it is not. The greater majority of our larger organisations all have rail contracts. They look to the best and most efficient way to actually deliver a supply chain and that inter-relationship, you know, works generally fairly well, but it's a horses for courses thing. The efficiency and utility of trucking is not going to be trumped by rail but there are elements of the supply chain that rail delivers extremely well and our people utilise that I think reasonably effectively.

When you look at it from the perspective of 3.3 million truck movements and you apply a PBS methodology, you know, with a growing freight task it's conceivable that you could reduce those truck movements by 25 per cent. So they're the sort of aspirational goals we'd like to see given to our authorities. With (a) a tool kit of legislation that allows them to be able to intervene appropriately and well to be able to influence those changes, and we need to think more broadly about the construct and its net effects from the points that I've just made.

So I hope that doesn't come across as too ruthless an analysis because it's not meant to be. It's just simply an observer's perspective from the industry side of the fence about cause and effect. We are particularly tuned into causal factors versus correlation and we are very prepared to examine the difference, and we want to

make sure at the end that our governments don't mistake activity for progress. We want to actually see progress, we don't want to just see activity.

MR LINDWALL: Thank you, Gary. Let's just be clear about the PC as for many years in many of our reports, and I've been involved in a number of them, advocated for: (a) regulation being less. In fact we've done lots of regulatory burden ones. So we think - we've said - I can't - the words vary, but basically that the regulation should be the minimum to achieve an objective that's valid and it should be consistent; that it should be regularly reviewed that it's achieving the objective that is stated; there'd be a valid purpose for that objective. We've also said on - even most recently in a zone tax - remote area tax concession study that we shouldn't harmonise or produce a national standard for everything. In that report we said that the state governments are better to do regional support than - regional development rather than the Federal government, so we've certainly never been pushing for the centralisation of everything, and there are valid reasons for a federation, of course with competitiveness.

We said in our draft report here that we favour a simplification of the HVNL. We're very strongly supportive of that, so I don't think we have any difference there. I'm curious about why - I always think why do things exist and usually as a motivation or there's some interested party that encourages or discourages change, why is it that PBS vehicles, which are objectively safer and probably have - likely have less impact on bridges and roads are more difficult to register and all the rest of the things that you've said. Can you reflect on why that might be the case and what could be done to promote their use to a greater degree?

MR MAHON: I'm not sure really. It's a multiplicity of reasons I think. Partly the bureaucratic construct that goes with it which is probably partly brought about by political perspective, perhaps a belief by some in the system that they bring greater risk to the network. I know we've had to do a lot of work with civil engineers in the road construction system for them to believe what their mechanical engineering colleagues are attributing to PBS. So we have sort of one cadre of engineers who are all about asset protection, not necessarily believing the - and, you know, that's possibly being a bit harsh, but I don't think it's far from the truth, is that there's had to be a fair bit of work done on the mechanical engineering side to persuade their civil engineering colleagues that the objective analysis that's been occurring does in fact hold true, so - - -

MR LINDWALL: So there's still more work to be done in that area I guess.

MR MAHON: Yes, there's been periods where - I mean, part of the problem for example in most states you do have a distribution of decision making, so you've got a line up, you know, sort of 20 ducks to get a decision to approve a particular combination as against a decision being able to be made in the state interest or in the national interest. I mean, I gave those examples about Millmerran and Ipswich

and so forth, that comes about - one of the big impacts is putting what we call seams in the system, so every time you've got to make a combination up or break it down to move somewhere you're putting a seam in the system. So if you've got three seams between Ipswich and the Port of Brisbane you're adding a fair bit of cost and/or, you know, from Millmerran or the Coast maybe. You've now got an international shipping standard of 40 foot boxes, so the transition of 40 footers onto road transport is, you know, appropriate and predictable and yet in terms of general access vehicles and/or the use of PBS vehicles it is still extremely difficult to get solutions on access for PBS vehicles. PBS decisions, like, to get the vehicle approved is one element, to get access to the road network is another and the two are not inter-related.

So the approval of the vehicle is in a different cone of silence to the actual approval of the access. So you can still have a vehicle approved and be begging for implementation because it's such a good solution and you might wait another two years for a decision about where you're allowed to use it. So that's another reason why confidence wanes so readily because on the one hand you can move - you know, in marketing, you know, there's a sort of expression about concept of cash. You know, so you can have a conceptual idea today, get the design approval perhaps in six months, which is, you know, you might argue is relatively quick, and then you might have two to three years before you get a decision about access. So the whole thing could be in the vicinity of three years and, you know, I can hear the authorities running the examples out now there where they did one out of 1000, you know, in six months, but the greater majority run between two to three years from when you develop the concept, actually driving it down a road, utilising it for commerce. That's generally the sort of lags that you're looking at. I can give you an example of one that we've been working on up at Gladstone now for - it's had its three year anniversary and we are still probably 12 months away from conclusion.

In that particular case that will reduce truck movements out of Gladstone for the cartage of two particular commodities by in excess of 30 per cent. And you're talking about an increase in length of just three-and-a-half metres. Fundamentally the same ESAs, bridge structure issue we've never really had revealed to us, but, you know, what is of interest to us is only one bridge in that whole network has actually had remedial action undertaken.

So that the other concern we have is that, you know, from an investment perspective there are fundamentally I would argue two elements to the decision about bridges: one is about the structure, will it fall down, crack or otherwise fail; the other is about age life. Now, I would argue one is an investment decision and one is a structural decision, and we get the two confused, because if the bridge is not on the forward replacement program and the use by those vehicles is going to bring it down from 100 years to 80 years the answer we're given is no. And we would argue that's an investment decision that ought be made by government and has an economic effect that should be considered in that context and is not within

the purview of the bridge engineer to say that's the case. Now, I'm not saying that disrespectfully, I'm just simply saying one cohort gives you a view about whether you're actually going to imperil that structure, the other is about the age life that that structure has attributed to it within the infrastructure system. So bridges are the fuses in the system going around the country. In many respects I can give you four or five bridges on main freight lanes in this country that are holding the economic development of productivity in this country to ransom, simply because a decision has not been made to put them on the forward program.

So in that case it's not even that they need to replace the bridge this year or next year, it's just simply that it might need to be on the forward program in the next 15 years because you're going to bring its age life down from 100 maybe to 60, or 100 to 80 or whatever the case may be. So that's where we're looking for more transparency in the decision making, because orthodox in this country dictates that bridges don't get replaced until realignments are done, and we're saying the investment program could be changed or varied to replace some bridges, because in a lot of cases the road and/or the alignment is actually quite okay and will be for some time. So what happens is the economic sort of effectiveness of that freight lane or that trade route or that freight corridor, whatever term you want to use, is held to ransom for 25 years because that's how you fit in an investment program for a realignment.

They are the sort of fundamental questions we're asking about, okay, let's have a look at the way we do these things, because we could open up a lot of country with perhaps two or three strategic bridge replacements, and it doesn't mean they have to be replaced tomorrow, it might just mean they've got to be replaced in ten years or 15 years or whatever the case may be. So we could look at investment program just a little bit differently. You know, in our case in Queensland the standout example is Bremer River. The Bremer River bridge is holding up quite a bit of economic opportunity for freight efficiency for the sake of a bridge. As I say we're trying to be very constructive in our observations, but a part of it is also challenging the orthodoxy in the way we approach these things.

MR LINDWALL: It sounds like you need some Roman engineers similar to the ones that built Pont du Gard in the south of France which has been there for 2,000 years and is still fine. I understand that the Queensland Trucking Association worked with NHVR and the Queensland Government about gazetting a route from Toowoomba to the Port of Brisbane for PDS A-doubles. How did that process go and what was your involvement in that?

MR MAHON: Well, I'd be extraordinarily remiss if I didn't mention that that took six years. Secondly, it begs a variety of questions. The greater majority of those permits have now been issued, are running at CML weights. A few of them are running at HML weights. We can't get a general notice on that corridor until the Bremer River bridge problem is resolved. When you look at - you know, when

you look at the challenge that Sal has you could take that as an example. Like when we got to about 20 or 30 permits you could probably say, gee, this is an established combination and perhaps we could issue a notice and open up this channel for greater efficiency gains and boost the confidence of transport operators to invest, and as a by the way more than 60 per cent of heavy vehicle manufacturing occurs here in Queensland; trailers, prime mover suppliers and so forth, but that's not the case. We didn't get the notice until we got to about 160 permits.

So when you look at the efficiency measure where does the prerogative lay and where can a decision occur in the national/state interest by a regulator such as Sal's outfit, when it's fairly clear that this is an established corridor and an established combination. Now, the A-doubles in particular are 30 metres, so they're only 3 and a half metres roughly longer that - or 4 metres to be absolute in most combinations. I would defy anybody that's not pretty closely related to the road transport industry that if a B-double shot past at 26 or an A-double shot past at 30 to pick the difference, let alone pick the difference between what an A-coupling is and a B-coupling.

So there are geometric considerations, structural considerations. Once those elements are established what we are looking for is to open up that freight lane and Sal can do that through a notice, but that's now how the system works.

MR LINDWALL: So this particular gazettal what type of impact has that had on the industry do you think?

MR MAHON: Well, at this stage growth is still relatively minimal, because we're not sure that they won't take it away, and therein lies the problem.

MR LINDWALL: Because you say about consistency and - - -

MR MAHON: If you look at the Port of Brisbane data, deliveries by A-double have gone through the roof, because as I need to point out A-doubles are particularly good at carrying 240 foot boxes. They have very good application for throwing 240 foot boxes. The greater majority of those combinations are Skels so they're built for container carriage, and almost all the prime movers are day cabins. So they're very much centred around the south-west and/or Toowoomba for delivery straight to the port.

Now that Toowoomba Second Range Crossing is complete when you come on to that network on the western side of Toowoomba it's a 140k run to the port without a traffic light, dual lane carriageway. So that's a pretty decent freight line, except you can't run at HML weights. Other than a couple of applications you can only run at CML, and the reason for that is apparently the Bremer River bridge which is a single spanning construct.

So we have a circumstance where we've got inland rail turning up at Toowoomba, you know, in the relatively near future. We've got the Wellcamp Airport, we've got the Second Range Crossing. You've now got a significant transition of grain products in particular being loaded by container rather than bulk. So they can load them at Toowoomba to within a grain of their tonnages. They are very precise, because our growers are a bit funny about giving you more than you paid for. So they make very sure that those loads are loaded within a grain of their weights. You've got quarantine certifications that they're sealed up, straight on a Skel, straight to the port. You could almost have real time delivery to the port where it's picked up and put straight on the ship as it arrives. The only hold up to genuine sort of optimum efficiency is HML weights, we're having to run them at CML.

So when you look at the sort of number of rotations that those combinations do being able to carry another 2 and a half ton per trip multiplies out to a fair bit over a year, and again lowers that cost for the gross value of production. And then you throw in for good measure exposure, number of truck trips, you know, for a given freight task, fuel burn, tyre wear, the list goes on. So there's a lot of benefit generally for the community in a whole lot of respects.

MR LINDWALL: I will let Malcolm ask some questions now.

MR ROBERTS: Gary, thanks very much. No, that's truly - it's always good to have some broad questions brought back when you've been - (indistinct) into detail. I would sort of be interested in seeing some of the data that you've quoted, the evidence for that.

MR MAHON: I should mention there is one of your quotes in one - not necessarily in particularly, but the PC that I do like to reference which is inexorable decline of productivity to zero in 2007. That's straight out of one of your reports.

MR LINDWALL: So far it hasn't got a negative.

MR ROBERTS: So that would be interesting, and from what you're outlining with the Bremer Bridge, and it seems to me that we're talking about some frustrations shared by probably quite a few parties around the lack of coordination or integration between infrastructure investment and the opportunity to improve the freight task. So I would be interested in that as a case study to see what that might show to us. Your opening comments, I suspect a lot of people would feel that the NTC review in a modest way our work is trying to point out that a heavily prescriptive HVNL is not supported by many people at all. So we've got to work out how we can improve it, and so we're very open to suggestions from industry, and with certainly also conversations with Sal and the other regulators around better public reporting and quantification of compliance costs. So these are some

of the things I think that your association and members might like to think if there's something further you would like to share with us so we can beef up those parts.

MR MAHON: Sure. And as I said at the outset I'm quite heavily involved in the review because I'm on the panel. So I'm aware of - - -

MR ROBERTS: In some ways, you know, we're very encouraged by the fact there seems to be a broad consensus that having gone through a negotiation, Commonwealth/State/Territory negotiation, ended up with a national law, the next step is to probably begin to reassess it in light of experience with it, and how hopefully we can create what we have described as a two-tiered system. So there is systems, and this is where PBS becomes interesting, where you have got the option for the more capable operators who have a clear commercial incentive to take up safer and more productive arrangements. Interested about why the PBS vehicle is a problem. Paul has already asked that question. Is there a take up issue of industry as well, because we were looking at it and it's a chicken and egg argument here perhaps.

The data seems to show that the vehicle - that we have a relatively old vehicle fleet compared to many other countries, and the most recent data seems to suggest that fleet is not turning over as quickly as it once was. Do you think that's a reflection of anything in particular that regulators or governments can tackle, or is that a reflection of general economic times, tight margins in the industry, or is it a cycle where we're just getting to that point before there's a significant reinvestment?

MR MAHON: In all my time dealing with the industry I can say I've not dealt with an industry that's more prepared to take up productivity opportunities, and they do that extremely quickly. Road freight is generally - I mean it's a tight business, you know. These days five cents on the dollar return net is pretty common, and that's come down from probably 12 cents in the last 12 to 15 years, and that's because rates are relatively similar and costs just continue to climb, particularly compliance costs. So to move them to invest in a different vehicle, and I've done a short summary, and there might not be that many people been around long that have a memory like I do for these things, but I have done a two page summary of the progress of productivity reforms and the reports that was based on them, whatever, which I'm happy to submit, which dates back to around 87 when it started with 17 and a half metre semi-trailers at 38 ton.

So there was a lot of progress, and I was fairly heavily involved in the national reform agenda during that time, the microeconomic agenda that Paul Keating started and John Howard finished, or continued until it was complete, and that's where the big reforms came through during that time, and as I say pretty much ended in 96.

So to encourage people to invest - so you've got a circumstance now since 96 where legacy vehicles as I would call them, so that's your general access vehicle in the network, has been given no real incentive to change. So if you can't look across and see, gee, if I invest in a new vehicle I can get an extra four pallets per trip, or two or whatever, or I can run some different tonnages at mass, you know, so you're incentivising the system to encourage people to have the confidence to invest in something different. They continue to work old Bessie until they ring the last - the last sort of razoo out of her as the saying goes. So if you put incentives in the system, and that's why I'm talking about PBS, why wouldn't regulatory authorities be given an aspiration to change the composition of the fleet.

So you need to have a process that encourages people that there is opportunity there. There is consistent decision making occurring, and in a timely way. So if you put those elements together people will start to think differently about investing in different combinations. And what a lot of people don't sort of sit and reflect enough about is all the action for road freight is in trailers. When all is said and done commerce relies on what they can carry per trip and how many trips that might entail. So all the action really is in the trailers. So if you've got an opportunity to put a different trailer set on the road it almost goes hand in hand and you think, well it's probably time to upgrade prime movers too because I need to do this, that and the other. So trailers generally remain in fleets for a good 20 years and they will go through a couple of refurbs during that time. Prime movers, line haul, you know, five or six years. They then sort of come back into urban environments typically. If you're running urban fleets they're looking for somewhere between five and eight years depending on what sort of an outfit they're running, and then the more aged fleet you will generally find in the urban considerations like tippers and a variety of other sorts of elements of the freight task.

So what I am suggesting is you need to put some signals into the system so to speak that the opportunity is there to invest. There's an opportunity to be different, consistent timely decision making is occurring and people will start to think differently about what they're doing, whereas at the moment it's quite confronting. There's no exaggeration on my part. You know, I like to stick to those things that are supportable and that we can provide the evidence for. But it is typically a three year journey from concept to actually driving on the road with your new outfit. If you're going to put a 20 metre dog and tipper combination on the road that would be a bit quicker because 80 per cent of PBS approvals are truck and dogs, you know, in the vicinity of 20 metres. But if you want to put - I could pick one out now - we're looking at a 27 and a half metre B-double combination with a quad axle under the rear trailer, it's not really a gain in terms of weight, but it's a substantial gain in the protection of the fruit that it carries, because of the nature of the ride.

So we're not really asking for weights, so it's not really a structural issue, but we're having all sorts of concerns because again there's a perception about where does it all end. You know, you're asking for a metre here and 2 metres there and there's the sort of cultural outlook, that's an element of the problem as well. Generally within the industry, you know, first mover status you'll only keep for about six months. So you will get those who are prepared to invest and spend the money upfront to put a new combination or a new configuration on the road and then others will follow fairly quickly. The real key driver in PBS is to encourage people to think differently about more productive trailer sets, and then what typically follows from that is they buy new prime movers to go with it, and generally speaking if there's not a productivity gain to benefit from they will hold off that bit longer on replacing their prime mover. So it's that balance that you're looking for systemically to be able to introduce some different levels of confidence in the system and then let commerce take its course. They will soon start to make those investments because they will see the benefits.

MR ROBERTS: Thanks, Gary.

MR LINDWALL: We have probably run out of time, thank you, Gary. I think I got the point that a lot of this comes down to the fact that if you get multiples of containers as in two you get the productivity gain. So it's not like if somebody want to go three trailers - containers or something.

MR MAHON: Generally speaking beyond two trailers is sort of west of the divide.

MR LINDWALL: Exactly, yes.

MR MAHON: And east of the divide two trailers, particularly two 40 footers is very much seen as the optimum. The added extraordinary advantage is that it's also consistent with the international shipping standards, and a lot more product these days is moving to containers. So you take a B-double, just very quickly, a B-double is one and a half containers. So you've got secondary handling the load, secondary handling the one load, further handling to reload into two containers. So you need to bring two B-doubles in with about six sets of rehandling to turn that into three containers, versus bringing one pack down two at a time, two at a time.

MR LINDWALL: That's straight logic. Yes. Thanks very much.

MR MAHON: And I describe those as seams. The more seams you put in the more you add the cost.

MR LINDWALL: Thanks very much, Gary. It's much appreciated.

MR ROBERTS: Thank you, Gary.

MR LINDWALL: We have a chance if anyone wants to say anything more and you have announced - a chance to either support or rebut or whatever else.

MR PETROCCITTO: Can I make an observation?

MR LINDWALL: Please. Just come up here so it's on - you have got to introduce yourself again.

MR PETROCCITTO: Sal Petroccitto, National Heavy Vehicle Regulator. Just reflecting on a couple of the comments Gary made. This review is about the effectiveness of in effect the three regulators and the reform. As a regulator I'm only as effective as the policy framework that I am given, and I am hoping that through the work that the PC does in its final report it gives serious consideration to what that policy framework development is and how it has developed, because the challenges that I face here and I will face into the future will continue if the same change program is not implemented by the agency who unfortunately give me the things I have to deal with. And what Gary has mentioned in terms of some of the challenges we fully support, and the mindsets and the criteria as to what is assessed against. The reference vehicle is way out of date. A reference vehicle probably should be something more attuned to a PBS vehicle, but we're not. Capability and understanding of our technical capabilities in engineering standards in state agencies, let alone local government, does not exist, and unless you can address that the challenges that we face will continue, but we've got the policy framework right which is why we have been so adamant in making the comment that the reviewable law has to take into consideration wherever this piece of work goes, otherwise we're going to just be back where we were before.

MR LINDWALL: Thanks, Sal. Anyone else want to say anything? Yes, please. Again just introduction.

MR HACKING: So, Commissioner, Todd Hacking, the CEO of Heavy Vehicle Industry Australia. I wasn't going to present today because I am in agreeance with many of what has been said. I guess I just wanted to make mention two issues that I found of interest in the draft report. The first being about that compliance cost monitoring and the summary around that, and I found that real interesting. I guess - and probably Sal just in his comments, I want to support those, in essence that a lot of the report and a lot of the focus of those costs focus on the heavy vehicle national law, and of course we have that other Act which is probably more where my industry focuses, which is the MVSA or RVSA now as it's going to be known, and that sets out the Australian design rules framework, and of course you can't run a truck on a road unless you can build it. I think, and we will submit back to the draft report that we would like to see the compliance costs captured from start to finish, and I'm not sure, I might have missed it in the draft report, I'm not sure whether that's been emphasised enough, because it's very much sort of focused on

in-service compliance costs rather than upfront. So I just wanted to make that observation.

The other one was that there was a lot of commentary in relation to the Australian design rules, and we fully support that. So just to give you an example to change an ADR in our experience it's roughly eight years.

MR LINDWALL: Did you say 80 years?

MR HACKING: No eight, eight years. And we're at a stage now where most of the truck manufacturers are global brands, and it's no surprise that we're a technology taker in relation to those trucks, but the framework of which we're operating is glacial compared to the change that they would like to move forward on in terms of technology and research and development and those productivity gains which comes from newer vehicles. We would support the premise that newer vehicles are safer, more productive, and so - and we do know through facts that we have one of the oldest fleets in the western world, and there's various reasons for that and my colleague Gary Mahon just mentioned some of those, and the PBS is certainly one of them.

I personally and my organisation has always been a supporter of linking in some policy construct a PBS approval to automatic access, because it doesn't seem right to our way of thinking that you would go and spend a whole lot of money going to the trouble of engineering a special vehicle to try and increase your productivity and invest that capital, $600,000, $700,000 in some cases to get a safer, more productive vehicle on the road. Get that approval and then have to go through a completely other process with no assurance that you're able to run what you want where you want. It doesn't make sense, it's counterintuitive. It's like it's not rewarding that operator and that manufacturer of going through the business of spending that time in design and engineering in order to get that productivity and safety going. So that's one thing that we are hopeful that the review of the Act might look at. In respect to PBS we would also suggest that some of those vehicles are no longer performance-based or requiring that performance-base moniker. The truck and dog situation, it's a standard vehicle now, everyone's producing them, they're rolling off the assembly line. That can just be, in our opinion, moved out of the PBS system, and there is a PBS 2.0 project. I think Sal might have mentioned it in his initial comments, and we are hopeful that there might be some movement in relation to that. Aside from those few comments highly supportive of your draft report and we will support in any way we can, and if we can help further then are happy to.

MR LINDWALL: Thank you very much, Todd.

MR ROBERTS: Thank you very much, Todd.

MR LINDWALL: Anyone else? Welcome, Julie.

MS BULLAS: Julie Bullas from the Office of the National Rail Safety Regulator. I just wanted to agree and make a comment in relation to what Sal was saying about safety and productivity as it's been quite a major focus on a number of the submissions made in relation to the rail safety regulator and during this process, and I suppose what I'm asking the Commission to do in their report is to actually put that statement in the framework of the industry in which we're regulating. I don't want to go through that discussion now obviously, but I think we need to understand better the two different frameworks in which the heavy vehicle regulator operates in and the owning of the assets and the work they're doing and that of the rail safety regulator. So that would be really beneficial in the report to actually see those two frameworks come out.

The other statement, I thank the local government authority in relation to working with ONRSR, the rail regulator. I will say we have in both New South Wales and Victoria held workshops with the local government authority in relation to interface agreements. Probably a bit slow getting around the country, but I appreciate that feedback and the offer is there for us to work with them.

MR LINDWALL: Thanks, Julie.

MR ROBERTS: Thank you.

MR LINDWALL: I assume that's it now. LGAQ doesn't - all right. In which case - and we won't get our own PC people talking too. So thank you very much everyone for today. I will now adjourn the proceedings and we resume on 4 February in Canberra. So thanks everyone for coming.

MR ROBERTS: Thank you everyone, that's great.

MATTER ADJOURNED AT 12.39 pm
UNTIL TUESDAY 4 FEBRUARY 2020

Australian Government
Productivity Commission

PRODUCTIVITY COMMISSION

PUBLIC HEARING INTO NATIONAL TRANSPORT REGULATORY REFORM

MR P LINDWALL, Presiding Commissioner
MR K BAXTER, Commissioner
MR M ROBERTS, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT DIALOGUE, 4 NATIONAL CIRCUIT, CANBERRA
ON TUESDAY 4 FEBRUARY 2020

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MR LINDWALL: Good morning, everyone. Welcome to the public hearings for the Productivity Commission inquiry into the national transport regulatory reform. I am Paul Lindwall, the Presiding Commissioner. I'm joined by Ken Baxter on my left, and Malcolm Roberts on my right, fellow Commissioners. I'd like to acknowledge the Ngunnawal and Ngambri peoples of this land.

The inquiry started with a reference from the Australian Government in April 2019. The purpose of the inquiry is to investigate the economic impacts of the 2008/09 COAG transport reforms, examine the implementation of the national transport regulation reforms, including the development of the three national regulators, the capacity of local governments in supporting the implementation, and the delivery against agreed COAG and intergovernmental agreement objectives, and, finally, to assess the scope for future reforms to national transport regulation, including areas for further harmonisation and integration of the transport sector and the remit of the regulators.

We have in the course of this inquiry spoken to representatives from various states, Australian State and Territory government service providers, peak bodies, unions, academics, researchers and individuals with an interest in the issues, and receiving submissions of course before the draft report and after the draft report which was released on 12 November 2019. We are grateful to all of the organisations and individuals and others that - well, that covers this actually, who have prepared submissions, met with us and appeared at hearings.

The purpose of the hearings is to provide an opportunity for interested parties to provide comments and feedback on the draft report. This is the third public hearing for the inquiry. Following this hearing the final hearing will be held tomorrow in Melbourne. We will be then working towards completing a final report having considered all of the evidence presented at the hearings and in submissions as well as other discussions.

The final report will be submitted to the Australian Government in April. And then anyone who has registered their interest to the inquiry including participants directly will be advised of the release of the reports by the government which under our Act may be up to 25 parliamentary sitting days after completion or rather after giving the report to the government.

We like to conduct all hearings in a reasonably informal manner, but I remind you that a full transcript is being taken. For this reason comments from the floor are not able to be taken, but at the end of the day's proceedings you will have another opportunity if you wish to appear and agree with or rebut or otherwise provide commentary on submissions or

what people have said at hearings. Transcripts will be made available on our website within about a week of the hearings as are submissions of course.

For any media representatives, and I don't think there are any but you never know, one of you might be incognito here today, there are some general rules applying. Please see - well, Max down the back there will help you or Caroline and they'll tell you the procedures. Because of that, because you might be aware that many media representatives might use Twitter or other internet mechanisms to convey information online which may be correct as may be, you know, there is such thing as fake news now, on the remarks.

To comply with the requirements of the Commonwealth Occupational Health and Safety legislation you are advised in the unlikely event of an emergency requiring the evacuation of the building we evacuate straight through there and out to the left. You will have floor wardens who will appear and ask you to take their directions. I'll also mention that the restrooms are straight that way across the corridor straight ahead and then to the right, and if you wish to have a coffee or something it's out to the left over here in the corner, there's a coffee machine which makes quite reasonable coffee free of charge too for you, so rather than lining up at Hideout or something like that. What else do I need to mention on that? I think that's probably about it. We will have morning tea where there'll be some delicacies to eat I'm told.

I would now like to welcome Bill McKinley representing the Australian Trucking Association, and, Bill, if you wouldn't mind just introducing yourself and making a presentation as you wish, and opening statement and then we'll proceed.

MR MCKINLEY: Thank you, Commissioner. The Australian Trucking Association and our member associations represent the 50,000 businesses and 200,000 people in the trucking industry. We've made a detailed submission in response to the draft report.

MR LINDWALL: Thank you for that. Yes.

MR MCKINLEY: So in my opening statement I'd like to touch on three issues that we raised in the submission. The first is the importance of independent no blame safety investigation. The second is accreditation reform and the third is the cost recovery arrangements for the national heavy vehicle regulator.

So turning first to independent no blame safety investigation which are draft recommendations from our point of view, 9.2 and 9.4, together these would give the Australian Transport Safety Bureau the role of conducting investigations into crashes involving heavy vehicles and autonomous vehicles.

So this is a longstanding position of the ATA. We first made this argument in 2013 following the Mona Vale Road tanker crash in Sydney. The ATSB's excellent submission to you puts forward some of the reasons that no blame safety investigations are so important. From the industry's point of view I'd like to highlight three. The first is that the ATSB investigates for safety, not to prosecute someone or assign legal blame. As a result people are more likely to be upfront about what happened than they are if they're being interviewed by the police or through the coronial system. Evidence given to the ATSB is restricted and can only be used under very narrow circumstances, mainly for offences under the Transport Safety Investigation Act.

Secondly, ATSB investigations look beyond the immediate causes of the crash to the systemic factors around the crash. The coronial system is not good at doing that and is particularly poor at looking at the operations of regulators. There's good evidence of this including recent academic research done by the Monash University Accident Research Centre.

Finally, ATSB reports are public. They are in one place, and the ATSB follows up on outstanding responses. Now, none of these are true of coronial investigations. So extending the role of the ATSB to heavy and autonomous vehicle crashes would in the long term, not tomorrow, but in the long term improve the safety of road transport generally and our industry specifically.

I would secondly like to talk about accreditation reform. Now, this is covered in pages 142 to 144 of the draft report which talks about the difficulties involved in having multiple accreditation schemes that cover trucking businesses specifically in NHVAS, the Western Australian Heavy Accreditation Scheme and our own TruckSafe accreditation scheme.

So turning to NHVAS run by the national heavy regulator, now, businesses in NHVAS have access to flexible fatigue arrangements or to the extent that the arrangements are flexible you get them through NHVAS, and in some states trucks accredited under NHVAS do not have to undergo yearly registration inspections. This is a significant advantage for those operators.

The problem is, Commissioners, that the NHVAS modules do not reflect the current requirements of the law. NHVAS does not cover, for example,

fatigue management under standard hours, speed management, speed limited tampering, mass management for vehicles operating at general mass limits, the management of vehicle dimensions or load restraint. You can be in every single NHVAS module available and not meet your primary duty under the heavy vehicle national law, so the result is that the NHVAS is running and promoting a scheme that is non-compliant with its own Act.

Now, for our part, we run the industry safety certification program, TruckSafe, which predates NHVAS. The TruckSafe system is notably stronger and more robust than NHVAS. We've reviewed the standards regularly and our audit process is notable for its strength so we assign auditors to companies ourselves and we pay the auditors ourselves. So the relationship, the financial relationship with the auditor is with us, not with the company that's being audited. And that's why the Medlock Review of heavy vehicle safety accreditation schemes noted that operators who were in both schemes found that the TruckSafe audits were at times more rigorous.

Now, the problem is that if you are certified under TruckSafe, a more rigorous scheme, you don't have access to alternative compliance arrangements, so 90 per cent of TruckSafe members are also accredited under NHVAS, not because they get anything out of it from a safety point of view, but simply to access the alternative compliance benefits. This is an unnecessary compliance burden. It does not add to safety and it breaches government's competition policy obligations across the board.

Now, the ATA's submissions, and particularly appendix E, provides the Commission with a way forward on accreditation including legislative drafting. That frankly could be introduced into the Queensland Parliament tomorrow. We propose that the NHVR's role with respect to accreditation should be changed so it regulates certification scheme providers but does not run one itself. It would approve certified operators to access alternative compliance arrangements, but apart from that approved certification schemes including TruckSafe would be responsible for maintaining their own standards and business rules and certifying operators against the standards.

So our legislative amendments propose that all businesses certified by an approved scheme, which we would imagine would include TruckSafe, would be deemed to comply with the safety duties under the HVNL. So if you were certified and had an audit certificate you could be satisfied that your business met its safety duties.

Secondly, customers and other chain parties, including prime contractors would be able to rely on a trucking business's certification themselves as

evidence that the business met its safety duty obligations. Now, this would address a significant issue that our industry is facing, which is multiple audits.

In the Commission's report it recognised the difficulty faced by businesses dealing with multiple accreditation audits, a greater problem is multiple customer audits. With each customer having got its own legal advice and deciding that the only solution to addressing its obligations is to do its own audit, so customers face audit after audit essentially going over the same ground with minor tweaks because customers are looking to ensure that they meet their own legal obligations.

The legislative amendment we are proposing would enable customers to rely on an audit report, so the customer could focus on meeting its own obligations, whatever they might be, but not have to worry about whether I, as a trucking business and managing my own subcontractors or my own employees' medical status correctly. So the approach we're proposing would expand the safety benefits of accreditation and it would reduce the compliance burden on accredited businesses in the sense that you would have fewer audits.

Now, finally, Commissioners, I would like to turn to draft finding and recommendation 10.2 which relates to cost recovery by the NHVR. So draft finding 10.2 concludes that there is very limited cost recovery in heavy vehicles and draft recommendation 10.2 says that this should be brought into line with the Australian Government cost recovery guidelines.

I would like to take the Commissioners to the supplementary content that we've tabled which is this - - -

MR LINDWALL: Which you're happy for this to be put on our website?

MR MCKINLEY: I would like that to be included in the website.

MR LINDWALL: Yes.

MR MCKINLEY: And this is an extract from the NHVR's 2017/18 annual report. I picked 2017/18 because it matches table 1 in the draft report. So table 10.1 in the Commission's draft report asserts that the NHVR received $152.9 million in government funding compared to $5,000,000 from the industry in fees, fines and charges. So, you know, this is a, you know, pretty scary looking number. It's page 347, Commissioner.

MR LINDWALL: Thanks Bill.

MR MCKINLEY: Now, if I take you to the NHVR's annual report, however, and I would like to start by looking at its profit and loss statement where we look at the NHVR's income from continuing operations. So as you can see the top row is regulatory income, and the second row is other contributions from government. And so the Commission's report conflates the two as government contributions.

If I could take, Commissioners, though to note 2 in the NHVR report on page 50 what we find is that $144,000,000 represents the regulatory component of heavy vehicle registration charges. So what happens is the state governments participating in the Heavy Vehicle National Law system impose an additional charge on every heavy vehicle that is registered. That charge is then passed on to the NHVR. So while the money comes from the state governments, the state governments recover that money from industry via an additional component on heavy vehicle registration charges. Now, this charge is calculated by the National Transport Commission. It's set out in section 5 of the heavy vehicle charges module law and the state governments then adopt that model law in their own charging regulations.

Now, this charge is not trivial. We're not talking, you know, a $25 fee here. The charge for the regulatory component for a prime mover rated to tow B-doubles for example is $912 per year at the moment. So when you take that regulatory income into account 93 per cent of the NHVR's budget in 2017/18 was raised from industry, either as a result of this regulatory component being passed through the states or as direct fees and charges that the NHVR itself imposes.

If we turn to the remaining government contributions that the NHVR received $3.9 million was for the heavy vehicle safety initiative, which is essentially a grant program for safety project and the ATA has received funding from that program to develop a registered code of industry practice. The Caravan Industry Association received money for awareness of heavy vehicles and so on.

And $5,000,000 was received from participating states as capital costs to transition to a new safety compliance regulatory platform. Now, under the cost recovery guidelines both contributions could legitimately be excluded from cost recovery calculations. They fall very much into the, well, not really, or in the case by case basis category.

So the trucking industry does pay the right amount of money to the NHVR to cover its budget. In fact, the NTC is consulting with industry at the moment about heavy vehicle charges for 2020 and 2021. The NTC has recommended in its consultation report a 1.3 per cent reduction in this regulatory component because if it's not reduced slightly that regulatory

component will in fact over-recover the amount of money the industry pays the NHVR.

So accordingly we recommend that draft finding 10.2 and draft recommendation 10.2 be redrafted. We assert that the trucking industry is appropriately paying for the NHVR's costs. On that note, thank you, Commissioners, for your attention. I'm happy to take your questions.

MR LINDWALL: Thank you very much for that, and a very thorough presentation. Thank you, Bill. Could I just start - well, we may as well go through, I think, your major topics, and then we may have some other things to talk about. But in terms of the ATSB's role how - could you perhaps articulate how you'd see it undertaking investigations? We recommended a pilot scheme. Of course one wouldn't want to see a heavy vehicle sitting alongside a road blocking it for a long time when the police go, and then later on the ATSB, so how would you envisage it being conducted, say compared to an aviation accident?

MR MCKINLEY: Commissioner, the first comment I'd make is that the ATSB should only investigate when there are lessons to be learnt. Crashes need to be triaged, and the ATSB performs that triage process now. So the ATSB needs to investigate crashes where there is something to be learned from them. The ATSB's role as we see it should primarily be a back end role looking at the systemic factors. The police accident investigation units do a fine job at discovering the approximate causes of a crash.

Where the road crash investigation system falls down is on assembling large data sets of the causes of the crashes on an extremely detailed and fine grained national basis, and, secondly, that back end analysis. Neither of those processes involves closing, you know, major freeways for days at a time.

MR LINDWALL: Yes.

MR MCKINLEY: I'm aware that that concern has been raised and we don't share it essentially. The ATSB and police work extremely well together across other modes of transport. We would expect that extremely good working relationship to continue here. The police have a valid investigative role. The ATSB's work would parallel that work but not replace it.

MR LINDWALL: And how would you, in your view, see the preferred method of funding the ATSB for this additional duty?

MR MCKINLEY: Our view is that safety investigation across all modes is an appropriate task that governments should be funding from general revenue.

MR LINDWALL: That's fair enough. Yes. Yes. All right, any more questions on ATSB?

MR BAXTER: No.

MR LINDWALL: Thank you. I think you've been very helpful on that. Thank you very much. In terms of the accreditation schemes, then, could I first start with something slightly different which is to do with the Western Australian scheme? How would you, since Western Australia is not part of the national heavy vehicle law here at the moment, how would you see that working? Is there a scope or some level of mutual recognition with the Western Australian accreditation scheme?

MR MCKINLEY: We do. We think the right approach to dealing with Western Australian heavy vehicle accreditation is to discuss mutual recognition starting with a consistent audit framework, so one audit can cover multiple schemes at a time. So, you know, through small steps we can reduce the compliance burden of being in those multiple schemes, but from our point of view the immediate priority is to deal with the compliance burden that operators face when they're dealing with multiple customer audits plus multiple accreditation audits on top of it.

MR LINDWALL: Do you have a view on the - or how much do you estimate it to cost for a provider or a trucking business to have both membership of the National Heavy Vehicle Accreditation Scheme as well as TruckSafe?

MR MCKINLEY: Well, what you're facing essentially is a completely separate audit. Now, in NHVAS the cost of that audit is set by the auditor and you pay the auditor directly. The major cost however, Commissioners, is simply in the time involved - - -

MR LINDWALL: Yes.

MR MCKINLEY: - - -in managing the audit and having the staff involved in doing it. So one mid-sized national trucking business estimates for example that its staff are required to manage 14 different industry standards or customer audits. So that's NHVAS as well as TruckSafe, various customer audits which cover the same ground, and a number of other audits that they would probably need to do anyway, because, you know, if you're

a customs - if you've got a bonded customs warehouse that's a separate process.

MR LINDWALL: Yes.

MR BAXTER: Bill, just to interrupt, has there been any attempt to consolidate those various audits into a single audit?

MR MCKINLEY: That's what we are endeavouring to put forward, Commissioner, with these proposals, but the industry accreditation audits are sufficiently different at the moment to make it extremely different to consolidate it. The ATA via TruckSafe is in talks with the other accreditation schemes about doing this, but the process is complicated by the fact that in the case of customer audits every customer has its own law firm. Every law firm has a slightly different view on what the primary duties involves for that customer.

MR BAXTER: Yes.

MR MCKINLEY: And every customer's law firm insists that it be done their way and not the way proposed by the law firm down the street. And this is why we believe some level of legal cover is needed so that customers can be satisfied that the audit actually covers off their legal liabilities. So this is a question of customers satisfying themselves that they've met their obligations. It's not actually a safety issue. That could be covered by one audit.

So returning to this mid-sized company, they estimate that this proliferation of audits involves 40 days of staff time per year to manage. So, you know, this is a significant burden on mid-sized and large businesses. For small businesses in particular what they are experiencing now is customers who have adopted computer-based systems for managing their contracts, and those computer-based platforms have in them audit requirements as well. And of course inevitably my computer-based system bears no resemblance and has no common interface with somebody else's computer-based system, and everyone insists that their computer-based system is the only way to go forward. Again, from our point of view the only solution is a legislative amendment that says that if you've got a TruckSafe certificate or an NHVS certificate, or whatever, that covers the field, and you as a customer can be happy.

MR LINDWALL: I've got one more question on that that comes to mind. Call me somewhat sceptical about competition issues here, and I won't name any customers that it might be, but there are some large, very large customers, of course, who would like to drive down the cost no doubt of the

provider, and one way of doing that is to have particular standards which must be met for the customer which would reduce the level of the - they increase the cost to the trucking business and later on makes it difficult for them to withdraw because they've now spent a lot money getting accredited for that particular customer. So would that be sufficient if you had this legal cover or would my cynicism, if you like, of the competition level would be enough that they might continue to have different requirements just for that reason, not for legal cover reason?

MR MCKINLEY: As part of our proposal what we are suggesting is that for a heavy vehicle accreditation scheme to gain these benefits it can't be a customer centric scheme. So it can't be the Bill McKinley - - -

MR LINDWALL: Yes.

MR MCKINLEY:- - -In-house Accreditation Scheme. And as an additional provision we would propose that the legislation provide that I can't insist that you belong to a particular scheme, just that you belong to a scheme.

MR LINDWALL: A scheme, which is - yes, all right.

MR MCKINLEY: Yes. So we believe - look, that is a legitimate concern. In our internal consultations on this proposal it was raised by a number of our members as a possibility, and that's why we put those provisions into our legislative drafting.

MR LINDWALL: Okay. Good. Malcolm?

MR ROBERTS: Thank you, Bill. Just a couple of points here, firstly, your comments around the accreditation scheme fit with a broader concern around measuring compliance costs for businesses, and we have, you know, draft recommendation 6.5 looking at trying to ensure consistency across the three regulators and creating a degree of transparency around those costs, so that industry can monitor the performance of the regulators and people can have confidence that there's a sense of responsibility about maintaining or containing those costs. We then went on to, you know, look at this very issue - perhaps I could see if I can ask Bill the question quickly. So with recommendation 6.8 we talked about essentially more work to be done to develop common standards for the industry that therefore would hopefully be recognised across different accreditation schemes, which would go some way I think to addressing one of your concerns. Is the problem though the nature of the chain of responsibility of legislation, and is there a route to tackle this problem through changes to that legislation?

MR MCKINLEY: So, Commissioner, I'll start answering the question by talking about Commission draft recommendation 6.5 which deals with monitoring compliance of administrative costs. Now, we welcome that draft recommendation. And what needs to be recognised in it though is that many of these compliance costs are essentially private compliance costs, not governmental compliance costs.

MR LINDWALL: Correct. Yes.

MR MCKINLEY: So from my point of view as a trucking business I have the cost of dealing with the red tape imposed by my customers, and I also have the cost of engaging auditors under NHVAS and WAHVA and of course paying my TruckSafe fees. So any system to benchmark costs needs to go considerably further than just looking at direct compliance costs from regulators. It's got to look at the compliance costs through the chain.

To address the legislative issue, we argued very strongly for the introduction of a primary duty in the HVNL. It's necessary to pick up on the edge cases that no legislation can adequately cover. In fact, in our submissions to the HVNL review we argued that essentially the primary duty should be broadened because at the moment its coverage of, for example, gig economy platforms is uncertain, and whilst that has not yet really moved into the freight space in Australia it is certain to do so over time.

We believe the legislative issues can be addressed through the legislative amendments we are proposing, to establish a greater level of legislative recognition for certification schemes. So when those amendments are made or if they're made a business would have a number of ways of complying to the primary duty. Firstly, the business could rely on its own in-house developed systems or systems developed with, you know, the aid of consultants so a very bespoke - so should our legislative amendments be adopted a business would have essentially three options for complying with the law. The first option would be to work it out themselves and a sophisticated transport business might decide to do that. Secondly, they could comply to the law via a registered code of industry practice, which is evidence in court that you've met your duty or obligation.

MR ROBERTS: That would be TruckSafe?

MR MCKINLEY: No.

MR LINDWALL: No?

MR MCKINLEY: That would be a registered code which is publicly available and anyone can look at, so it essentially has the same status as a Work Health and Safety code of practice.

MR LINDWALL: And, Bill, would that be legislatively based?

MR MCKINLEY: The codes are approved by the regulator and we worked with the ALC to develop a code that does that, so a business can download the code off the NHVR website and if they follow the code and they are prosecuted they can draw on the code as evidence that they have complied with their duties or obligations under the law.

What complying via a code does not do though is it does not provide certainty that you've actually done what the code requires. I mean, anyone can download anything off a website. The final tier and the one giving the strongest level of assurance is complying via a registered certification scheme such as TruckSafe which gives you an audit certificate which means that you are deemed to comply with the primary duty. Three levels of assurance for businesses requiring different levels of confidence in their compliance, so you could expect a business that operates a small number of trucks in an urban area is an ancillary to what they mainly do to either take a look at the code and follow that or develop their own procedures in a very simple sort of operation ranging up to a large prime contractor or a company that works for major customers which may well want the added certainty of actually having an audit certificate where they know that if there are legal issues they can produce it, and also they've got the assurance of a third party audit in telling them that everything they're doing is soundly based because, you know, the third party auditor goes through the business and makes sure that the policies that are set at the top are actually being implemented in the workshop and in the depot and in the scheduler's office.

MR LINDWALL: Did you want more there?

MR ROBERTS: No, no, that's very comprehensive.

MR LINDWALL: Do you have any issues or your members have concerns with the way in which the police enforce the law versus the NHVR and any potential conflicts there, in particular where the NHVR considers that a behaviour is safe and reasonable and yet a police officer issues an infringement and the operator then has little incentive to take it to court because that's costly?

MR MCKINLEY: We do, Commissioner, and your next witness is from NatRoad. In their work on the HVNL review NatRoad have assembled an impressive list of case studies where this is in fact a problem. But to

summarise the issue is that police apply the law and the regulations but not the NHVR's enforcement guidelines which are only used by the NHVR's own personnel and the road agency that the NHVR has service level agreements with.

So you have a situation where the NHVR can make all the guidelines it wants but the police are then free to ignore them. Our view as part of an overall package that we're proposing for the HVNL, which is that as much of the detail as possible should be moved out of the law and the regulations into audits made by the NHVR, on their own motion as it were. As part of a package of governance reforms associated with that we say that anyone enforcing the law, whether they're police, a road agency, the NHVR's own personnel, whoever, should reasonably be required to comply with the NHVR's orders and guidelines otherwise you're not really - - -

MR LINDWALL: Yes. So they're a bit like marine orders issued by AMSA?

MR MCKINLEY: Exactly, yes. Well, what we're suggesting is that we move from a two-tier system of regulation where there is an overly complicated Act, a set of regulations, and then a series of guidelines of very uncertain legal status, to a three-tiered system where there is a much shorter and more simple act, regulations, and a set of technically driven orders that are made presumably by the CEO of the NHVR. To do that, though, we propose a range of governance reforms where what we've done, and this is in attachment A of our submission, we benchmarked the NHVR's governance against its peer regulators, and I know that in your draft report the Commission concluded that the NHVR's governance arrangements were satisfactory and, you know, we would respectfully disagree.

We see a whole range of areas where - and this isn't the fault of the staff of - or executive of the NHVR. This is a fault of the legislation. The legislation needs to be upgraded so the NHVR has stronger governance provisions around it, and one of those governance provisions is that the police need to apply the NHVR's orders in the same way that its own staff would.

MR LINDWALL: Okay. Can I just - what is the reaction of the police likely to be?

MR MCKINLEY: Commissioner, when this issue is typically raised with the police they take the view that their job is to enforce a law, not to enforce guidelines dreamed up by regulators. Particularly given the way the NHVR's legislation works at the moment, which is that there are these guidelines, we don't view that as acceptable. We consider that anyone

enforcing this legislative regime needs to enforce the regime as it's put together.

MR LINDWALL: Yes.

MR MCKINLEY: Not an interpretation of what the regime is.

MR LINDWALL: Well that makes sense. Any more on accreditations?

MR MCKINLEY: No.

MR LINDWALL: Shall we move on quickly to cost recovery?

MR MCKINLEY: Sure.

MR LINDWALL: So, could I ask just to start with, the additional registration charges are (indistinct words) of $912 a year for a prime mover of a certain status.

MR MCKINLEY: Yes.

MR LINDWALL: Is that articulated for the operator that that is for the NHVR's costs, or is it for another purpose? I mean, how - when the operator sees a bill for each year what - on their registration, what do they see?

MR MCKINLEY: Yes, it's separately listed on the registration.

MR LINDWALL: So it's clearly for that purpose? Okay.

MR MCKINLEY: Yes, yes.

MR LINDWALL: So, if one were to, you know, apply what the PC has previously recommended about road user charges and pricing, that would be separate to that obviously, because that would be for helping to fund roads, for example, and other infrastructure like bridges and so on?

MR MCKINLEY: Yes. The way the NTC calculates heavy vehicle charges, and presumably somebody would do it under any sort of road user charging system, is they calculate a registration - a road-related component and a separate regulatory component.

MR LINDWALL: Yes.

MR MCKINLEY: And, you know, the two are added together to get the total amount.

MR LINDWALL: Yes, that's fair. No, I understand that. And Malcolm?

MR ROBERTS: I didn't have anything to ask on the cost recovery. We'll look at those numbers, and - - -

MR LINDWALL: And I think they're very helpful to - - -

MR ROBERTS: Yes, they are very helpful.

MR LINDWALL: Especially since you've now given us reason to check that -the amount that's listed, which we hadn't been aware of before.

MR ROBERTS: Yes. Yes, no.

MR LINDWALL: So Ken, do you have anything on the cost recovery?

MR BAXTER: No.

MR LINDWALL: Okay, should we move onto something else then?

MR ROBERTS: Well just one quick question, if that's all right.

MR LINDWALL: Please.

MR ROBERTS: One of the differences between your submission and our draft report at the moment is around the treatment of local government's role in access decisions, and you know, it's clear that you would prefer to see a move towards essentially a binding set of requirements on local government to improve, essentially from your point of view, the certainty that operators would have. It's been put to us as previous hearings that nearly all access applications are approved, and nearly all of them are approved within seven days. So that was evidence given to us by the Local Government Association of New South Wales, but what - does that suggest that essentially most of these applications are not controversial and are dealt with reasonably quickly, and does that address the industry's concerns?

MR MCKINLEY: Well no, Commissioner. The first point I'd make is that if permit applications are uncontentious and approved within seven days that leads me to wonder, why are we requiring businesses to make those applications and pay for them at all? We need to get away from this idea that the regulator and local government processing large numbers of permit applications is actually a measure of success. It's actually not; it's a measure of failure, because what it's measuring is the amount of

unnecessary red tape and paperwork and cost that businesses have to undertake. So that would be my first point.

My second point is that there are enough permit applications that are problematic, not only at local government level but at state level, for this to be a considerable burden on business, where you cannot get your application through in a timely way. Particularly for an oversized over mass load you're left waiting, you're left waiting with the truck at the state border, or you have unreasonable conditions imposed such as a requirement that a specific prime mover with a specific registration number are used. Now, you know, that all sounds pretty straightforward, but of course in the real world trucks break down and have to be replaced, or you need it somewhere else.

Our view, again, is that anyone administering the law within the legislative regime needs to follow - needs to be required to follow the NHVR's orders, okay, which is what they should be. They should be legislative instruments. Secondly we assert that an individual should - or an operator, an aggrieved party, should have the ability to mount a merits-based appeal against all those decisions. Now, at the moment the only appeal you have against an access decision, against a road manager, is an internal appeal within the road manager. Now, what we know is that those internal appeals have to go to a different officer, but if the road manager has a policy that they impose then the results of the internal appeal are not going to be any different.

So our view is that you should be able to appeal to the relevant state's appeals body, whether it's QCAT or ACAT or, you know, whatever it happens to be called.

MR BAXTER: Have you got any actual examples of the time delays involved?

MR MCKINLEY: Particularly the real egregious examples actually relate to state main roads departments.

MR BAXTER: As against local government and council?

MR MCKINLEY: As against local governments, yes. The attachments to our submission include a number of particularly problematic examples involving OSOM loads, including one where the operator and the operator's customer ended up giving up at the Queensland border, essentially, and decided to put the load on a barge instead because, you know, they simply couldn't get a response from the Queensland department. All of these long

delays, the uncertainty, the issues impose additional and quite unnecessary costs on business.

MR BAXTER: Is there adequate reporting of state government decisions?

MR MCKINLEY: One of the issues we have with - well, the NHVR has done a really great job in its reporting on how well local authorities and state governments do. Their heat maps are incredibly useful. One of the problems, though, is that when a decision is essentially deferred indefinitely their reporting structure does not cover that particularly well, and our view is that those sort of indefinite, vague deferrals are a particular source of problem. This goes back to the requirements of the law. The law includes a requirement, a timeframe that road managers supposedly make decisions in, but there is actually nothing binding the road manager to make a decision in that time period.

So, for example, unlike the common law Airports Act, where the responsible minister has to make a decision within a time period or the master plan or major project is deemed approved, there are no consequences if a road manager simply decides not to make a decision indefinitely.

MR BAXTER: Well have you got any examples that might be useful to us, of where these delays have occurred?

MR MCKINLEY: Our material, Commissioner, is in the relevant attachment to our submission, which is appendix B.

MR BAXTER: Okay.

MR MCKINLEY: So it's all in our very comprehensive submission.

MR LINDWALL: Any more on that topic?

MR ROBERTS: No. No thanks, Paul.

MR LINDWALL: Anything else you wanted to raise, because I have a couple of things?

MR ROBERTS: No, go ahead.

MR BAXTER: No, no, I'm not (indistinct).

MR LINDWALL: Firstly, how, in your experience, do you think the regulatory burden faced by the trucking providers has changed since the

introduction of the National Heavy Vehicle Law, for better or the worse, and overall, I guess?

MR MCKINLEY: The industry's hope was that the introduction of the HVNL would reduce the regulatory burden on industry, particularly in the access area. So, when we looked at the forecast economic benefits of this reform the benefits were overwhelmingly on the productivity side, not on the safety side.

MR LINDWALL: Yes.

MR MCKINLEY: The work that the ATA commissioned from Deloitte Access Economics showed that those gains have not been achieved and our consultants' conclusion is that the industry's productivity has in fact declined since 2014. Now, I note the Commission's own research, which more or less, I think, concludes that it's not readily possible to say. Either way, there is no doubt that the advantages of it are not obvious at this stage. This is driven by the very extensive derogations that the state governments have put in place. It is driven by - on the safety side it is driven by the plethora of audits that customers are now imposing in order to meet their safety obligations, and it is driven by, I think, an overall failure in the development of the initial law to simplify the law and push as much of it down to the lowest tier of regulation possible.

So the problem we have with the HVNL is, unlike the Rail Safety National Law, which was written from scratch, the HVNL is essentially a paste-up job of multiple sets of model regulations which were written as regulations, not as a primary act. So in, you know, the states they were typically imposed as legislative instruments, as regulations, and they were not brought together and made consistent. So, we have an overly complex primary act and a lack of flexibility for the regulator to simplify the law, because doing that requires the agreement of all of the governments involved and an extensive legislative process which is - it's a challenging task to undertake.

MR LINDWALL: To be clear, the burdens are not through the fault of the regulator then. They're fault to do the audits that are happening through the state, the derogations, and through the excessive complexity of the law, basically.

MR MCKINLEY: The NHVR got off to a very shaky start with permits, but since then we've seen the NHVR gradually get on top of the permit issue they had, and the NHVR are doing really great work on their computerised portals for business, and also on streamlining the permit and access systems as much as they can within the law.

MR LINDWALL: In their constraints, yes.

MR MCKINLEY: The problem now is the law, and I'd like to give the Commission an example relating to the current bushfires. Police and emergency services are able, in an emergency, to pretty much direct a heavy vehicle to do whatever they think necessary and, you know, we would argue that's an entirely appropriate power that police and emergency services have. What we saw in the bushfires is that risk averse police officers and emergency services officers were phoning the NHVR call centre wanting permits for those vehicles as well as issuing directions to the vehicles out of a sense of risk aversion. Now, I don't believe the NHVR wanted to issue those permits. I'm sure the NHVR had other things to do. The police, the emergency services, and the trucking operators involved should not have needed to engage in it.

So, this is again a problem with the law, not a problem with the NHVR, because I'm sure their call centre staff simply said 'Of course. Do whatever you think is necessary. Just do it.' Yet, out of a sense of risk aversion, the police and emergency services felt obliged to secure permits. All of this regulation is unnecessary. It doesn't add to safety, it doesn't add to community amenity, and it just hampers everyone's efforts to be more productive.

MR LINDWALL: I've got a very - two quick questions. One is relating to licensing and proficiency checks of drivers; is there anything you'd like to say about it? And the other question is relating about the Australian Design Rules and what you might like to say about that. Given that we've got a fairly limited time I just wanted a quick response, if you didn't mind.

MR MCKINLEY: So, turning first to truck driver licensing; that is not the responsibility of the regulator.

MR LINDWALL: No.

MR MCKINLEY: What we know is that the current truck driver licensing and training system does not do the job. There is work being done now to upgrade the National Heavy Vehicle Driver Competency Framework, and we know that the existing framework is inadequate. So, a consultant's report looked at the licensing requirements for medium rigid drivers for example, and failed - and found that it pretty much failed to address all in some, or part of the serious safety risks the consultant identified. So, we need a much stronger and more practical driver training system.

Commissioners, one concern that's often raised about this proposal that the ATA and our members have been putting forward is that, 'Well, you have a driver shortage already. Won't that make it more difficult to get drivers?' We've actually done market testing with young people about what they think of truck drivers. Truck drivers are respected for their skills on the road, and young people want to have skills, and so our conclusion is that an appropriate increase in practical driver skills - I'm not talking about sitting in a classroom here - an appropriate increase in the skill-based requirements for truck drivers will not be a negative for getting new truck drivers into the industry; it will actually be a positive, if drivers are recognised as being more skilled.

MR LINDWALL: Correct. Yes, I mean, you wouldn't say there's a shortage of neurosurgeons and therefore we should reduce the standards to become a neurosurgeon would we?

MR MCKINLEY: Exactly, yes. Now, turning to the Australian Design Rules. The ATA has been an extremely prominent advocate of rolling out advanced safety technology more quickly, particularly in the braking area.

MR LINDWALL: Yes.

MR MCKINLEY: Where we have pressed governments to introduce electronic braking and are now pressing governments to introduce autonomous emergency braking for trucks, which is the system that brings the truck to a halt if it detects a car or a truck or a trailer in the lane in front of it. This whole process is too slow. We are years behind our - the countries that we would regard as international peers. In addition, we have concerns about the way benefit costs analyses are done for these technology-based reforms. In the electronic braking RIS, for example, we saw a situation where the infrastructure department felt obliged to recommend the proposal that had the highest cost - benefit cost ratio, but that was not the proposal that saved the greatest number of lives and reduced the number of serious injuries to the greatest extent.

In addition, the infrastructure department continues to use human capital values for injuries rather than willingness to pay values for injuries. So, it's moved to willingness to pay values for the cost of death but not for injuries, and as we all know people are risk averse and are prepared to pay a premium for not being maimed over what human capital approach might suggest. Now, all of this has the effect of pushing down the benefit cost ratios for safety initiatives, and the requirements in the OBPR best practice guidelines, which is that you always recommend the one with the highest benefit cost ratio, means that it's not well adapted to initiatives of a public safety nature. So, we want to see these measures rolled out more quickly.

Now, of course there's always a degree of Australian localisation that needs to be done. So for example, in relation to autonomous emergency braking we have concerns about some detail involved with bull bars. We have some concerns with multi-combination vehicles operating on dirt roads. None of these are particularly well tested for, you know, in the European standards. So we have implementation concerns that always need to be worked through, but on the whole government needs to press industry harder on this and not have years go by as we consider these technologies, and it's not just braking, it's issues like under-run protection and so on as well. So, that's our view. I know that Lauchlan McIntosh is giving evidence later this morning.

MR LINDWALL: Yes, right.

MR MCKINLEY: And he has particularly well thought through views on these safety issues.

MR LINDWALL: Well, Bill, I think we'd better end it there and thank the Australian Trucking Association for its very great contributions to this inquiry, and look forward to further engagement, and I'd like to invite National Roads up please, or NatRoads. Thank you very much.

MR MCKINLEY: Thank you, Commissioners.

MR LINDWALL: Thanks Bill.

MR MCKINLEY: Thank you.

MR LINDWALL: Yes. Now, unfortunately there's only one microphone.

MR CLARK: That's all right.

MR LINDWALL: So just make sure you speak to it, and perhaps if you could each speak - introduce yourselves and give an opening statement, thank you.

MR CLARK: Thank you, Commissioners, for inviting us here today for our presentation. My name is Warren Clark, CEO of the National Road Transport Association. Almost forgot our name there.

MR CALVER: I'm Richard Calver. I'm an advisor with the National Road Transport Association.

MR CLARK: So, as the Commissioners would know, that we've done an extensive group of submissions.

MR LINDWALL: Yes.

MR CLARK: One of the essential things that we do with NatRoad is about improving safety and efficiency, so it's a core of what we do. The essential elements that NatRoad has emphasised as key to this improvement is ensuring that heavy vehicle drivers have the appropriate skills and capabilities, so something that you guys asked Bill, we want to touch on that further, because we think it's a major issue to be looked at. We want to emphasise this issue in our presentation to you today. We have concentrated on the issue that affects skills development and the issues that affect training. This issue is covered in the draft report at chapter 9, relating to a reform agenda for safer transport.

Unlike other areas covered by the draft report, there is not a path forward proposed by the Commission. Instead there is a request for further information which we've addressed at paragraphs 124-127 of our written submission on the draft report. These comments supplement that material. So the topic of skills development is critical, as it can help employers move forward, or move towards higher value added employment and maximise business performance, especially heavy vehicle safety outcomes. Getting the right skilled employees starts with recruiting the right people. For the heavy vehicle industry that's a difficult task. The recently published Transport and Logistics Industry Reference Committee Skills Forecast 2019 says that over 80 per cent of employers are - have reported experiencing skilled shortages over the last 12 months. I'd probably say that that goes over the last five years, but anyway, that's what's in the report.

The occupations reported as being in shortage were heavy vehicle drivers, general drivers, educators, trainers, assessors, warehousing, and supervisor managers. So, you know, there's a lot of occupations that we see as being shortages of. The employers identified the following reasons for the shortages. So there's ageing workforce, current staff retiring, unattractive jobs with poor industry image, cost time to achieve the required qualification, competition from other organisations - so once you get them trained they get poached - wages and salaries are considered too low. The report reinforces a theme that our members have reported to us for some considerable period. Part of the difficulty attracting younger drivers is that the occupations in the industry are not considered as professional positions.

Careers such as truck driving are often perceived negatively, hence the growing driver shortage. One of the strategies that NatRoad supports, and which needs further industry attention, is the need to diversify the industry

so that the increasingly ageing workforce does not impeded productivity. The report says that more initiatives are required to attract further females to the workforce, offering experience programs, promoting entry level jobs, promoting high profile females in the industry, and career paths for women that can incentivise broader female participation. NatRoad, for example, has one third of our board members as women.

We also have begun discussions with the Department of Employment, Skills, Small and Family Business to tailor aspects of the Launch Into Work Program for heavy vehicle industry. This program enables employers to recruit for entry level positions that have prospects for career growth. Employers will be required to employing suitable project participants, targeted at women who successfully complete the program. In addition, the very work of the commission in assisting the - to regularitise (sic) the regulatory environment is likely to have a positive effect on the recruitment. The report sets out that employers in the industry require workers to work across multiple states and territories, thus subjecting workers to different compliance requirements from just crossing the border.

So, in reality, in the 21st Century, it's quite incredible to think that we've got to actually deal with that. The industry is currently experiencing difficulties in recruiting for these positions and understanding what the actual skills and knowledge requirements are for a person operating in these roles across Australian states and territories. Identification of these specific job role requirements is paramount to enable the industry to fill these critical positions, and the more that this task can be simplified the better for industry. One of the paths that NatRoad is pioneering is ways to find new solutions that lessens the labour supply gap in the short term but also future proofs the industry for the long haul.

NatRoad's Future-Ready program is currently looking at further research, including accelerated accreditation programs, business and digital literacy, as well as examining targeted diversity and inclusion programs. In the context of monitoring and refining ongoing heavy vehicle driver skills the commission indicates in the draft report that there are several ways operators can ensure that driver skills are sufficient, including training, checking credentials and experience when recruiting, and regular monitoring of skills. The Commission comments in this context that the latter task is complicated by the lack of a national database as well as privacy restrictions applying to operators for access to state systems, so we agree with this.

The strengthened Chain of Responsibility laws, which commenced on 1 October 2018, reinforce that operators have a responsibility to prevent or minimise potential injury, danger, or loss be ensuring that their transport

activities are safe. Part of the duty to ensure that drivers are fit for work and properly licensed to drive the heavy vehicle assigned to them, and that they have the requisite skills to undertake the allocated task, operators need to be aware, for example, if a driver has accumulated or sufficiently - sufficient accumulated demerit points, as they will lose their licence. So at this stage the operator can't actually check that.

We support the comments made by Toll, extracted at p.318 of the draft report, that it shouldn't be so difficult to access driver licence information, but NatRoad members find it difficult to obtain data about offences and other licensing details from employees and subcontractors. The NatRoad board is concerned that there is no uniformity in Australian law for operators to securely access driver records on all - sorry, on road breaches of their drivers. A legislative change that brings the right of all operators to access driver records would assist industry safety, a legislative change that could sit with the Heavy Vehicle National Law.

Certainly the comments which we make in this context show that the disparity in something as basic as whether an employer or principal can get information vital to meeting the broad CoR duties shows the deficiencies in the law that sees licensing and registration of heavy vehicles vested in the states and territories, outside of the construct of the HVNL. To expand on the comments made by Toll, currently the law is different in each state and territory. New South Wales, for example, operates on the basis that the relevant information is able to be released with the consent of the driver following the operator entering into an agreement with roads or RMS and drivers signing a driver consent form.

Clause 112 of the Road Transport Regulation 2017 permits RMS to release the driver licence and broad demerit point status information with employee or subcontractor consent. The agreement that RMS enters into with the operator must have been subject to the consultation with the privacy commissioner, so it's quite a process just to get that information. In South Australian police officers have a discretion to provide relevant material about serious offences to operators via Regulation 7A of the Motor Vehicle Regulations 2010, although camera-based information must not be provided. We're actually unaware as to whether this information has in practice been released.

There is a provision in the Queensland legislation that is not yet in force but which NatRoad believes would be a good model for Australia. The Queensland parliament, in June 2018, passed an amendment to the Transport Operations Act 1995 that deals with this issue. It covers all of traffic history offences, including HVNL offences. The Department of Transport and Main Roads will be reporting to the operator, not the police.

Following contact with the NHVR we established that the Department will be introducing a system that will permit the reporting to be done automatically. When NatRoad spoke to an officer of the Department he informed us that the delay in the provision becoming law related to the need to bring in this system, so the sooner we can bring in a system like that the better for our operators.

When this law takes effect in Queensland, at a date to be set by the government, there will be a positive change for Queensland operators, but this is the provision that is needed Australia-wide and needs to be adopted in each state and territory. The CoR positive Safety duties means that operators must have adequate information available to them that enables them to assess whether they should let their drivers take the wheel. The lack of that information is a systemic problem. Training and career path progression is hampered in other ways. Licensing requirements need to be tied to skills and training, not age and length of holding a licence. NatRoad members report that appropriate training standards and barriers to entry of untrained operators entering into the industry are not in place.

These developments are producing two undesired outcomes. First, unskilled, unsafe operators are hindering the industry's drive towards increased safety objectives and public respect. Secondly, ease of entry is allowing an oversupply of unskilled operators who are not at proper costing. So this factor is lowering revenue levels to below sustainability for many skilled and compliant operators, particularly those who balk at accepting unfair contract terms which were discussed at length in NatRoad's submission on the draft report in paragraphs 115-117. It must be underlined that it's a different argument entirely from one that seeks to link the price of owner-drivers charged with safety outcomes, a completely misplaced argument and one that should be consigned to history.

The answer to the issue of unfair contract terms is to strengthen the current laws affecting small business. Sustainable conditions also require a change in the law to ensure that terms and condition of contractors offered in particular to small businesses are fair. Members are increasingly concerned that contract conditions in the industry are creating unfairness and are adding to commercial pressures, these practices added to the culture that does not give safety the primary focus. A strengthening of the law in this area can only assist in industry safety. So that's really what we want to highlight today.

MR LINDWALL: That's very helpful. Thank you, Warren. Could I start by asking, why do you think, when the Heavy Vehicle National Law was developed, it didn't apply also to licensing of drivers? Or is it just inertia, or - - -

MR CLARK: I actually don't think it was really considered. I mean, there's a system in place at the moment where people might go along and get their licence and, you know, the HVNL now is an extremely long document as it is. But you can basically go along and get - and sit through a series of stages in your licensing career to get a licence with doing 120 hours in New South Wales as a P plate driver. So, you sit the next stage at time, you get the next level of licence. You can basically sit on the couch, and then all you have to do is be able to prove you can back a truck. So at the time I just don't think that it was considered important.

MR LINDWALL: Obviously in terms of the future of making it more professional and having remuneration that's comparable to that will be important to attracting younger people to the job.

MR CLARK: Yes.

MR LINDWALL: I was wondering whether aviation has an example here for you, given that to get a pilot's licence, whether it be a commercial pilot's licence or an air transport pilot licence, and also for private pilot for that matter, every period - in the case of a commercial pilot licence it's every year - there is a proficiency check that's undertaken by an examiner which is required to be passed to continue to be a pilot. Would something like that be applicable or useful in road transport, heavy vehicle transport?

MR CLARK: I think you've actually picked on the perfect example. So, if we think about the aviation industry, at the age of 16 I can fly a light aircraft all over the country, and the reason that they can do that is because they have suitable training, suitable auditing, suitable qualifications, and it's ongoing. So what we're suggesting is that we change the licensing law to tie it to suitable training, and I think Bill touched on it, where the current training is just not working. So if you then have - if you then tie it like the aviation industry, maybe not to that level but to a similar level, where you become accredited, you have a clear pathway - career pathway, and that's what a lot of young people are looking for, and that is then reviewed on an annual basis, on a two yearly basis, I think it's a very good way to go.

MR BAXTER: Don't we get into the challenge, though, that in the motor industry as compared with the aviation industry, which is very strict in the way it enforces this, that we get a young person who turns 16, and I think at that age you can get a licence, they step into dad's or mum's car or truck, or Ute. They then drive for a while and then get to the stage where dad's got a truck, or he works for a trucking company, and they just transition to that, and there's no real sort of tiers of necessary training, and it's not till they get into the very large vehicles that that happens. So, haven't we got a

real challenge ahead of us of how do you pick up those young people who get a driving licence, and I'm thinking particularly what applies in the city areas as well as rural areas, but they've driven dad's truck around the property for ages, get the licence from the local cop, and then they keep just going through the process.

MR CLARK: I think that's what has traditionally happened over the years, but now with work health and safety laws there's a lot of, you know, issues with that. The real key is that, you know, we're not suggesting that people at the age of 16 and nine months can drive a B-double, and I think your point is right. So that at the year of 16 and nine months they get their L plates. They then go through a series of tests up to light rigid, but what we're saying is that once you get a light rigid licence then you have to go through a system of hands-on training that you actually get to go to the next stage. So the current stage, I can get a light rigid, I can sit on the couch for 12 months, and then I can go and apply for my medium rigid or heavy rigid.

MR BAXTER: Yes.

MR CLARK: With absolutely no training whatsoever. So what we'd like to say is that there is a training system put in that place, so you attend hands-on training that's recognised by industry, and then, you know, if you pass that training, well, you can get a light rigid before a certain - the current time.

MR LINDWALL: And then you have to maintain proficiency, is what I'm saying.

MR CLARK: And then you have to maintain proficiency, and for the hundreds of thousands of drivers that are already out there, then obviously some of these guys have been driving for 30 years, so there's a quick - they would get, you know, prior recognition for their experience and their driving, and the actual testing and training requirements on them would be, you know, suitable for their level of experience.

MR LINDWALL: I mean, I use an anecdote that I heard a couple of weekends ago at an engagement party for a nephew of mine who's a truck driver, and he was saying that he was - he does multi - the very large trucks - that someone was unable to back a truck in, who was a driver, of course, and asked my nephew to do it, and he said wouldn't be able to do it because he's not insured to or covered for it.

MR CLARK: Yes.

MR LINDWALL: Is that anecdote - do you think that's common, or it seems rather that you can - people who have licences unable to back a truck doesn't seem very helpful.

MR CLARK: I mean, look, I think there's been a couple of high profile cases actually in the media, and I think the ones in the media were foreign drivers coming into our country. I mean that's a different level of where we need to look, but we want people on our roads and we want people coming into our industry. We need a really safe proactive productive training system that these people can actually drive and back. Not only backing, but tying down a load.

MR LINDWALL: Of course. Exactly.

MR CLARK: Yes. But you're right that does happen. I mean we see that occasionally.

MR BAXTER: But haven't we got - I mean in the airways which falls very, very familiar you have got really strict barriers that if the person hasn't got the qualifications they don't get in the aircraft, but if you look at particularly outside, well even within city areas dad's got a local truck but he's doing a bit of removal stuff and the kids they're there after school doing it and it just sort of accelerates without any sort of barriers or any hurdles that he or she has got to get over to get the degree of proficiency.

MR CLARK: Yes, that's the case, but we're not saying there's a shortage of actual people with licences. What we're saying is that there's a shortage of actual skilled operators, and we want skilled operators because we're struggling with public image - you know, the poor old truck driver gets blamed for everything, but if he's skilled and got a clear qualified directional pathway then that goes a long way to improving our image and reducing incidents.

MR BAXTER: In Sydney we had testimony from a gentleman who spoke about insurance in particular and said that Australia's highly regulated compulsory third party insurance and so forth has led to obviously a common price for everyone irrespective of whether they're safe drivers or not, and he was proposing a deregulated system there where obviously the price would go up for the high risk operators and go down for the low risk operators. Would that be something that you would advocate that might actually lead to higher rewards for the professional safe driver?

MR CLARK: Look, I think that's a long bow to pull honestly. We work heavily with NTI which is one of the underwriters for the truck industry. They're already assessing people on - you know, it's a hazard risk

assessment as they insure people already. But the one thing that they would like to see if that they know if young drivers coming in or new drivers coming in are properly trained. That would certainly start to impact insurance. I'm not saying it's going to drive down - - -

MR LINDWALL: No.

MR BAXTER: Mind you I go to the other end; I've got an aunt who at the age of 90 totally unable, or she shouldn't have been allowed on the road, and yet she went up to the local cop station or the registration station and they renewed her licence without even giving her a test.

MR LINDWALL: Anyway, Malcolm?

MR ROBERTS: Just a question that came to mind just then, Warren. Given you referred to the difficulties at times that operators have with accessing driver records, understanding the history of the merit points licences, is that a problem for NTI; are they able to do that because they're essentially offering a product and ask those questions directly to the - - -

MR CLARK: Well, it's not really a problem for NTI because it all falls back on the operator. So the operator has really got a double edge sword here. He's trying to show how safe he is and how well trained his organisation is and all the safety protocols in place, but a simple basic task where he can't see if his drivers actually are allowed to drive a vehicle really impedes that. So technically if there was an incident then they probably may not even get insurance on that vehicle. So at the present time if someone gets a fine and/or there's a problem with that driver it goes to their private address. If that driver has housing payments and he's got something else and he's got kids going to school and if that means he loses his licence it may be argued that he may not bring that up. So this is why employers want, okay, if there's - you know, if there's a problem with the driver they want to know about it so they can manage it way before that occurs.

MR ROBERTS: Sure. In your submission you referred to - as Bill did as well about the chain of responsibility legislation and the additional compliance burden that's been imposed on parties in the industry. We had mentioned in a draft recommendation a bit of an example drawn from the rail industry of working towards some industry standards that would be broadly accepted. Clearly your concerns about some of your customers who wish to go beyond that, wish to have their own audit process, their own quality assurance process. You haven't got a solution here. Would you be comfortable what the ATA said today on that point?

MR CLARK: I think Bill covered that quite comprehensively.

MR ROBERTS: So you're happy with the ATA position?

MR CALVER: We have an additional area where we're seeking reform, and that is to change the test of who is encompassed by the COR duty. At the moment there is a list of parties who are defined and it's an inclusive rather than an exhaustive list. What we would like to see is COR duties categorically covering those who have influence or control, because at the moment you need influence and control of the transport task, and that would cover people such as providers of digital platforms who take a financial interest, because they have control over those transactions and therefore compliance would follow. If they didn't have a financial interest they wouldn't have influence or control and they would be, as some of those platforms are marketers. That's a real problem. It has been addressed in Victorian owner drivers and forestry contractors amendment legislation, which just came in, where they have now deemed those digital platforms to be transport intermediaries.

So rather than a deeming process or extra layers of state-based regulation we would like to see that test for COR quite categorically cover influence or control, and we think that that would be a very useful way to capture more parties for the positive duty which we support. So that's one of our solutions. We didn't articulate it at length in our submission to you because it's in our submission to the NTC on that (indistinct). I can follow that up if that would assist.

MR ROBERTS: No, we will read that submission, Richard, that's really helpful.

MR LINDWALL: We can read that directly, yes.

MR BAXTER: When you're doing that have you got any thoughts of where we're going to head when we get driverless vehicles?

MR CLARK: I think a lot of people look at driverless vehicles as the solution to a lot of problems. Realistically there's a long way to go with trucks. There's insurance concerns and there's also infrastructure concerns in this country, and this country's a big country and, you know, there would have to be significant change in the infrastructure for that really to be a successful model.

MR CALVER: And other submissions too to supplement what Warren said we have indicated that until complete autonomy occurs and there is the capability of a human to take control as in the airline industry then that human should be vested with responsibility which would only be the

software or the vehicle provider that is provided with responsibility or blame where there's an incident, at the point where there's complete autonomy. If a human being has the ability to risk control from the autonomous vehicle they should be vested in responsibility and law. But as Warren said 75 per cent of the roads in the Northern Territory are still unsealed - well, 85 per cent. We can't even operate lane departure warnings, we can't operate, and one of the problems with AEB is that if you've got a road train thundering along in an outback road at 120 kilometres an hour then a kangaroo jumps in front of them you don't want the AEB to operate. So one of the - you know, Australia has a lot of issues about autonomous vehicles to work through before we're up at that stage of the rubber hitting the road.

MR LINDWALL: Could I ask - I just wanted your view firstly while we're talking about professionalism of the drivers and so on, what did you think of the former Road Safety Remuneration Tribunal and its efficacy in that area?

MR CLARK: I mean, look, we opposed the Road Safety Remuneration Tribunal for various reasons. Okay. When people look at our industry, you know, it's had a bad image over the years, but you look at these guys now that are sitting in a $400,000 truck and it's like sitting in an airport cockpit, and these guys go to great lengths to be professional operators. I don't think the RSRT really would have improved the professionalism of the industry at all. What people are looking at - there's many ways to improve the professionalism of it, and that one of it is obviously what you do about your image, your behaviour on the road. But it's actually making it a more diverse industry where we have clear career paths, we have clear training systems, we have people that are well remunerated, and their remuneration was tying it to safety, and as we argue there is no tie to safety with remuneration.

So I think it's more about, you know, with an industry as ours to become more professional. I could look at a lot of things, but young people can jump in a truck, they can own their own business, they can be earning $60,000 in no time at all. In a couple of years' time they can be earning $120,000 and in five years' time they can be earning owning a business, right. So that to us and safety are paramount to improving.

MR LINDWALL: Could I ask your views about, and since we have got a representative from ONRSR here, National Rail Safety Regulator, about the interface agreements and how do you consider they're working and obviously interfaces with the rail network. That has been quite dangerous at various times.

MR CLARK: Look, I think the interfaces is working reasonably well. The rail sector is doing a lot. We're putting in an inland rail line and, you know, it's improving that sort of side of things. Heavy vehicle transport, we're looking to work in more productively with rail. With these new rail lines that are coming in we see them as opportunities, not threats. So any work that we can do with them to improve that then we're going to try and head down that path. Okay, we've got distribution hubs that are set right throughout the states. Well, you know, the freight's still got to get off the train and it's still got to get to the cities and it's still got to get to the supermarkets. So anything that we can do to improve that interface happy to do it, but I think it's working reasonably well at present.

MR LINDWALL: Okay. And what about Australian Design Rules, what would you say about that and how that's worked presently and what would you do to improve them?

MR CLARK: Richard here might be better - - -

MR CALVER: Well, we agree with the ATA that the process of introducing technology into Australia is way too slow. That issue I spoke about before with kangaroos, and wombats believe it or not, if you hit a wombat even with a heavy vehicle you get a lot of undercarriage damage. Now, there's no research on that, but surely when these technologies were introduced in their originating countries we could have thought of things like that. So the speed with which we move introducing safety technologies is way too slow, and the ADRs need to be reviewed more regularly, more government resources need to be put at their task, and where it's feasible - for example there's an argument about width of heavy vehicles at the moment - where it's feasible we should stick with overseas technologies rather than have a system where we separate our technologies. We are largely technology takers rather than innovators in this space, which is unfortunate, although there is still - there's a truck building industry in Australia, and we see that as a good thing. So the process of the ADRs, their update, and more resources to making sure that the technology which they facilitate is the best it can be is something that a recommendation from you I think would assist to push along.

MR LINDWALL: Could you talk a bit about - we haven't got that much time unless you have got any further questions - about what you think about the overall national scheme, obviously about - not so much about the regulation which is being looked at separately, but about the opening of access determinations and how NatRoad considers that its permit issuing has been going and where it should be improved and so forth.

MR CLARK: I think Bill actually summarised it pretty well. The NHVR has been given a bit of a poison chalice to fix this issue when the legislation is wrong. So take the legislation side out of it, and if we can fix that we will solve a lot of issues, but why do we continue to spend resources on issuing permits if - I think the statistic is something like 98 per cent of these permits are never inspected. So we've got people now that have to say go over a bridge and they do it every day and they put out 50 trucks. So they're just putting in permits day in day out because they've got to go over that bridge.

So I think if we could go - if you have a look at Western Australia, a lot of their roads are mapped and their access routes are mapped. That's what we need to get to across the country. I know Victoria is doing quite a good bit of work on it, and I know NHVR is going down that path, but it's got to happen quickly. The time, the resources in putting in permits, waiting for permits is still a problem for our members, and sometimes it gets to a stage where, you know, okay the Local Government has done it, the State Government has got it, but NHVR might have a (indistinct) that they just can't get through, so how do we fix that. We fix that, we're not doing it.

MR LINDWALL: I mean on that have you got any data which shows the times that it takes?

MR CLARK: I'm pretty sure we - - -

MR CALVER: We recently had interaction with a large member who indicated that part of the problem that they have is not with the local government it's the time it takes to allocate it to that local government. So with the permission of that member I can send you their table of pending permits, and they're a very large, one of our largest members who would find that alleviating the burden of administration and the permit area was one of the things that increased their efficiency markedly. So I'm sure they will do that.

MR ROBERTS: So when you say that, Richard, you're saying the NHVR, there's a lag between submitting something to the NHVR and it being provided with the right local government.

MR CALVER: That's right. So that some of the heat map issues that Bill talked about don't take into account the days with NHVR. That's not to criticise the NHVR. Obviously there are way too many permits. NatRoad wants to go to an as of right system as Warren has indicated. The Northern Territory operate like that now and they're roads are not as I indicated earlier - I seem to be picking on the poor buggars, but their roads are not the best in Australia, and, yes, they have an as of right system, and as we put in our

submission they allow road trains to go directly to the Port of Darwin. Now, you don't - - -

MR ROBERTS: They do have a different arrangement, the local government and the Territory as well.

MR CALVER: They do. It's bigger in terms of efficiency. Don't hold me to that because our friends in local government mightn't like that. Our vision for the access system is one where permits are not the norm, and where a service level is set for the road and the heavy vehicles that can and cannot go on that road are predetermined to the greatest possible extent.

MR LINDWALL: Did you have any final points, because it has been very helpful to us.

MR CLARK: Yes, I think our submission is pretty comprehensive.

MR LINDWALL: It is. Thank you. On behalf of the Commission thank you very much for your contributions, Warren and Richard, and NatRoad's submissions to us and we look forward to further interactions, and thank you very much. I think we now have a scheduled break and there might be something to eat as well as a potential. I think 20 minutes is the current schedule for the break. So I think we will resume at 11 o'clock with the ATSB.

ADJOURNED **[10.49 am]**

RESUMED **[11.03 am]**

MR LINDWALL: So the usual process, I mean just introduce yourselves and then ask you to give an opening statement.

MR HOOD: Thank you very much.

MR LINDWALL: Surely you have been to a lot of these I would think. So welcome to the Australian Transport Safety Bureau.

MR HOOD: Good morning, I'm Greg Hood, I'm the Chief Commissioner of the Australian Transport Safety Bureau.

MR HORNBY: And I'm Patrick Hornby, manager of Legal and Governance at the Australian Transport Safety Bureau.

MR HOOD: So, Commissioners, thanks for the opportunity to appear at this public hearing. I'm the Australian Transport Safety Bureau's Chief Commissioner. Under difficult circumstances our work has been in the public eye these past couple of weeks. The ATSB has had eight investigators deployed to the C-130 Hercules large air tanker accident at Peak View near Cooma where tragically three Americans lost their lives.

Within minutes of being advised of the accident we commenced liaison with the New South Wales Police and rural fire service, effected our planning and deployed to the site. Since then we have been working hard to obtain and analyse evidence that will help us to learn from this tragic event. These dedicated ATSB staff are making our skies, seas and railways safer and I have every confidence they will continue to make a valuable contribution in whatever way the Australian Government asks them to in the future.

Independent, no blame ATSB investigations aim to examine the system as a whole searching for safety issues that affect the entire industry or significant sectors. No blame safety investigations complements rather than duplicate other types of investigations, such as those conducted by regulators or operators that may have a narrower scope. We are committed to thoroughness and equality. Our investigations do sometimes take longer than others because of our broader investigative scope. However if we do identify a significant safety issue during the course of an investigation we immediately communicate it to relevant parties so that they can take appropriate safety action.

I can give an example of an investigation we are currently undertaking into a signal passed at danger or a SPAD involving a near miss between two suburban trains in Bowen Hills Queensland. The ATSB found that the processes for assessing train drivers had significant limitations for being able to assure that drivers met the relevant competency standards. We did not wait for the final report to alert the operator. We published an interim report addressing the issue and the operator has taken safety action. I have copies to provide the Commission to illustrate the approach we take to influencing safety during the course of an investigation rather than waiting until the end.

MR LINDWALL: Thank you.

MR HOOD: This investigation is now in the final report drafting stage and a full final report is expected to be published during the current quarter of this year. In addition to occurrence investigations the ATSB also improves transport safety through our data and analysis and research work. For example in the aviation sector we maintain an aviation occurrence database

which we make available to the public in a searchable format. We also use this data to prepare regular and (indistinct) statistics reports. Information in the database and in the reports assists the aviation sector to be aware of safety hazards and appropriately manage their risks. We are not funded to provide this data and analysis in the rail or marine modes of transport. This work is being progressed by regulators in these modes.

The outcome of our investigations, data analysis and research is fostering safety awareness, knowledge and action. Last year we participated in safety forums across all three modes at fly safe, rail safe and sea safe. We also have high levels of interaction with industry and members of the public through our social media platforms demonstrating the real traction we have in getting the safety messages out.

We are an agency of action investigating, researching and communicating the interest of improving transport safety. It's important to note in the context of this inquiry that we are not a policy agency and cannot comment on the relative merits of the recommendations beyond our expertise and ability to action them. However we stand ready to assist the Commission in any way we can.

Consistent with our Minister's expectations we have made two written submissions to the Commission's inquiry, one following the release of the issues paper and more recently one addressing the draft report. Together with providing information about our agency the key points in the ATSB's submissions include the following. First, no blame transport safety investigations can and do provide value in transport systems, identifying systemic safety issues for the benefit of many.

Second, although the national transport reforms are known as regulatory reforms the ATSB played an important part taking on a significantly expanded role in rail. While the rail funding model is a challenge for the ATSB we have been able to play a valuable safety role as demonstrated in the example I raised earlier, the rail investigation at Bowen Hills in Queensland.

Third, in the context of the national transport reforms there was no clear decision for the ATSB to be involved or not be involved in domestic commercial vessels and no funding was allocated to the ATSB for this purpose. Fourth, the ATSB does not have any role in road safety, in heavy vehicles or in automated road vehicles. Finally, perhaps most critically, any decision to expand the remit of the ATSB would need to be accompanied by careful planning, appropriate resourcing and realistic timeframes for implementation. Expansion into more than one area would also require extensive coordination between policy areas.

I referred to the team's investigation into the C-130 air tanker accident. The ATSB is staffed by a group of highly talented and well respected people coming from a broad range of disciplines. Our staff have strong analytical capabilities gaining university qualifications to become transport safety investigators. Our human factors experts, data analysts, materials engineers and people from operational backgrounds are leaders in their fields and as investigators both in Australia and overseas.

I am confident we can do more in other modes, recognising that we have sister agencies overseas who apply the independent no blame approach to more modes than we do. For example in Scandinavia agencies which began as no blame transport safety investigation agencies are now conducting no blame investigations in the medical sector. We are already engaging with others who are responsible for consideration of the policy and resourcing issues, and that concludes my opening remarks and we're happy to answer questions you may have about this statement, about our submissions or the inquiry in general. Thank you to the Commissioners.

MR LINDWALL: Thank you very much. Look, firstly, I would say that we very much appreciate your contributions today. They have been very helpful to us. On a personal note, I am an avid reader of your research reports on aviation. I even found out that one of the planes I flew as a private pilot had a gear-up landing back in 1973, if I'm not mistaken, or something around there, but maybe it was 1983 actually. So the database is very hand to be able to ascertain lessons, and I think – and the PC has on many occasions emphasised the importance of data collection and availability for researchers and other people to understand connections that may not be initially put together.

Now, in our report, of course, we've suggested expanding the role of the ATSB in a number of ears, and we do understand the importance of doing it in a staged way because, clearly, it's not helpful to suddenly expand without a plan, without some testing of the methodologies, for example, and so on. So I would like to explore some of that with you, but also I would like to perhaps explore – and I understand that you're not a policy agency, but perhaps you could explore and perhaps think about how some of your contemporary agencies overseas, such as the NTSB or the CASIA in the EU or the BEA in France or the BFU in Germany and so on, how they are funded – and one in Scandinavia you mentioned – funded for that type of task because funding often is a critical part, obviously, in how function is undertaken.

And, while we're a federation and some of those jurisdictions I mentioned are also federations, clearly, it's easier when you're not a federation, such

as in New Zealand, to do some work in this space. So are there any lessons that we can learn from overseas providers of your services and no blame independent and transparent research and investigation?

MR HOOD: Thanks, Commissioner, and thanks for the comment about the aviation safety database. It's been in place now since 1968. So in terms of being able to interrogate what is quite a rich data source, we do that quite successfully, and now we've been able to make that data public. For example, animal strike data, bird strike data. Each airport now can go through and have a look at their own data rather than waiting for us to produce a specific report in relation to the Gold Coast or anywhere else, and the feedback on that has been quite remarkable because, you know, the data includes what kind of animal or bird has been struck or what time of day, et cetera. So it's being widely using now by a number of stakeholders throughout the country.

Just in relation to your question about the other agencies, I'm currently the chair of the International Transportation Safety Association, so NTSB, BEA, all of the transport safety investigation agencies around the world, I've been the chair since the middle of last year, and I regularly communicate with my colleagues out of necessity sometimes. For example, the TSB is currently investigating the accident involving the loss of the Ukrainian aircraft in Iran. And so, you know, as the chair I convened an international teleconference for those people that were key stakeholders, and they were really the people that had people in their states that perished in the accident.

So each jurisdiction is slightly different. For example, the NTSB does aviation, rail, marine but also road safety and gas pipeline safety as well. So each jurisdiction is the same, and each funding model is the same, but primarily the funding models adopted by each of these agencies is from government appropriations. I know that, for example, ATSB is hosting all of the agencies from around the world and Sydney in May. And the DSB, the Dutch Safety Board, are very concerned because they're reliant on government appropriations and they may not have the money to travel to Australia for the conference. Counsel, I don't know if you've got any comments in relation to the other jurisdictions?

MR HORNBY: Not necessarily in relation to the other jurisdictions. I think, as Chief Commissioner Hood mentioned, it can be probably a challenge to try and find funding through other models, but, I mean, we're dealing with it in rail at the moment, and we are making it work with Queensland, so Queensland collect a levy from industry and then fund that through to us to investigate up there. But, given that we're investigating for public good, public benefit and sometimes beyond individual operators, it

might be the broader regulatory framework that we're looking at, I think that does make it a challenge for us to collect levies directly from industry and then to remain independent in those investigations as well.

MR BAXTER: Well, while you're on that subject of levies, what do you do or how do you manage a situation where, say, there's an accident at sea, but within the Australian zone, and the vessel concerned either sinks or it has got to be towed back into port. Who then carries that burden in those sort of circumstances?

MR HORNBY: With shipping investigations it's a little bit different to aviation. With aviation it's the state of occurrence that has the responsibility to investigate. With shipping for the bigger ships, the international, overseas shipping companies, it's the state of registration or the flag state that does have the responsibility. However, the reality is if a ship comes into your waters, you've got the legislation, you've got the jurisdiction, another country like Panama can't really come in and exercise its laws to collect evidence here. So it does tend to fall to the state of occurrence to do it, and we've got an interest in terms of, you know, protecting safety in our territorial waters and particularly when you're watching ships come through the Great Barrier Reef and you've also got that environmental element of it as well. You don't want these big tankers spilling oil across the reef. So, again, the public benefit and investing in safety investigations in those circumstances. There's value that comes out of that.

MR LINDWALL: So your role presently in terms of that is with vessels regulated under the Navigation Act. Is that correct?

MR HORNBY: Yes, that's right, the Navigation Act. But our focus has always been on what is the old Commonwealth jurisdiction. So it is those overseas ships and that interstate shipping. As Chief Commissioner Hood mentioned with the national regulatory reforms, we weren't, I guess, taken account of fully in terms of what our role might be going forward, so there is uncertainty about whether we would look at domestic commercial vessels or not.

MR ROBERTS: On that point, you've asked for a little bit more detail about why we're thinking that it might be useful to expand the ATSB's jurisdiction for those domestic commercial vessels. One thing that has come back through the feedback we've had is concerned around safety and the fishing fleet, and do you have any thoughts about the appropriateness of that segment of the DCV task? Any thoughts about that?

MR HOOD: So we do touch base, ironically enough, I suppose, in some respects with the fishing fleet infrequently when we have collisions between the fishing fleet and the larger vessels at sea. So - - -

MR ROBERTS: I was clumsily moving to that point.

MR HOOD: Yes. And, certainly, for the Dianne which tragically sunk off Queensland I had a discussion with the Queensland Government, and we volunteered our services, but at that stage, you know, the regulator and the Queensland Government and the police – there are about four investigations taking place concurrently, and so, whilst the offer of assistance was appreciated, they were under a significant amount of pressure, and, without duplicating things too much, they politely asked if we wouldn't add to the burden of that particular investigation. I think, once again, you know, we look at, not only the what happened, but the why, and, you know, I think it's quite appropriate that we look at – and it's similar, I suppose, to the discussion in relation to heavy vehicles is that we look at the set of regulations and the actions of the regulator. Are they appropriate?

Quite often that gets us into kind of a position of conflict with the regulators which is okay because that's our role, and they have their roles. But in relation to the domestic fishing fleet, I suppose it's kind of similar to the trucking – is that a lot of these are mums and dads operators. So going back and looking at the organisational influences of a company, it might be mum and dad and their business. So it is different a little bit than looking at rail and the heavy maritime and aviation. Certainly, it's within our capabilities to apply that methodology, and, certainly, we would look at the sets of regulations and the way in which the regulator of this particular case, AMSA, is oversighting the safety of the fishing fleet. So the methodology itself is quite applicable, but, obviously, it would come with some challenges.

MR LINDWALL: But, of course, you use your judgement about whether this particular incident is worthy of this type of investigation.

MR HOOD: Yes, Commissioner. Every day we use that judgement. So for example, the Norwegian staff, the cruise ship in Bass Strait, they had the double engine failure or – basically ended up without power bobbing up and down in the middle of Bass Strait. It was a very strong view that that's not acceptable and that's not in the public interest, and so we effected that investigation, and every day we do that because we can't do everything. There's about 150 or so current investigations and a workforce of about 60 transport safety investigators. So – and obviously, accidents like the C-130 just on 10 days ago now means, you know, we've got eight out of our 60 out there, probably for a month, and then they'll be required to do a whole

lot of other work on this major one and that's kind of a shuffling of priorities.

MR BAXTER: Just while we're on that, once you've done the investigations and the report, where do your documents go? Where do you reports go?

MR HOOD: So all of our reports are for public consumption, so everything that we do at the ATSB is transparent. So we obviously – we name the operator, always, and basically – for example, I'll take this – the C-130 accident. So a month after the accident we'll put out a prelim report, which will be a short – probably five-pager. It'll detail what happened and it'll detail what we've done so far and it'll detail the lines of inquiry that we're pursuing. So whether it be the – you know, in this particular case, the maintenance, history of the aeroplane, the training of the crew, whether it be the, you know, the interaction between the Rural Fire Service and the company – whatever it happens to be that we decide to focus on, we'll publish that in the prelim report 30 days out.

We then have - the KPI says about 19 months to complete a major investigation. But it's not the – it's not so much about the fact that the end is the report that's publicly available. All the way along, it's a journey. So we're working with the regulators. We're working with the operators. Where we've identified issues that the operator may need to improve, you know, we're talking to the operator about that early so that eventually, when we do reflect that in the final report, it actually records that the operator has taken some action or the regulator has taken some action, et cetera. So it's not so much about the report. It's about the investigation journey, that we try and influence and take operators and regulators with us.

MR BAXTER: And who meets the cost of that?

MR HOOD: At the moment, the majority of the funding of the ATSB is from appropriations. There's a little bit through our interaction with DFAT and assisting Papua New Guinea and Indonesia, and there's a percentage that is cost recovered, really, as Counsel Hornby said, from the States' funding. So at the moment, Queensland fund us through appropriation of around about $800,000 a year that they recover from rail operators, and that allows us to establish dedicated resources in Queensland to conduct those investigations.

MR HORNBY: I think, as we've kind of alluded to, that was one of every challenges, though, with the funding modelling rail. Queensland is probably a good example, that we do have an annual fee so that we can be assured of what the resources are that we're going to have committed to that

jurisdiction. But in the other jurisdictions where we get funded investigation by investigation, then, you know, you don't know whether or not you can obtain resources for those areas, and they're also missing out on the safety lessons that are shared across jurisdictions. So we're doing all this work up in Queensland and there's value not just for the operator up there, but for the operators down eastern Australia.

It really, sort of, needs a national approach, and then a lot of our time is spent trying to renegotiate funding agreements as well, and we also missed out on the opportunity to make decisions about what it is we do investigate. So it's not always - the time that you had two deaths, you don't necessarily get the best safety lessons out of that investigation. It might be something involving a near miss where there are the bigger, systemic safety lessons to be learned. But at the moment with the rail jurisdiction, we're kind of locked into what it is we can and can't investigate.

MR ROBERTS: So essentially – these points are well made in your submission, by the way. Clearly, you need some certainty around funding so you can develop the capability. So that seems clear. You would presumably like a little more discretion around being able to investigate incidents that you think might have systemic implications?

MR HOOD: Sorry, we did have an example recently where we thought – so we've had a number of runaway trains. One of them was in Tasmania, for example, that – a train carrying cement that the automated system – the driver with the automated system was in the yard with the control mechanism and the train left the station, basically, and it went for several kilometres before being diverted by the Tasmanian police in the port of Devonport, and basically, two people were injured walking near the accident site. That one, as Counsel Hornby said, the Tasmanian government agreed to - I think it was $50,000 to assist in the funding of the investigation.

But we saw that as – and of course, we've had the runaway train – the iron ore train up in the northwest, and – so we've had a number of these, and so you start to look at, well, are there common factors in these that will be – will benefit the nation. So we had one in South Australia where we thought that potentially doing an investigation would be of great benefit to the nation. Unfortunately, in that particular case, the South Australian government didn't agree to fund that and we just continued. So – and, you know, they're obviously reconsidering their position now. We have a number of states that are reconsidering the funding model. We had a meeting with them just prior to Christmas and we're hopeful that we can

gain some traction in maybe establishing some kind of standard funding model.

MR BAXTER: In the case of the northwest rail one, that's all private stuff, isn't it? That would be picked up by the owners of the mining operations?

MR HOOD: Certainly they are doing - or have completed their own investigation. There are some systemic issues that perhaps relate to the broader operation of rail networks across the country which we think that – you know, so we're going back and looking at it from the why, and once again, that's where we think that a statement of expectations from the Deputy Prime Minister to say that would be of public benefit, and it's not just about the loss of life or focusing on passenger carrying, you know. It's about the public benefit. Obviously, the loss of that service for that time, it came at the cost of tens of millions of dollars to the Australian economy.

MR BAXTER: So you wanted to ask us - - -

MR ROBERTS: One other one.

MR BAXTER: No, there's plenty of time.

MR ROBERTS: It's just a detail question. You've mentioned this mission that you normally have a period of 18 months to two years to train investigators, and I assume from that that while you probably had some existing capability with vessels, you – road would be an entirely different matter for you and that, in terms of if there was a transfer of responsibility, appropriately funded, to you, you might need different transition periods or lead-in times to develop the capability. So 18 months to two years might be a realistic time frame for you to have the capability to contribute to investigations of road incidents.

MR HOOD: Sure. I'll let Pat talk about the – how long it took us to develop the rail capability within the ATSB, because obviously we came from BASI, the Bureau of Air Safety Investigations, you know. So we had a very strong aviation background. Still, about 75 per cent of the work we do is aviation.

MR ROBERTS: That's interesting.

MR HOOD: About 15 to 20 per cent is rail and the remainder is marine, currently. But just while it does that, what we've also done is very much cross-skilled our workforce now into a multi-modal agency. So when I arrived – it's almost four years ago, now – at the ATSB, even on the business cards, you had "Transport Safety Investigator – Aviation".

"Transport Safety Investigator – Rail", "- Marine", and I found that there was imbalance between the work and also, a lack of flexibility in using resources across the spectrum in different investigations. So we became truly multi-modal. We provided cross-skilling to our investigators to be able to work on non-primary modal investigations.

MR BAXTER: Now, do you just want to talk about how long, perhaps, it took for the expertise to be developed in – was it in rail? Rail, for sure.

MR HORNBY: And in relation to the heavy vehicle stuff, too, we do do a little bit when there's a level crossing accident. So we have dealt with the trucking industry there and had recommendations to improve road safety. If the rail stuff - as Chief Commissioner Hood said, we were BASI and then in 1999 became the ATSB, and they started to do some rail investigations around that stage under State legislation and built up some expertise, and proving that you can move people from one jurisdiction to another, they were often aviation specialists, as such, that started doing, you know, rail investigations that build up the expertise and they were obviously trusted to then keep going from there until 2003, it was, that they got the Transport Safety Investigation Act which gave them some rail jurisdiction on the old declining – the State rail network and then as part of the national transport reforms, gave us jurisdiction in the metropolitan networks and things like that as well. So you've got, you know, a ten-year period or something like that to build up lots of expertise. For something like heavy vehicles I would say it would probably be a few years to really be able to roll out, you know, a reasonable number of investigations. There's not just going to be that 18 months, two years to get the investigators up and running. You're going to have to build the kind of frameworks within the agency to be able to train and support them, and I think, Chief Commissioner Hood, we had a few ideas about how to build some of that subject matter expertise.

MR HOOD: Yes. I think, I mean, were we to be given an expanded role in – let's say it's in heavy vehicle, we believe that with the resources we would probably attach ourselves to state police forces and start to get some boots on the ground, perhaps working with the state police forces in the initial phases to have a look at – you know, it's my belief that, obviously, they do a great job, but they look at the what, and sometimes they look at the what with a view to prosecution. We're going to want to look at the why.

So we're going to want to look at the data in great depth, and, you know, obviously, there are existing databases, but, you know, are they giving us the appropriate information for us to really, truly understand what's impacting in that space. So we certainly have some ideas about how we might move into the space. One is a good look at the data and maybe how

the data needs to be supplemented and then, of course, how we might start to get some expertise, some boots on the ground, if you like, with some heavy vehicle accidents in the states and territories.

MR ROBERTS: Just one short follow-up question. If we conclude that we do support this idea of moving some of these responsibilities to the ATSB, would it be reasonable for the split recommendation if we decide to put any recommendations around timing for shipping to be dealt with before road on the assumption that you will have already a bit of a start on the expertise you might need for investigations for the DCVs? Will that be reasonable?

MR HOOD: Absolutely. My view is that we do shipping now. We're just about release the report on the YM Efficiency, which is the ship that lost 82-odd containers off Newcastle, caused all sorts of havoc for the Australian prawn-fishing fleet. So you're about to see that one, and so we have marine expertise already, and, once again, it's not just the marine background people now. We really look at the – recruiting people now that have the analytical skills and can deploy to any type of modal accident, but, yes, that's correct.

MR LINDWALL: Could I ask how does the NTSB undertake road investigations for heavy vehicles currently?

MR HOOD: Pretty much the same as they undertake investigations for the other modes of transport. So I've just (indistinct) one of their investigations where I think a limousine, a very fancy limousine, carrying more than a dozen people had an accident, and they went through the same methodology. So really it's about the methodology. They're a little bit more fortunate than us. They have perhaps a broader deployment of their people across the country. We, obviously, are 60 investigators, and they're located in Brisbane, Sydney, Canberra, Melbourne, Adelaide and Perth. So in terms of getting to an accident – and we find this now with aviation. It's also important to remember we're not first responders. We're not there to save life and that sort of stuff but - - -

MR LINDWALL: Nor is the NTSB, I assume.

MR HOOD: No, that's right. But, of course, they're – and, of course, they've got access to the government jet.

MR ROBERTS: You don't have a government jet?

MR HORNBY: Put that into our recommendation.

MR HOOD: There's a shared government jet. So if there's a bad accident anywhere in the United States, they can get a team out of Washington DC to the accident within hours. And we – in the interests of economy, we rely on public transport. Very occasionally, we will rely on the Australian Defence Force to get us to where we need to be if it's very remote.

MR LINDWALL: If it's extremely remote. Yes.

MR HOOD: So that basically means that if it's somewhere outside of those capital cities, we will try and get there the next day to commence our onsite work.

MR BAXTER: Is that an area that needs to be reviewed, particularly in light of what went on down the South Coast recently and it has happened in a couple of other places? That, in fact, we need to get greater access or there needs to be a devoted – I won't say fleet of aircraft.

MR LINDWALL: I don't think so, Ken.

MR HOOD: We also do have the option to charter. So Corporate Air out here at Canberra Airport – you know, if we needed to get to Moruya, you know, quicker than perhaps we did on this particular case, then we can also charter, and, you know, I flagged with the department today that with the C130 investigation I may well exceed my budget because of some of the costs that may be associated with returning the four engines, the gearboxes and the propellers to the United States. I mean, that could be upwards of $100,000 to do that. I believe I need to do that. I believe I need to do that, but that's $100,000 hit to the budget which I don't have. So there are mechanisms for me to seek some additional funding from government if need be.

MR HORNBY: And the other thing I'll just add – I think you probably might be alluding to being able to get onsite quickly. With something like a heavy vehicle accident our processes are similar in aviation or rail. We work well with first response agencies and police and others for preservation and collection of evidence. We do inform them of what we might need from an investigation. So if a site does need to be moved or cleared quickly, we can make sure that we get what we want. Ideally, our investigators would be onsite, but if there's, you know, a national highway that's closed, obviously, that needs to open very quickly.

MR LINDWALL: That's very costly to close. What about, now, the police collect a fair bit of information, obviously, and most of it, from my understanding, is never published. It's kept and never consulted again, and I think that's the great advantage of the ATSB methodology or the no blame

methodology is getting all this data and learning over a period of time and connecting the dots. Would there need to be any legislative change to enable you to get that, or do you think that the police forces of Australia would be cooperative and they would hand it over to the ATSB if you were involved in heavy vehicle investigations?

MR HOOD: I'll just talk a little bit about the – particularly when people are killed, the parallel coronial process. So, for example, at the C130 accident site – talk a little about when we arrived. So the accident happened at 13.15 on Thursday, and we were onsite meeting with the police at 11 am the next morning. Really, there was no reason for us to have got there any earlier because the three American citizens were still in the wreckage and weren't removed by the DVI team until the Friday evening. So that's when our work really commences is once the deceased have been removed from the accident. But there's a parallel coronial investigation process, and they're independent of each other. So the police have their own responsibilities for collection of evidence, and it's independent of what we look at. And I've lost the line of questioning.

MR LINDWALL: Well, it's more about would that type of – what the police have collected be available to you, or would there need to be legislative change to enable you to have the right to get it, in other words?

MR HORNBY: Yes, there would need to be legislative change for heavy vehicles. I mean, the police might cooperate and hand over things like photographs and that, but there might be more sensitive evidence that they would be concerned about just handing over to somebody else who then doesn't have the legislative protections for it. So our Transport Safety Investigation Act for the other modes does allow us to prevent others from getting access to evidence like for criminal investigations, and that protects our no blame status.

MR LINDWALL: You would need that, of course, for the heavy vehicles too, yes.

MR HORNBY: Free flow of information. That's right. It's also for the legitimacy of the investigation too. I mean, without the legislation we're basically private investigators out there, and people are probably unlikely to be as cooperative in terms of handing things over. So, yes, we would need legislative change.

MR LINDWALL: Do you think – and I'm no lawyer – there are any constitutional barriers to – if the Government was so minded to give you the responsibility for heavy vehicle investigation, are there any constitutional barriers to that?

MR HORNBY: There would be obstacles, but not insurmountable, and I think it was – with rail, I mean, everyone was concerned constitutionally that you wouldn't be able to have a national jurisdiction, but you have achieved that, and things like their constitutional corporations power has got a fairly wide scope these days with its interpretation. So, you know, if a truck is owned or operated by a constitutional corporation company or its manufactured by a constitutional corporation or if it's travelling on a federal highway or something like that, the interstate trade and commerce power – there's ways around it. There will undoubtedly be one or two or a few or more that might escape jurisdiction, but that's something that you would work around.

MR LINDWALL: But they're not insurmountable, no. And could I ask how do you look about safety across modes of transport, and I'm minded because I think it was EFAA that did the research on this that after September 11, because of the fear of aviation, many people went onto the road, and I think they estimated there were 15,000 or 20,000 extra deaths because of that. Is there a way of connecting the dots across modes of transport?

MR HOOD: There certainly are at the moment in terms of automation - the early introduction of automation. So we saw a number of accidents I aviation due to the early introduction of automation, and of course we've just completed the report on the grounding of the Border vessel, Roebuck Bay on the reef – on a reef in Queensland. So when we looked across the modes, the introduction of the automation - some of the shortfalls, if you like, were almost identical to the shortfalls of the introduction of automation in aviation, and so if you look once again across the spectrum - so being a Tesla owner and driver myself now, I'm very attuned to the fact that this is a changing environment and only a matter of weeks ago on the software on my car, it introduced the autopilot mode. So it's been greyed out until a few weeks ago and I now have autopilot mode. It's only enabled on a highway, but it allows me to – when I engage it on a highway out here, the car will basically maintain the heading speed. But if you're coming up behind a slower driver, it will put the indicator on and it will change lanes, checking that there's nobody there - - -

MR LINDWALL: Hopefully.

MR HOOD: - - - hopefully, and then – but it's not – and I, you know – it tells you that you should have your hands on the wheel. It tells you it's a beta version. But I have to say the car does some things sometimes where I'm not comfortable and I have to take control back. So it's interesting, now, just to have a look at the introduction of automation onto the road.

Obviously, it's been remarkably successful now in aviation industries for the recent glitches, if you like - - -

MR LINDWALL: With the 737 Max, yes.

MR HOOD: - - - and we've seen that, obviously, across the modes of transport. So I think there are – and we're pretty keen to do some more research working in this space. We just signed a partnership agreement with RMIT and we're very much hoping that we'll be able to use some of the topics that we would like to do some research but are limited by the numbers for their Masters and PhD students in this space to help us look at some of these issues.

MR LINDWALL: And do you – who was – one of our earlier – I remember a comment from earlier today – I can't remember who said this. But anyway, it was along the lines that whilst ever a motor vehicle has automation of some level, until the point where there is no pilot in command - as in driver in command – to transfer the responsibility to operators and that, the person driving is still responsible for that, like the pilot in command of a plane. Is that what your view would be too, that until that point where it is totally automated, then the individual who has the control still has the ultimate responsibility for an accident?

MR HOOD: That's certainly a current view, and a couple of bits out of – human factors we researched is humans are not good monitors. So having the human in the seat monitoring the system is not going to be successful, and of course, in a software-driven system, there's always that one sequence, that one bit - - -

MR ROBERTS: Unanticipated.

MR HOOD: If this happens, followed by this, followed by this, followed by this, your system's going to fail, and I've seen that in the air traffic control system when I was head of Air Traffic Control for Australia, is that – a million lines of code in the software, and sometimes, if this happened before this and this – you know, an external message was received from Fiji which was – had a corrupt data line, it would cause some consoles to crash, you know. So it's a long a way to go before we have perfectly safe automation.

MR ROBERTS: I should thank you, Greg, for being a pioneer at the time of this technology, as somebody who might use it in the future. Thank you for your courage.

MR LINDWALL: Did you have any final points?

MR HORNBY: I just might add something quickly, just to add to what Chief Commissioner Hood said about RMIT. Some of the questions have been about building our own capability, but we're also about building capability in others as key reasons for signing that partnership. I myself have just been through the Graduate Certificate in Transport Safety Investigation to improve my knowledge. But on that course we had people from QANTAS, we had people from – rail operators, smaller aviation groups, as well. So the thing is that they can come on board and they can learn about our analysis capabilities and our methodologies, the way that we write reports, the way that we work on site, as well. So if we're looking at some industries where they're trying to get better at safety management systems and things like that and do their own accompanying investigations, they can potentially look at skilling up through what we're doing with RMIT.

MR BAXTER: Having just said that, what's your perspective of where there might be any gaps in our overall regimes? Are there any places which, sort of, ring bells of "We're not doing enough" in terms of looking after the safety side of things?

MR HORNBY: In a particular mode of transport?

MR BAXTER: Well, mode of transport, particularly, in the terms of this inquiry.

MR HOOD: Well, I think in – I mean, the (indistinct) policy agency, we would like to help. You know, we think we've got the skills and what's required of people. But I mean, I think almost 10 per cent of the workforce are PhDs and other scientists. They love looking for ways to make things better. My view is that obviously, with the – you know, I think it's around about 40 people killed a year in aviation, about the same in rail, about the same in marine and obviously, 1200 on the road. So if we can apply our skill set to prevent loss of life, we'd be keen to help.

MR LINDWALL: And it's not just the loss of life. It's people being maimed and so on. Now, I'd like to thank you, Greg and Pat, for coming today. It's – I think the ATSB is – most people in Australia probably don't – haven't heard of it. But on behalf of the Commission, you've done a lot of good work over the years, and yes. Thank you for appearing today.

ADJOURNED **[11.45 am]**

RESUMED **[11.46 am]**

MR LINDWALL: Now, I put to you there's only one microphone so when we get each of you to speak please speak towards the microphone to help the person out and maybe even turn it if it's going to be a long intervention. If you could just introduce yourselves and make your statement of facts.

MR BROAD: Okay. Danny Broad, I am the Chair and Acting CEO of the Australasian Railway Association.

MS WOODS: Emma Woods, I'm the manager of passenger and corporate services with the ARA.

MR LARSON: Mal Larson, public affairs and government relations bench.

MR BROAD: (indistinct) First of all I'd like to thank the Productivity Commission for its inquiry into the National Transport Regulatory Reform., and equally thank each of you for the opportunity to appear before you today.

I thought it would be worthwhile to start by introducing the Australasian Railway Association, or the ARA as we are often called. We are the peak industry body for rail in Australia and New Zealand. We are solely owned and funded by our members, no government monies, and we have approximately 150 rail organisations from all sectors throughout the rail industry. As a result we represent light and heavy rail passenger operators, freight rail operators, rail infrastructure managers, manufacturers, suppliers, contractors, consultants and even the ports. And naturally a key part of our remit is to advocate for an enhanced operating environment for the rail industry, and it's important to note that we also advocate for a multimodal, integrated transport solution. A bit of a change from, say, ten years ago.

Rail has many proven inherent benefits. In fact we engaged Deloitte a couple years ago to quantify these and they have identified that the average passenger train takes 800 cars off the road. As a result, each trainload generates between $3120 and $8500 worth of benefits for society through reduced congestion, accidents and carbon cost, and increase health benefits through activity levels.

The average freight train takes 110 trucks off the roads. Whilst we do not advocate for the removal of trucks, we look for a level playing field and modal integration as I've already mentioned. As a quantified example of benefits of rail in 2017, if all freight between Sydney and Melbourne

travelled by rail $111 million worth of social benefits through reduced congestion, accidents and carbon cost would have been achieved. I would like to table with you a copy of the Value of Rail Report that Deloitte completed us for the Commission. We have the full report or a summary which we find politicians would much rather use.

MR ROBERTS: We're obliged to read the full report.

MR LINDWALL: We're not politicians.

MR BAXTER: Yes, it's very much obliged to read the full one.

MR LINDWALL: Thank you.

MR BROAD: With Australia's forecast substantial population growth and, therefore, increased transport and freight needs it's vital that a national holistic view is taken of our transport industry, and hence the importance of national regulation. The ARA was a strong advocate for the establishment of a national rail safety regulator. In fact, ONRSR recently acknowledged the previous ARA CEO, the late Bryan Nye OAM as both the agitator and the architect of achieving a national rail safety regulator in Australia. As we outlined in our initial submission, the establishment of a national rail safety regulator has led to some improvements.

In relation to the Commission's draft paper, I would like to highlight three key issues: (1) support to address rail safety national law derogations. We're concerned that we have been through this process before without a national outcome. (2) The report claims that road and rail freight cannot be substitutes, and the report's disproportionate focus on further road productivity and road access reforms without addressing longstanding discrepancies in regulation and access charging that gives road freight an unfair advantage over rail freight. The ARA believes this is a detrimental outcome for our national freight task that will make it more challenging for rail to compete in the freight market. And, thirdly, clarity around government funding of the NHVR, AMSR and ONRSR.

Now, firstly, in terms of the derogations, as noted by the Commission, a number of jurisdictional differences remain, meaning all benefits have not been realised, and, therefore, reform opportunities remain. There are three priority derogations ARA believes will provide the greatest benefit if rectified. These are a nationally consistent risk-based approach to drug and alcohol management, a nationally consistent risk-based to drug and alcohol management, a nationally consistent risk-based approach to fatigue management, and, thirdly, the removal of the mirror law legislation in

Western Australia. ONRSR has conducted reviews for drug and alcohol management and fatigue.

Both reviews were resource-intensive for ONRSR and industry alike, and neither achieved national consistency because the current structure permits state governments to vote on ONRSR recommendations. This has led to the retention of state-based derogations that are costly for industry with no proven safety benefit. As a result, we strongly support recommendation 4.1 for the NTC to review derogations but have concerns as to whether this will achieve regulatory consistency. In the same vein, we support recommendation 5.3 for an independent review of fatigue, but see value in expanding this to include heavy vehicles and aligning both with the NTC derogations review. Where possible, we need to integrate and avoid (indistinct) approach between modes.

Secondly, I would like to address the claims in the draft report that road and rail freight cannot be substitutes. The draft report on page 28 states, and I quote, "Choice of mode of transport is a commercial decision, and government regulation should be neutral between transport modes. Business will select the mode which best suits their needs. Road and rail transport have different strengths. They are imperfect substitutes. This makes it difficult to estimate the degree of substitutionality, given that it is not possible to assume that all traffic observed on a highway can be replaced by rail". Road and rail in many cases are complementary. They need to play to their strengths: rail to move large quantities large distances and road to be the nimbler distributor for the first and last mile of the journey.

ARA is not perpetuating the old-style road versus rail debate. Modes need to work together to deliver an integrated freight market. The right mode for the right load. However, there are circumstances where road and rail are clear substitutes, for instance, the 1700 kilometre inland rail project from Brisbane to Melbourne. ARTC forecast two million tonnes of agriculture will switch from road to rail and that 200,000 trucks will be taken off roads per annum from 2050. Another example, the Darwin to Adelaide rail link now has 90 per cent of market share of freight movements, and the Melbourne to Perth and Sydney to Perth rail links both have 80 per cent of freight market.

Finally, Moorebank International Terminal located on the Southern Sydney freight line will provide a direct link to the interstate freight network in Port Botany. At full operation the facility will have the capacity to shuttle over one million shipping containers annually between Port Botany and Moorebank by rail, taking about 3000 heavy truck movements off Sydney's congested road network every day. We would argue that road and rail are proven substitutes, and, while we also agree it is difficult to estimate the

degree of substitutionability, we do not believe it should be removed completely from the Commission's considerations.

And, thirdly, the funding of the three regulators. When COAG announced the establishment of national regulators it stipulated that costs couldn't exceed regulatory costs at the time. Regulatory fees could only increase by CPI annually, and 100 per cent of fees will be paid by the respective industry. We were alarmed by the Commission's statements that NHVR raised five million and received 153 million from Government. Similarly, we're alarmed that AMSR raised 13 million and received 193 million from Government, whilst ONRSR received no federal government funding.

We seek clarity on these funding allocations, and if, indeed, the marine and heavy vehicle regulators have received substantial government allocations, in the interests of providing a level playing field we request or we question why similar financial support has not been forthcoming for ONRSR to support continued improvements in rail safety. Thank you. And we welcome any questions you may have.

MR LINDWALL: Could I take the last point first. I mean, we heard from ONRSR in Sydney the other day that, in fact, they did receive government money, so I think we need to correct that, and today we heard testimony that the heavy vehicle regulator receives quite a lot of money from via state governments through a levy from operators through licence fees. So I think there's some more work that we need to do in this respect to fully understand the differences. I mean, I wouldn't go against our overall principle that they should be generally aligned in terms of government versus industry contributions though.

MR BROAD: We understand that from the ONRSR point of view it's 39 million in total. There's 14 million that comes from state governments and that that's gradually reducing over time.

MR LINDWALL: I think we're getting a nod over there, so that's right.

MR BROAD: But not from the Federal Government.

MR LINDWALL: No, no. I mean, well, these are some of the things we need to look at a bit more in our final report, but the point being made that – I mean, our general philosophy, if you like, is that a person who is being regulator or the vehicle industry organisation that's being regulated should pay for the costs of the regulation that's relevant to the benefits they receive overall, and where there's a community benefit, say, in the ATSB or some others, if it's right for the Government to pay, so a shared model where there's contributions from both sides is generally appropriate because no

regulator does purely public interest work, nor do they do purely industry-related work, I guess.

MR BROAD: But, as you can understand, we're looking for the level playing field.

MR LINDWALL: Yes, we understand that. Sorry, Malcolm.

MR ROBERTS: I think we would say we agree on that private and public split of, if you like, benefits. On the point about the substitutability of rail for road, I suppose in our view it's very much a commercial decision, and parties will make their own decisions, and the important thing is for infrastructure charges, access arrangements, et cetera, to be as efficient as possible so that that commercial decision is made without being distorted by policy or regulatory interventions. So in the report we sort of made the point that not – it would be a mistake to think that all road freight can be substituted by rail. Equally, the other applies. So we're (indistinct) neutral on whatever proportion the market might choose, provided that the overlying regulatory and policy environment is right.

MR LINDWALL: And, moreover, going from a previous report, where governments decide that they should invest either through directly, such as the Western Sydney Airport, or through public-private partnerships in new infrastructure or expansions of existing infrastructure, there should be a thorough, transparent cost-benefit analysis, and that goes with new rail projects as well.

MR ROBERTS: I was just going to ask about fatigue.

MR BROAD: Before you go from there, we're always looking, especially for our freight rail operators, for, again, the level playing field between road access charges and rail access charges, and there's a strong argument there that there isn't that benefit or that level playing field at all.

MR ROBERTS: I think it hasn't been a focus of this particular inquiry because we're looking, essentially, at the activities of the regulators and the COAG gains around safety. So it's not to say we're not alive to the point that people want to see a level playing field between all modes, so commercial decision-making isn't being distorted by government intervention.

MR LINDWALL: And the PC has recommended road pricing on a number of occasions.

MR BROAD: Right.

MR ROBERTS: Which is one of the reasons probably the terms of reference say we shouldn't look at road pricing in this inquiry because our views are well known.

MR LINDWALL: Sorry. Go on.

MR BROAD: If I could say if you had five freight rail operators sitting here, they would say, "Well, let's cover all matters to ensure that there is a level playing field across the board".

MR ROBERTS: Well, we're with them in spirit. We're with them in spirit.

MR BROAD: I understand your scope as well.

MR ROBERTS: You suggest that we should have a single review for fatigue management regulation for rail and road. Do you think this is a significant competitive issue between the two modes?

MS WOODS: Certainly, how fatigue is managed in the heavy vehicle space is not as stringent in terms of the requirements in the rail space, and I suppose - - -

MR LINDWALL: Could you turn the microphone - - -

MR ROBERTS: Sorry, Emma.

MS WOODS: I suppose we're sort of thinking fatigue and, you know – in terms of rail, so we, obviously, have the New South Wales and the Queensland maximum train driver hours, and those hours differ between the two jurisdictions. As I understand it, there's no evidence to justify the different hours that are required in each jurisdiction, and then everywhere nationally we have that risk-based approach. So road is more flexible in how it can manage fatigue.

We sort of thought, looking at the recommendations, it might be an opportunity, again, to take a more holistic sort of approach and say, "Well, let's look at how fatigue is managed in road and rail and potentially identify some improvements for both". It might lead to some more holistic, I suppose, fatigue improvements, and that was sort of our thinking there. But, ultimately, we really want to see those outer limits for train drivers in Queensland and New South Wales removed so that we simply have a national risk-based approach to manage fatigue.

MR ROBERTS: One of the things that road and rail do agree on is that state derogations from the National Law are undesirable and often have the same issues where being treated differently from jurisdiction to jurisdiction. So I think there is some shared concerns there across the sectors. We recommended a review be done in both sectors. In some sectors people have said, "Well, we've had this attempted before. ONRSR has with the industry, the ARA participating very close if ONRSR has gone through process. The decision essentially rests with ministers", and ministers in some jurisdictions had a pretty clear view. Is there any sense that another review would be helpful to perhaps shifting those positions?

MS WOODS: Our concern is that we've only recently gone through the process for fatigue, and during that process my understanding is that the New South Wales and Queensland governments both provided submissions to ONRSR to say they would not be changing their arrangements, and as a result what ultimately transpired was a recommendation for no change and a review again in five years. There was considerable ONRSR and industry resources put into that process. We actually engaged Deloitte to quantify the productivity implications for the rail industry having to comply with these requirements, and we did some modelling for Queensland, and we attached that study to one of our submissions or perhaps both.

So we've got some data around it that really says this is costing the industry money, it's costing resourcing, it's a productivity drain for no proven safety benefit, and yet we went through this inquiry, and, ultimately, the two New South Wales and Queensland governments had their views, and that was that. So I suppose our concern is, whilst we're fully supportive of achieving a national approach to fatigue, our concern is are we going to go down another review led by the NTC. If it doesn't have any substantial teeth and the state governments can still hold their positions, well, then we are potentially wasting our time. But, at the end of the day, our priority is achieving national consistency and removing those New South Wales and Queensland variations.

MR LINDWALL: Is the difference more stark for fatigue than for drug and alcohol testing?

MS WOODS: Fatigue is across New South Wales and Queensland. Obviously, drug and alcohol is only within New South Wales. According to ONRSR, in terms of the operators that it affects, the drug and alcohol affects 53 operators, whereas the fatigue provisions affect 44 operators, but those 44 operators are having to meet Queensland's requirements and New South Wales' requirements for fatigue and then the rest of the country if they are a national operator.

MR LINDWALL: Did the – sorry, Malcolm.

MR ROBERTS: No, no.

MR LINDWALL: Did the state governments, New South Wales and Queensland, indicate at any time what evidence they would require to rethink their view?

MS WOODS: Look that would probably have to be a question for ONRSR. We weren't involved in the detailed negotiations with the states or the conversations with the states. We, like other entities, had an opportunity to put in a submission. We were involved as a representative on a reference group that ONRSR established for the process, but I didn't actually see the New South Wales or Queensland submissions. It was just that I understood their positions for no change.

MR LINDWALL: I can understand your concern about further reviews which are not likely to achieve much perhaps, although I do stress that the Productivity Commission antecedents date back to 1927, and it was set up originally as a highly protectionist organisation. If you might recall that Australia's two parties were – they had a protectionist party and a free trade party, and there was – it only was in about 1968, if I recall, that there was an effort to promote free trade in Australia, and it took about two-and-a-half decades for it to actually bear fruit. So, you know, sometimes it takes a lot of effort over a long time. Persistence is important here. So you shouldn't be discouraged sometimes and - - -

MS WOODS: We're willing to stick with it. I suppose we're just trying to be realists to say, yes, we fully support another review, and we fully support continue working towards a nationally consistent approach, but we can - - -

MR LINDWALL: I think the important thing is to always emphasise that if there's good evidence that fatigue laws are not improving as they're currently formulated, or the derogations are not helping safety or, in fact, may be even harming safety, then that should be the evidence that should be collected. Ultimately, the evidence should have persuasive power because I'm sure that most governments don't exist on the basis of non-evidence-based policy, or maybe I'm just being too idealistic here.

MR BROAD: I think the New South Wales position goes back to Waterfall and some outcomes there, and so that was a real milestone, obviously, but we would certainly want to continue pushing this barrow.

MR ROBERTS: Can I ask one more question? At different times we've had some parties in your industry speak positively of the NHVR's productivity mandate, if I can put it that way. And so the question has arisen, well, what would be the rail equivalent or what is the process that should be followed in rail to look at productivity? It doesn't necessarily have to be through an existing institution. Any thoughts on that? You've asked for an independent review into rail freight productivity. Do your members have a more developed view on who might do that or whether there should be some institutional change to bring about more of a focus on rail productivity?

MR BROAD: Certainly, there's a huge interest in pushing for rail productivity by especially our freight rail operators, to the extent of saying, "Well, wait a minute. NHVR does this. Why doesn't ONRSR do it?", but at the moment that's not the way it's legislated

MR BROAD: There's a huge interest in pushing for rail productivity by especially our freight rail operators to the extent of saying, "Well, wait a minute, NHVR does this. Why doesn't ONRSR do it?", but at the moment that's not the way it's legislated. However, just prior to Christmas, a number of the rail operators and ourselves put a proposal to the Federal Government to do a review of freight rail operations and, in particular, looking at productivity improvements and how that could be structured, whether within ONRSR or in another form. So a proposal, and we could table that letter with you, if that would be of interest.

MR ROBERTS: Yes. It would be very much of interest.

MR BROAD: Yes. But, certainly, there is a strong push right across the industry to look at how can we become more productive on the rail network because when you look at the advantages from – as I mentioned earlier, you had emissions, accidents, reduced accidents, maintenance costs and so forth. There are many benefits, but how do we make sure that we can get those benefits for this country.

MS WOODS: If I just – sorry.

MR BAXTER: Sorry. Just riding in on that, page 7, you deal with this question of, in fact, a lack of engagement with establishing interface agreements with road authorities where public roads cross rail.

MR BROAD: Interfaces.

MR BAXTER: Yes. What's the difficulty? Where's the blockage? What's the problem?

MS WOODS: The feedback that we've had from our members, and I suppose it's anecdotal, but they're not sure whether it's a lack of awareness about a road manager's requirement to enter into these interface agreements, whereas the rail entities are living and breathing around national safety law. They're very aware of their requirement to have an interface agreement. I suppose ONRSR recently wrote out to a lot of the councils, highlighting their need to enter into these interface agreement, and that certainly had a positive impact, and a lot of members reported having a number of interface agreements that were outstanding signed.

So in our submission we have sort of identified some potential approaches to improve the approach. Whether it's, sort of, a nationally consistent template or a checklist or the ability to escalate it up to ONRSR for assistance to get those signed, but, ultimately, I think it's more a fact of the rail entities, whether they're an operator or a rail construction manager are dealing in this space on a day-to-day basis.

MR BAXTER: But, presumably, it must be at front of mind in relation to what is going to be the Melbourne to Parkes to Brisbane line which is going to result in a hell of a lot of these level crossings still being in existence. Now, if you go back to the old habit of you've got a level crossing about every five or six kilometres along the rail line, it's going to mean that the productivity of the Melbourne to Brisbane line is going to be very constrained.

MS WOODS: I couldn't comment on the number of level crossings forecast for the Inland Rail line.

MR BAXTER: No. But, I mean, you only need to take a look at an aerial photograph or what have you.

MS WOODS: Yes.

MR BAXTER: That would seem to be a very serious impediment to getting the maximum value of what is going to be a very expensive railway line.

MR BROAD: I think that would be a very good question for ARTC.

MR BAXTER: Well, I'm not surprised.

MR BROAD: But, on the other hand, they know they have to do that trip under 24 hours.

MR BAXTER: That's right.

MR BROAD: So I'm sure in the design of their corridor and network they would be looking at that, and I'm sure they would have the answer for you.

MR LINDWALL: What do you think about the scope for – obviously, trains run on lines, so one would posit that the scope for automation is much greater than in road initially anyway, and it's already existed in a number of areas. Obviously, you have autonomous trains all round the world, and there are private lines, such as the Rio one over in Western Australia. How do you see that developing, and is there any regulatory concerns that you might have about how that develops?

MR BROAD: Look, we're excited by automation, as you can imagine. You mentioned the Rio example. You look at Sydney Metro and the like and elsewhere in the world. We still have challenges of getting from two people in the cab to one, and that is for our rail operators a real challenge – freight rail operators a real challenge, and they would look at that as the first step, but looking at where automation can come after that. You know, that is really frustrating the freight rail operators that they can't get all down to one driver.

MR LINDWALL: Maybe it's easier going from two to zero than from two to one. Fatigue is not such an issue with no driver.

MR ROBERTS: So twice as difficult.

MR BROAD: I'm sure our friends at Rio are finding that, but where we – and they have their own network that they own. There's a big difference between running a freight train in Rio and running a freight train through the Sydney network.

MR LINDWALL: Of course. Yes, yes.

MR BAXTER: But, of course, they don't have a whole lot of level crossings that they have got to go through.

MR BROAD: They do have some.

MR BAXTER: But not very many.

MR BROAD: Yes.

MR ROBERTS: More than you might think, Ken.

MR BROAD: Yes. And they do manage them extremely well. They can present that.

MS WOODS: Typically, they will be grade separated to avoid the potential risk, although they do certainly have some level crossings, but some of our Pilbara members in the process of preparing our submission and on the issue of interface agreements raised the fact that there might be a trucking company working up in that space that's hauling to port, and that trucking company's capacity might increase, or, you know, the size of their vehicles could increase, and the responsibility at the moment falls to the rail operator to grade separate, and the cost of that can be 40 or 50 million dollars. You know, it's huge, huge dollars that the rail industry is covering so that the trucking industry can continue on its way. And, I mean, it comes back to safety, and safety is their number one priority, but it just, I suppose, raises that question in terms of - - -

MR LINDWALL: Well, I don't think it's feasible in the country. I mean, we've had the comment before. To grade separate everything in Australia is just - - -

MS WOODS: There's 23-and-a-half level crossings in the country. It's not feasible.

MR LINDWALL: Let's be practical here. It's better to have – well, grade separation, obviously, in areas where it's economically feasible, but others to have sensible signage and processes to minimise the safety risk. What about your thoughts on the role of the ATSB in terms of rail safety investigation?

MS WOODS: Look, we fully support a no blame safety investigation. There's certainly a role for that, particularly when there's multiple entities in an incident. However, as we outlined in both of our submissions, from an industry perspective, the time that it takes to receive the ATSB investigation reports at the moment is not providing value to industry, and, in fact, in our second submission we actually provided a comparison to the UK Rail Accident Investigation Board, and they talk about having an average complex investigation period of 9.2 months, whereas the ATSB equivalent is closer to two years at 23 months.

So the feedback that we get from our members is that they have long moved on by the time that an investigation report comes out two years later. They have done their own investigation report. At times ONRSR has also done its own investigation report, and the entities have moved on. So we believe there is a role for the ATSB. We need a no blame safety investigator. You know, we don't want to come across as saying we don't need it, but our

concern, as I say, is the time, and we really need to reduce that time to make sure that its existence is providing value.

MR LINDWALL: So the ATSB said today that it's more of a journey rather than a final report and that safety learnings have happened through the process are communicated immediately. So you don't agree with that? They're basically saying - - -

MS WOODS: It might be too that – sorry.

MR LINDWALL: So I think they're basically saying that, yes, the final report or the interim reports are important, but you can't neglect what happens in between, and they don't just hide their information and wait till the final report.

MS WOODS: Look, and they certainly work quite closely with the entities that are involved in an investigation, and, you know, they will conduct their own interviews and what have you, but, certainly, the feedback that we have from industry is that the current process is not providing value, and it comes down to the timeframe, that the timeframe is the major issue. And, whilst they might be having those conversations along the way, it's not with the broader industry, so it's about that opportunity to be sharing learnings more broadly.

MR ROBERTS: Might be worthwhile looking at the UK model.

MR LINDWALL: Yes. Any more questions, Malcolm or Ken?

MR BAXTER: No, not from me.

MR ROBERTS: No, no.

MR LINDWALL: Just wondering if there's anything that we're supposed to ask you. It's actually time to finish anyway. Have you got any final points you would like to make that you think we've missed?

MR BROAD: No.

MR ROBERTS: You can always write another submission.

MR BAXTER: You also indicated that you represent, I think, New Zealand.

MR BROAD: Yes.

MR BAXTER: Are there any differences between the Australia and New Zealand situation, particularly if you look at the lines in the South Island which run through with very few fences and no swing gates on level crossings? What do the New Zealanders do that have managed to get away without killing many people?

MS WOODS: At level crossings?

MR BAXTER: Level crossings and just generally running their rail system.

MS WOODS: I mean, from a level crossing perspective, they actually established their own rail safety foundation around the crossing foundation, initially as the Chris Cairns Foundation, the cricketer, the former cricketer. So he actually lost his sister in a level crossing accident a number of years ago. She was a train passenger, and that led him to use, I guess, you know, his own public profile to try and generate more awareness around level crossing safety, and that actually led to us here in Australia establishing our own foundation called the TrackSAFE Foundation which we've now partnered with what was then the Chris Cairns Foundation and made it actually TrackSAFE Australia and TrackSAFE New Zealand.

So we do certainly work quite closely with out New Zealand colleagues in level crossing safety and general safety and operational matters. So, certainly, there's no commercial benefits in safety. It's all about trying to collaborate and improve together wherever we can. So initiatives and things that they've rolled out we've then rolled out here in Australia. We both roll out initiatives like Rail Safety Week. Level crossings is typically a focus of that. Getting education curriculums into schools on level crossings. That's something we both sort of lead. Danny is actually a board member of TrackSAFE, so he might have further comments.

MR BROAD: Yes. Thanks very much, Emma. Yes. Certainly, we have a TrackSAFE board with 14 representatives from across Australia, and at each board meeting we have a representative from New Zealand who reports on some of the initiatives they're taking on, and vice versa. In fact, the TrackSAFE chair is going over to New Zealand in the next couple of months for a New Zealand TrackSAFE meeting where they're going to focus on – one of our key points in TrackSAFE is suicides. New Zealand hasn't quite taken that on as part of their scope.

That's one of the things on the agenda for the next meeting. And, of course, in New Zealand you have one major freight rail operator in KiwiRail, and you don't have all the states. So there's one government to deal with. There's a big difference. And, fortunately, the current government is very

focused on investing in rail, so there's a big difference. One of the reasons being they're looking at 2050 zero emissions, and rail provides that opportunity. So they're really driving for getting more freight off road, on to rail and investing in KiwiRail.

MR ROBERTS: I'm hearing in implications that's something the Australian Government should do more of.

MR LINDWALL: As long as it's not trying to create a single government, but anyway. Well, Danny, Emma and Malcolm, thank you very much for coming today.

MR BROAD: Thank you.

MR LINDWALL: And we appreciate your contributions, and thank you very much.

MR ROBERTS: Thank you for your submission.

MR BROAD: Thank you.

MS WOODS: Thank you.

MR LINDWALL: And it's time now for a lunch break. So I think we're due to start back at 1 pm. Yes.

ADJOURNED **[12.22 pm]**

RESUMED **[1.09 pm]**

MR LINDWALL: So it's – we're now onto the Australian Institute of Marine Surveyors and welcome, Susan Hull, and if you'd like to just introduce yourself and then, say, give us an opening speech, that would be perfect.

MS HULL: Yes, will do. Thank you. My name is Susan Hull and I'm the CEO of the Australasian Institute of Marine Surveyors, which is the peak industry body for marine surveyors in Australia and the Australasian region. On behalf of the AIMS, we thank the Commission for the opportunity to contribute to this inquiry and would ask that you note that our submission deals solely with the issues related to the domestic commercial vessels

sector, and in particular to the issues surrounded the reduced survey scheme, the risk rating of vessels, and the accreditation of marine surveyors.

The AIMS has been established since 1986 and has over 400 marine surveyor members and is the largest marine survey association in our region, and we rank as second-largest of the individual marine survey institutions in the world. Unlike most of our international counterparts, the AIMS represents the entire sector of the marine survey industry from tinny to tanker. Our members undertake the survey of recreational vessels, domestic commercial vessels, regulated Australian vessels, internationally-based foreign-going vessels, as well as offshore oil and gas structures, and we cover the whole gamut of marine survey categories.

The AIMS has formed strong links with the marine survey community generally as well as government, and in that I am referring to the Australian Maritime Safety Authority and the Department of Agriculture. Our key stakeholders outside of the government are shippers, charterers, insurers, vessel owners and the consumers of marine survey services. Over one third of the AMSA accredited surveyors are AIMS members and we have a steady stream of surveyors undertaking study to achieve accreditation or vary the types of surveys that they undertake. I would like the Commission to note that the AIMS fully supports the national law and the work achieved by AMSA, particularly over the past two years. We are aware of the many challenges of implementing a project such as the Marine Safety National Law and we are of the opinion that overall, AMSA has performed very well. I personally have been involved in the National Law project since 2012, when it was known as tinny-to-tanker, and I'm personally working with AMSA and then with the AIMS and I'm well aware of the intent of the National Law and what it seeks to achieve, and I'm aware of all of the challenges involved in creating a cohesive national system. It does take time and it does take the effective collaboration of all the stakeholders.

As a key stakeholder, the AIMS is focused on issues that may impact on the safety of vessels and crew, as well as those that pose a threat to the livelihood of marine surveyors. Today, the AIMS is the primary provider of marine survey training in Australia and our region, and the AIMS was responsible for the development of the first accredited vocational qualifications for marine surveyors. These qualifications were developed over a two-year period in conjunction with private industry, state maritime safety agencies and AMSA, and were finally introduced into the Maritime Training Package in 2014. It was envisaged at the time that these qualifications would form the minimum requirements for marine surveyor accreditation.

However, that was not the case and the qualification requirements were, in our opinion, watered down and our work was largely negated when a decision was made to allow non-accredited courses with no practical requirements, no prerequisite entry requirements and they were delivered via distance, and these were allowed to form part of the qualification requirements for accreditation, and in our view, that was just not appropriate. It was a huge disappointment to us and to professional surveyors, and especially to the AIMS as an organisation whose mission is to ensure that marine surveyors are appropriately qualified and that they are experienced to carry out the surveys that they undertake.

Over the past five years, the AIMS has worked very hard to transition the marine survey sector of the maritime industry to a contemporary model that addresses consumer welfare in terms of quality, price, and standard of work they receive from a marine surveyor, and we have recently developed and implemented a certification scheme and are now working on an application to the professional standards council, which we hope will achieve our goal to monitor, enforce and improve professional standards of all marine surveyors and to protect consumers by ensuring that these professional standards are enforced by industry. We seek to ensure that the high standards we have established are reflected in the National Law and that the accreditation of surveyors is a clear, consistent and robust process.

Australia, through the AIMS, is leading the way in terms of setting standards and codes of practice for the marine survey industry, and we do have a reputation for delivering a professional product that, in part, has been enabled by enforcing currency rules on qualifications and mandatory CPD. Having professional standards has cemented our reputation, and this is evident today in our increased applications for membership from overseas surveyors, in particular the southeast Asia region.

It is our intent in 2020/2021 to develop and implement new mechanisms to validate the credentials of overseas surveyors and open up the certification scheme to a larger cohort of experienced industry surveyors across all sectors. We believe it is critical that the high standards of marine surveying are in place and that our remit as an industry association is to ensure that the Australian domestic fleet is implementing best practice in terms of vessel condition, safety and employment standards for crew. Our surveyors have a unique opportunity to assist and work with AMSA in the provision of factual data on the condition of the fleet and the take-up and implementation of appropriate fit-for-service – fit-for-purpose safety management practices by vessel owners and operators. We are committed to further strengthening the awareness of the safety requirements for seafarers and vessel owners and have developed marine survey training programs that specifically address the auditing and assessing of safety

management systems that are applicable to all vessels and crew captured under the National Law, as well as those captured by the Navigation Act and the International Safety Management Code, the ISM Code.

While we fully support the National Law and AMSA as the regulator, we do have concerns that the reduced survey scheme will not only result in a diminished market for professional marine surveyors, but will also result in poor safety practices by vessel owners and operators. We are firmly of the opinion that the omission of safety management system auditing at the time of survey and/or at intermittent points during the five-year survey cycle will impact on safety now and in the future. In our opinion, it's not too late to review the safety management system auditing and the survey regime and include a requirement for surveyors to be involved in the risk rating of domestic commercial vessels.

The objective of any statutory survey, surely, is the reduction or eradication of substandard vessels through regular inspections. A five-year cycle at this point in time is essentially allowing the operators to self-regulate, and we know from incident investigations and current accredited marine surveyor survey reports that the fleet does not have the maturity to do this at this time. The owner and the crew must be accountable for safety and this should be enforced. As with PSC – Port State Control inspections, we believe that a document of safety compliance appropriate to the class and size of the vessel could and should be issued by a professional surveyor and provided to AMSA with recommendations on any follow-up required, including a recommendation on the risk level of the vessel and its operators and the most appropriate survey regime for that vessel. This certificate of compliance is used in other Port State Control inspections and flag inspections, and it could be used by marine safety inspectors to assist them in the evaluation of the current state of safety management on a vessel at the time of their random inspections.

The current survey regime was reduced before the fleet had been surveyed at least once and no safety benchmark was set, which we believe resulted in a year's worth of data and trending opportunity being missed. This could be rectified through the introduction of a certificate of safety compliance for the domestic fleet and would certainly provide AMSA with the factual data required for effective reviews of safety compliance. The current survey regime is, in reality, a system of self-regulation by vessel owners, but it can only be effective if all operators do the things – do the right thing, and as noted earlier, we know that the industry is not mature enough to self-regulate. The poor operators are being rewarded and view the survey regime as a paper-pushing exercise. There is no benchmark or reward for best practice and we believe that this is the starting point for maturing the

industry, and should be addressed and incorporated into the National Law as a certificate of compliance.

Rather than wait for a tragic accident to occur, there is an opportunity right now to put an effective measure in place, and a certificate of compliance would go a long way to raising awareness of the importance of minimising safety risks as much as possible throughout the whole industry. The AIMS seeks to work with AMSA and the government to assist the whole of our industry to meet their safety obligations, and I thank the Commission for the opportunity to be involved in the hearing.

MR LINDWALL: Thank you very much, Susan. Could I just clarify one thing you said, which was that the qualification requirements on the courses have been diminished. Is that the – like, the difference between surveying and inspection, or is it something else?

MS HULL: There's no – so the qualifications that we developed were for marine surveying, and primarily we were developing those for the National Law – for the implementation of the National Law because there are no worldwide qualifications for marine surveyors or inspectors anywhere. AMSA run their own training program and we took best practice from basically those flag and Port State Control inspections and incorporated those into what would be required to inspect and survey a domestic vessel.

MR BAXTER: Just following up on that, what would the, sort of, normal, minimal standards that an inspector would, you know, be expected to have?

MR LINDWALL: Or a surveyor.

MR BAXTER: Or a surveyor, yes.

MS HULL: Our normal minimum standards are you must have done some sea time. You can't – you could not learn to be a marine surveyor from a book, purely from a book. You would have to have worked at sea. You would have to have had that sea time, understand the type of vessel that you're inspecting, and a lot of those international qualifications a) weren't qualifications to start with. They were just in-house courses. They didn't have any prerequisites, so anybody could do it. You could be a plumber and go, "I think I'll be a marine surveyor", and – yes. So that really upset us, that we'd gone to all this trouble to develop those qualifications and the legislation came out saying "a diploma", well, from anywhere.

MR LINDWALL: So what do you think drove the change? Is it the cost was considered too much, or – what are the reasons, do you think, that there

was a shift from what was the original idea of having a high level of qualification for a surveyor?

MS HULL: I think it was done to please international industry associations who had delivered qualifications mostly to recreational vessel surveyors, and we know how well that's gone. But I think that that's what it was. I'm quite sure that at the time, when we – when I was involved with regulatory affairs, the legislation was written to clearly reflect "a diploma", and whilst those international associations do develop – do deliver what they call a diploma, it is a distance learning course. It is not recognised by any higher education authority. It doesn't require any practical application, and I think they did it to please those people.

MR LINDWALL: Okay. But in your case, to become a surveyor – a certified surveyor, a registered surveyor – as well as seafaring experience, how long does it normally take a person who wants to become qualified?

MS HULL: On top of your seafaring experience it takes 12 to 18 months for the basic diploma, which focuses on domestic commercial vessels. It takes up to two years for an advanced diploma. Again, you'd still need to have sea time. You'd need to have – or hold qualifications as an engineer or a deck officer. You'd need that experience and background.

MR LINDWALL: It's like a prerequisite.

MS HULL: That's right. There's no way you could develop a diploma of marine surveying that would cover everything that they would need to know. You just couldn't do it.

MR LINDWALL: How much work do you think - like, your proposal here that for class 2, 3 and 4 vessels over 12 metres, initial – there should be an initial survey and then a risk rating applied, and then depending on the risk rating, subsequent surveys. How long does a survey typically take, I guess, for a – now, I imagine it depends on the size of the vessel, obviously.

MS HULL: It does, very much. So it can take from as little as two hours on a seven-metre vessel – depending on, also, what type of survey it is, is it in water, is it out of water – or it can take a full day, you know, and a big vessel can take two days.

MR LINDWALL: And what was the situation ex ante the national reforms in terms of surveying what we now call domestic commercial vessels that were regulated by the state authorities?

MS HULL: The government surveyor undertook those surveys and obviously, they had a number that they had to achieve each week, I would think, and that was the case, and they came from different backgrounds. Some of them were not surveyors at all. Like, some were – like a naval architect, for example. Great, if you're doing the initial survey. If you're doing an operational systems survey, maybe not so good.

MR BAXTER: Was there at one stage a special school at Launceston which did a lot of this work?

MS HULL: Australian Maritime College.

MR BAXTER: Does that still exist?

MS HULL: The Maritime College does exist and it's very well-funded by the government, but it does not - - -

MR BAXTER: Doesn't do any of this stuff?

MS HULL: - - - deliver marine surveying qualifications, no.

MR LINDWALL: No, I didn't think it did. It was more about becoming a Master of something, isn't it?

MS HULL: That's right. It's all seafarer qualifications - or mostly seafarer qualifications. They did deliver a diploma in marine surveying some years ago which was the international institute of marine surveying diploma, and the AIMS also contributed to some of the learning materials. But my understanding is that the AIMS pulled out quite quickly because of those issues that we've talked about, about not having that experience and you – it's too big a qualification, too in-depth, to not have the practical experience.

MR LINDWALL: So do you think that - under the current regime, what you're suggesting is AMSA doesn't have a full handle on the safety – initial safety state of some of the vessels?

MS HULL: That's right. So our surveyors have reported to us that the vessels that they are going out to survey have little or no safety management systems. Anecdotally, they've told us that the owners are just not interested, and in fact one surveyor came and met with me to discuss what we could do about a particular vessel operator who had a fleet of four vessels, and he had them lined up at the marina for the survey to take place, and once the first vessel had been surveyed he then blatantly took the safety equipment from that vessel to the next one and then to the next one, and to the next one, and when the surveyor questioned that and said, "You can't

do that", he was told, "This is what the government surveyors allowed us to get away with and if you think we're doing anything different, go home. We'll just get another surveyor. There's plenty of you out there", and that is - the harsh reality is that right now, there are a lot of marine surveyors out there who rely on their surveys for their private income and if they don't do what the vessel owner tells them to do, the vessel owner will simply just get another surveyor.

MR ROBERTS: Susan, you're referring there to the state government surveyors?

MS HULL: State government surveyors at that time, yes. Not AMSA surveyors.

MR ROBERTS: Can I ask about a couple of things? You've mentioned that the safety management systems, they're not assessed at surveying and you think that's a missed opportunity?

MS HULL: I do. It is up to the discretion of the surveyor whether or not to survey the safety management systems. Now, the good operators invite them to do it and really want to work with the surveyor to make sure that they're doing the right things. The poor ones – "Go away, don't".

MR ROBERTS: And that's continuing a practice that - the states and territories had complaints or (indistinct) changed?

MS HULL: I don't know that the states and territories had any auditing of safety management systems or any safety management system requirements. From my knowledge, AMSA were the first ones to say domestic commercial vessels need to have safety management systems.

MR BAXTER: Can I just press that one? Knowing the value of some of these vessels and knowing that some of them would be either insured or subject to bank funding, do the financiers, you know, insist that there's a survey done and want to see it, and see it at regular intervals?

MS HULL: They don't insist that it's seen at regular intervals. There are two ways that it's done: at point of sale, when it changes ownership, there's one done, and when insurance is due. So you'll get an organisation, say, like Club Marine, who are probably one of the largest marine insurers, and that is a completely different process to surveying a vessel for safety and for compliance to the regulation. That's basically a tick box that says, "Is there any visible damage", you know, "Does it have a steering wheel, does it have" - - -

MR ROBERTS: So it's focused on a future possible insurance claim - - -

MS HULL: On insurance, yes, and the value of that vessel.

MR ROBERTS: - - - rather than safety. Okay.

MS HULL: Yes.

MR LINDWALL: You may as well continue as you were.

MR ROBERTS: Well – so you have a concern around the frequency of survey inspections and you've given us a bit of a breakdown here where for some classes you think the frequent inspections are fine. Other classes you're suggesting an initial survey and then probably one or two in the next two or three years, depending upon the nature of the vessel.

MS HULL: That's right.

MR ROBERTS: How many vessels would, sort of, fit this – would meet those criteria today? Are we talking about the bulk of the (indistinct)?

MS HULL: The bulk of the marine – look, I think – I know it's a difficult thing, but I do feel that - - -

MR ROBERTS: I'm trying to get a sense of the dimensions of that, because it's a very diverse fleet.

MS HULL: It is. It is a very diverse fleet.

MR ROBERTS: And I'm trying to get a sense of where the risks lie and how frequently the surveys are being conducted.

MS HULL: And then it's also what type of surveys. I mean, if you're on a low-risk – and a real - like, the houseboats, for example, they're sort of being – we're being told that they're low-risk. But I don't think they are at all. How can that be?

MR LINDWALL: (indistinct).

MS HULL: I wouldn't like to be hiring a houseboat that hasn't been certified as being safe for myself and my family to be on. I just – I wouldn't do it. I think that's mad. But I think in the first instance, outside of the hype that the class 1, 2As or 2Bs, that they – I think the survey regime for that is appropriate at this stage, and I hope it doesn't change. But for the next class, the medium frequency, how do they know they're medium

frequency without that data? Without knowing exactly what's – what is the certificate of operation for that vessel, really? What is its current condition? What are the safety management systems? Who are the crew and are the operators good? Now, you'll get some really good ones in there, but you'll get some bad ones. You'll get poor operators wherever we are. I mean, it – you only have to look at the incident – you know.

MR ROBERTS: And could give you me a sense of – I mean, we've heard – what, was it 22,000? Over 22,000 vessels - - -

MR LINDWALL: Sounds about right, yes.

MR ROBERTS: - - - you know, have DCVs and in terms of the breakdown between different classes, I know we've got some of this data – I know Max has it. I'm just wondering, is there – how substantial are these different groups? When we look at the two, three and four class vessels, which you're expressing particular concern about – so the over-12-metre vessels - is that a – what sort of proportion of the fleet is that?

MS HULL: I would say it would be a third – less than a third, yes. The survey regime used to be all vessels over seven metres, and then they said all vessels under 12 metres. Well, some of our surveyors are saying that that – just that change alone reduced their work by 60 per cent. Which is fine, but – so long as you know the condition of the fleet.

MR ROBERTS: So you're saying that previously, all vessels over seven metres had a survey requirement. Now it's all vessels over 12.

MS HULL: That's right. Seven and 12 depending – seven and 12 - class 2, 3 and 4 vessels over seven but under 12 with no passengers, they're now at a low risk rating and you really would want to have a look at that vessel sometime between – in that five-year period, and if nothing else, at least have an audit of the safety management system in that time.

MR LINDWALL: So is it easy to tell or not, if you look at a particular vessel, whether it's regulated under the Marine Safety Law – National Law or is it being regulated by the Navigation Act, or is it still regulated under state government's regulations?

MS HULL: It would be easy to tell – it would be easy for a surveyor. I wouldn't claim to be a surveyor myself. But yes, there is quite a big difference between a recreational vessel, for example, which the states now look at – which is an issue of safety all on its own. But then with the regulated Australian vessels and international-based foreign-going vessels, they're big. Like, you know, they're huge. Well over the 30-metre mark,

and one of our issues with the qualification requirements is how – with AMSA raising the limit there – the meterage limit up to 60 metres, there would be very few – very few – of the current AMSA accredited surveyors that would have the knowledge and experience to survey a vessel over 30 metres.

MR LINDWALL: So when one of your surveyors goes to survey a vessel and it's a grandfathered vessel, what standards do they apply and is it different to what they would survey the same boat in every other respect apart from being brand new?

MS HULL: It's the same survey, but there's very little that they can do about the condition of that vessel and deficiencies that they find – like, they aren't surveyed and assessed in the same way.

MR LINDWALL: I meant are they surveyed under the pre-National Law or are they surveyed under the – in other words, are the survey requirements grandfathered as much as the vessel is grandfathered?

MS HULL: That's right, and so they'd be surveyed under the old code.

MR LINDWALL: So that's quite different, obviously. Does that mean that your surveyors have to have multiple different ways of looking at it - or conducting a survey, I guess?

MS HULL: Yes, and they would be specialists in those fields. There would be some that would be – most of those boats are timber vessels and there would be surveyors who are specialists in timber vessels and not, you know, just - - -

MR LINDWALL: And they obviously vary across jurisdictions, then.

MS HULL: Yes.

MR LINDWALL: So ones that came from Queensland are different from - - -

MS HULL: Yes, exactly, and they all were surveyed differently and it's very clear now, when you – you know, I've got members who were ex-government surveyors from every state who all have a different opinion of what a survey, you know, should be, and so we've had to meet with them and our normal surveyors – like, our surveyors who make a living – or have always made their own living out of surveying and then the blue-water guys, the big ship surveyors, to all come together to say what's the standard – what should be the standard of survey for every vessel regardless of what

size or their operational system is. There must be some basic benchmark minimum standard that you conduct when you do that survey. It's not about how well you know the owner.

MR LINDWALL: Yes, and were there many vessels in your knowledge that were previously regulated under the Navigation Act that are now regulated under this - - -

MS HULL: No. I don't think there's very many at all.

MR LINDWALL: Okay.

MS HULL: I don't have those statistics but I wouldn't think that there's a lot at the moment. I do think that that will change moving forward just because of the price of a classification – a class survey is a lot more expensive than a survey by a private surveyor or an accredited surveyor.

MR LINDWALL: So could you give us a rough order of magnitude of the cost (indistinct)?

MS HULL: Someone told me that I – I did have something the other day that someone said – the vessel owner said he's paying 7,000 for class. I think his vessel was – I think it was 80 metres and I think he said he was paying 7,000 for a class survey and 3,900 for an AIMS surveyor survey, and he was ringing me up to check whether he was getting a dodgy surveyor or, you know, was this being done on the cheap and was it still going to pass an inspection.

MR ROBERTS: Probably an information request, actually, Susan. Given that your organisation is suggesting there should be more frequent surveys, it would be handy for us to have a sense of what the cost of those surveys roughly might be for the different classes. I appreciate you've said it could be two hours, a full day - it could be a host of things.

MS HULL: Yes, and it could be a host of things. There are some surveyors that follow the AMSA costing on a per-foot or whatever basis, and there are some that do it on an hourly basis. But you would look at probably, on average, $500.

MR BAXTER: And that's at the cheap end.

MS HULL: I beg your pardon?

MR BAXTER: And that's at the cheap end.

MS HULL: That's at the cheap end?

MR BAXTER: Yes. I mean, it also depends whether or not the owner wants it put up on slips and the – a proper job done that might cost, and that adds something – yes.

MS HULL: That's right, and it does depend – the price does depend on whether it's an out of water and it's – a dry dock or whether it's an in-water survey.

MR BAXTER: Yes. You go between somebody going over it and having a quick look - you know, that's 700 to a thousand bucks. But then if you want a thorough survey done which they'll issue a Lloyd's certificate on it, you're up to probably three, $4,000 at least. But it would have to come out of the water.

MS HULL: Yes. You would probably know that better than me. It's very hard for me to get my surveyors to agree on a uniform price and they won't divulge much information in the way of pricing. But I can tell you that, you know, vessel owners - especially recreational vessel owners – phone us all the time. Like, we would get at least two or three calls a day from recreational vessel owners who are not captured under this law and there are no state regulations for the survey of vessels and they will ring up – one guy last week said, "I got the survey done and I took the boat out – I bought the boat, I took the boat out, the boat sank and it's cost me $48,000. What do I do?" Fortunately it wasn't an AIMS member and we didn't have to really deal with it. But they're the sorts of issues that are happening and it just – and he said, you know, "I paid $350 for the survey", and I said, "Well" - - -

MR ROBERTS: I presume that they would have professional indemnity insurance on things like that.

MS HULL: No. Recreational vessel surveyors don't have – no. That's the whole reason they're recreational vessel surveyors. They are not held to account.

MR LINDWALL: Now you've – if I recall, in your submission, you didn't like our recommendation to return what we considered hire – rental-type vessels back to the state regulator. I mean – the logic for that, by the way, is more that, well, you can imagine people have a jet ski. I know that Malcolm's a keen jet ski user.

MR ROBERTS: Not yet, no.

MR LINDWALL: He owns one, and of course he's regulated by the state, and then he goes to Ken to hire one and he's regulated by the domestic commercial vessels, and we thought that was a bit of an anachronism for a like-for-like. So is there – what would you argue as the reason for not doing that?

MS HULL: I don't think that a jet ski is a domestic commercial vessel, really. But I understand where the linkage is in that it's a recreational vessel that – but for hire, and that's where it falls under that issue. I would say for – it's hard. It's a difficult situation. My gut feeling would be, unless the states have – or introduce a seaworthy certificate for every vessel – recreational vessel, domestic commercial vessel, anything that falls outside of AMSA's remit, anything at all – unless there's a seaworthy certificate it shouldn't go back to the states. It's too important. I don't even think recreational vessels should be able to change hands without somebody somewhere certifying that that vessel is seaworthy. You do it for cars.

MR LINDWALL: Well, sort of.

MS HULL: Sort of. But you know, that's in there - - -

MR BAXTER: If you go to a shonky car dealer along Parramatta Road, it'll all be dressed up in polished (indistinct).

MS HULL: I know, I've been to one of those.

MR BAXTER: And you'll suddenly get out and the engine falls out.

MR ROBERTS: Part of our thinking, as well, with that was about the likelihood that the state would have a presence in local waterways and that they would be seeking to monitor the safety of recreational vessels which may be exactly the same. So it's partly about the convenience of (indistinct) oversight. So, you know, that was part of the reason behind it.

MR LINDWALL: I mean, the artefact was created by leaving leisure vessels with the states. An alternative would be that every vessel be regulated by AMSA, I suppose. That would be another alternative but we didn't go so far as to recommend that.

MS HULL: No, and again, that could be done also then in – even in size. Like, if it's less than three metres – like, three metres is a fairly big recreational vessel. So if it was less than that – but again, it depends. If it's being hired out to a member of the public, it should be safe and it should be certified as safe.

MR ROBERTS: No argument there, in the sense that it should be safe.

MR LINDWALL: No, and if it's being sold to a member of the public it should be safe, too.

MS HULL: I think so. It should have the appropriate safety equipment on it. I mean, there's so many that you see now that the life jackets are not compliant, you know, none of the fire and safety equipment is actually compliant. But our surveyors say if you push too hard, it creates conflict.

MR LINDWALL: Well, there's a lot of resistance to the introduction of float-free EPIRB devices too, which is a bit odd.

MS HULL: That's right. We almost need to give them away for free or put them on – again, a certificate of compliance – safety compliance would be that that is on there and that you've got one. I mean, at least if they've got one we've got more of a chance of getting them to use it.

MR LINDWALL: What time is it? Sorry. It's probably – it's about time anyway. Did you have anything - - -

MR BAXTER: No, I've got no - - -

MR ROBERTS: Well, Susan, thanks.

MR LINDWALL: Susan, thank you very much for appearing today.

MS HULL: Thank you.

ADJOURNED **[1.43 pm]**

RESUMED **[1.45 pm]**

MR LINDWALL: So welcome to ALGA.

MR BERESFORD-WYLIE: All right. Thanks very much, and I might make a brief opening statement.

MR LINDWALL: Could you introduce yourself?

MR BERESFORD-WYLIE: Adrian Beresford-Wylie. I'm the Chief Executive of the Australian Local Government Association.

MR FOSTER: Kym Foster. I'm the Director of Transport Policy at ALGA.

MR LINDWALL: Please, yes.

MR BERESFORD-WYLIE: A very brief opening statement to say that I'm happy to come and happy to appear before the Commission. We've put a submission in. Our submission draws very heavily on our state member associations. I work here in Canberra. My job is to engage with the Australian government. Our engagement is limited; the NHVR and the Office of National Rail Safety – a little bit. We have a little bit to do with the Office of National Rail Safety. But we're not councils and therefore we don't run an access process for roads. We can provide some – a little bit of commentary on the situation from our perspective. But if you want to go into detail, you're best to consult with our state associations or indeed, engage directly with individual councils and their experience.

MR LINDWALL: Okay. Is that the statement?

MR BERESFORD-WYLIE: That's it. That's the full extent of my comments.

MR ROBERTS: It's a model of brevity and clarity.

MR LINDWALL: It is. I think, in your submission, you talk about grouping vehicles into envelopes because there are very many categories and this may – would assist road managers. Could you perhaps elaborate on that in your own words?

MR BERESFORD-WYLIE: I can sort of elaborate in the words of the New South Wales association, because this is their view and I'm pretty sure that you would have actually – unless I'm mistaken there - - -

MR ROBERTS: We saw them last week.

MR LINDWALL: Yes, we did.

MR BERESFORD-WYLIE: You explored these comments with them. There's not much I would like to add to that. They may have explained, I think, that they had some small concerns with what was suggested from the industry and that while they're happy to see a degree of simplification for a process – a simplified classification system to assist councils, there is a degree of caution about using any process like that which might expand access to vehicles which are currently identified, you know, B-doubles,

which are classified as restricted access vehicles. So the concern is the same concern that you find for the deregulation of almost everything, which is that the granularity and the reasons for that regulation are lost when you move to a simplified system, and the last thing we want to see is risk introduced in a system through its simplification.

MR LINDWALL: So to summarise that, I suspect you would be – your members would be general happy with a level of simplification provided it doesn't get abused, I guess.

MR BERESFORD-WYLIE: Yes.

MR LINDWALL: I mean, there are many examples where you'd be opening things up inappropriately, but also, there might be examples where it would make it simpler both for the operator as well as for your local government members, I guess.

MR BERESFORD-WYLIE: As long as it doesn't affect the integrity of the decision-making, which I think is what everybody would be aiming at - - -

MR LINDWALL: Correct, yes.

MR BERESFORD-WYLIE: - - - then that is something, I suspect, that our members would support. They would be concerned if through simplification, it removed a process within which they currently make decisions but they lost the right to those decisions. As long as it aided them in their decision-making, then I think that we would all see that as a positive.

MR LINDWALL: Yes. The Tasmanian authorities have put together a pretty good database, which is available online, to understand the possible routings a truck type A could take from point A to point B, and it shows where the bottlenecks are and it's a good way of helping to decide what new investment needs to be done – undertaken for bridges and roads and so on. Do you think that – have you got any comments upon whether that's a useful thing to have more broadly across Australia?

MR BERESFORD-WYLIE: I think it is, although inevitably, the scale in Tasmania - - -

MR LINDWALL: Of course.

MR BERESFORD-WYLIE: - - - it makes it a more manageable, friendly environment in which to provide the sort of engagement you have with – between industry and local government and the state government itself. I

think we would all hope that that sort of degree of cooperation and collaboration could be achieved. But it's just the sheer scale, and it is – I wouldn't say it's heart-warming. It's very positive to see that that degree of cooperation exists in Tasmania, and there are other areas – let's be frank, there are other areas where - South Australia, Queensland, they are seeking to actually engage effectively with their – you know, with local governments. The state government is trying to provide support and trying to support with state associations in providing support for councils in dealing with the challenges that they face, and not suggesting that that's not a positive issue. It is.

MR LINDWALL: Well, what about the transparency of permit applications? Have you got anything to say about that? If we were to push for a greater level of transparency or – some people too have been submitting that permit applications and their approval tend to be rather hidden, and council X or road manager X has approved this particular access for this vehicle, and no one else really knows that that has happened, and then they go through the whole process again. Do you see a role for greater transparency there?

MR BERESFORD-WYLIE: Well, all I would suggest there in principle is it would be difficult to argue against transparency if it's a decision-making process that in a sense is a public decision-making process about the use of a public asset.

MR LINDWALL: Yes, yes.

MR BERESFORD-WYLIE: It's hard to imagine that there's some reason why that would be a difficulty and that there would be any commercial in-confidence issues arising from that greater clarity. From our perspective, we see occasional advice from our state associations which talk about the interaction between the NHVR and its own processes and the processes of councils. We see lots of things.

You've been around for a long time, Paul, and therefore will be familiar with the situations around things like development assessment processes where councils receive applications and then have to refer them off to a state agency which sits on them for six months because it's a complex issue, comes back to a council, and then the council responds, and the person at the end of the line says, "You took nine months". Council thinks, "No, we didn't. The state did". The same situation might apply where we see the NHVR having relatively slow processes compared with providing it to councils and expecting a quick turnaround. I think I would find it hard to argue against greater transparency in the process.

MR LINDWALL: It would be good then to have a documented trail, wouldn't it, that I put in my application at 11.30 on 21 September 2020, and then it went to a council and they gave it to the NHVR on such and such a date, and the NHVR returned it on this other date and so on, and it was all mapped out there. That would be quite nice, wouldn't it.

MR BERESFORD-WYLIE: Is that what you're aiming for? I mean, I would like to see that myself.

MR LINDWALL: Yes. Sorry. Malcolm.

MR ROBERTS: No, no. Well, we've seen – I suppose Queensland seems to have a very proactive approach and seems to be working to develop better use of the road assets that they own in conjunction with the state government and the industry. So they seem to accomplish quite a bit with assistance being provided to the state member body. Do you think that's a model that would be encouraged?

MR BERESFORD-WYLIE: We've got a variety of different models. One of the things that often comes to the fore in terms of the challenges faced by councils and how they might move forward in terms of combining resources in some ways, and, as mentioned later, a little bit about that shared resources. The concept of regional road groups and structures which exist to support councils in the challenges they face. Regional road groups, I think, unless I'm mistaken, emerged in Western Australia and were picked up very strongly by Queensland, to such an extent that the Queensland Government, of course, provides some additional funding to be distributed between those regional road groups to tackle particular issues, and I think it's TIDS funding, from memory, that is distributed.

It's not, you know, a huge amount of money. It's about $30 million, but with those funds they actually have been able to tackle an interesting number of issues on a regional basis with local governments and have sought to strengthen the relationship they have with their local governments and with those groups. I think that the Queenslanders seem to have a model where they recognise that dealing with their state association is a positive thing. Their state association tries to provide support to their councils on a regional basis as individually.

MR LINDWALL: Yes, yes.

MR BERESFORD-WYLIE: And it is a model, I think, that other jurisdictions – I think South Australia has looked to what happened in Queensland, the South Australian Government, the department there, and thought, "Is there something similar we can adopt to try and provide support

for our councils as well working through the state association?" I've had a conversation with the development officials in South Australia who have been seeking to put that in place, and we would encourage it.

MR ROBERTS: I would add to that that the NHVR deserves some credit because they have contributed funds towards a position in the Local Government Association of Queensland to help with expertise. So, you know, we've seen evidence today which would suggest that the freight industry is looking to formalise the process around access approvals, turning the guidelines that exist today into something binding, creating external review, the transparency that Paul has mentioned. So, you know, there seems to be merit in pursuing an approach that's more cooperative that involves resourcing local governments to do the task.

MR BERESFORD-WYLIE: I think there's a couple of issues. And I would certainly say that, yes, we have quite a good relationship with the NHVR, and I welcome the support from the NHVR, particularly in sort of its home state of Queensland, given the strong relationships between NHVR staff and Queensland staff. But there is an issue, and there will always be an issue, about resourcing local roads. You know the figures. Local government responsible for sort of 73 to 75 per cent of the task. In terms of assets, broader assets, local governments responsible for 30 to 33 per cent of non-financial public assets with about 3.4 per cent of the tax taken. It is a big task.

Councils struggle to maintain their roads, and we as a national body have an active advocacy role with the Commonwealth about providing additional funding for local roads specifically. You know, we sit on the intergovernmental structures that have placed significant emphasis on improving the productivity of roads through investment in major national and state roads, but local government tends to be a bit of an orphan at the end of that. We've often drawn attention to the fact that you need to be careful about dealing with local roads at the same time, otherwise you will create those blockages, those pinch points that occur that the industry so often complains about when it talks about the first mile, last mile issues. The unfortunate reality is that councils are strapped for resources.

You know, we see that everywhere across all the areas, not just transport, although transport is a substantial investment and the biggest asset for most councils. And so to the extent that you talk about a solution, which I'm sure the industry feels there is, a solution is about changing regulation, making permit processes more forceful, mandating the requirement that councils provide permits. We would argue you can't change the law to improve safe access. There are some cases where investment is going to be needed in the

infrastructure which freight operators want access to, and that's not unreasonable.

I am sympathetic to the fact that our freight industry pays a significant amount of money through road user charges and through registration. I can't recall exactly what the sum currently is, but it might be three, three-and-a-half billion dollars now, I guess. And there isn't a mechanism to see that funding directly going to local roads for their proportion of the task that they undertake. Although, there is an expectation in the industry that, having paid this money, they will have access to the infrastructure, and that seems a reasonable expectation.

MR LINDWALL: I can't recall, Adrian, did you – I know you appeared at our public infrastructure inquiry when we spoke about, in that, road pricing and road funds for regions and so forth. You supported that, if I'm not mistaken, or am I mistaken?

MR BERESFORD-WYLIE: Which argument?

MR LINDWALL: The having road pricing and road funds.

MR BERESFORD-WYLIE: Yes. You will hear – I mean, basically, we all know the situation coming in the future, and it reduced – the pressure reduced a little bit, of course, once indexation was allowed, of course, and fuel excise. It meant that the road user charge wasn't going to press up against the top of the envelope, but it doesn't take away from the fact that we're in a position now where fuel-efficient vehicles and the possibility of the introduction of electric vehicles means that we can see a declining trend for our sources for revenue. And if you're going to move to a different model of road user charging, local government will need to be included in that model, and we're moving to a model where people expect to gain access to infrastructure through the charges that they pay.

At the moment there's – I've been through a series – you've been around long enough, Paul – a series of processes within the Commonwealth which started with the incredibly named CRRP, COAG Road Reform Project, and then moved from, I think, from memory, the HVCI, Heavy Vehicle Charging and Investment regime, and we're now on to something else where people have struggled with two things: the complexity around the model and the urgency. And, as I said, the urgency has been removed a little bit with the indexation that has been reintroduced, the fuel excise.

But, nevertheless, people are aware that there is a day coming when we need to look at moving to different models of road user charging. One the one side, the charging. On the other side, of course, there's the investment

models, but people also want to look at the creation of road funds, and that includes regional funds for local roads which provide greater transparency for investment in roads and certainty for the state governments and potentially for local governments so that if you get a block of revenue for investment in infrastructure, it doesn't disappear into general revenue and find its way into hospital and a variety of other things, or at the local level, I suppose, find its way into sporting arenas, whatever else it may be. So there is the need for that move to that model. We, obviously, do support that. We would like to see that happen. We also recognise that people at the moment think they've currently – you walk out and use public infrastructure. They think they've paid for that infrastructure.

MR LINDWALL: Yes.

MR BERESFORD-WYLIE: It exists, therefore someone has paid for it. Why should they be charged again for its use, not to mention the move to a different structure of provision of vehicles? You know, if we move to the autonomous vehicle, we will have a group of people – and organisations running autonomous vehicles – who have absolutely potentially no investment in a sense in infrastructure, and how we actually capture enough revenue to meet our infrastructure obligations in terms of maintenance and additions is going to be a challenge. It's a challenge that we're still engaged in after 10 years in the Commonwealth.

MR LINDWALL: I'm an optimist, Adrian, that governments eventually come to the right decision after exhausting all the others.

MR BERESFORD-WYLIE: I know. But, unfortunately, I will be retired before that comes about.

MR ROBERTS: Well, well said, (indistinct).

MR BERESFORD-WYLIE: No. I think we would put a priority on investment as well as a transparent process.

MR LINDWALL: Ken.

MR BAXTER: Just going back against this roads issue, when you look at some of the submissions we've had put to us, there seems to be an awe of local government councils who take the road issue quite seriously, obviously, plan with it, but there seems to be a big gap in many cases, not all, but many cases, between the time that somebody gets a project which might be the extension of a road through some town or village and a big gap between that happening and then the council ticking off and giving it approval and it happening.

And we saw this a bit in the agriculture report, that there quite a few people, particularly in parts of Queensland, saying, "All the promises were made. We were told what was going to happen. They had made the road which would be, not a macadamised road, but a dirt road, and then nothing further occurred", and they were back to where they started from. What's the sort of planning arrangements – that may not be the right word – between local government councils and road authorities about what priorities are for various council areas and fitting in with the states as well?

MR BERESFORD-WYLIE: Too big a question for me, I'm afraid. I can't really go into detail and answer that, but I will give you one example which perhaps explains the complicated relationship between state governments and local governments, and this is only an analogy. I regret to say I can't give you a specific detail that we're looking for again on the roads issue. The infrastructure charges in New South Wales and the willingness of a state government to say, "Yes, you can charge infrastructure charges for developments and raise revenue to spend on the provision of community infrastructure in those developments", but there needs to be an alignment between the timing of the state provision of the headworks and local provision of the actual infrastructure.

Local government is able to raise the money for its provision of the infrastructure it's going to be required from developers, but that money goes into a trust fund to be used for the application for that infrastructure. The state, of course, doesn't have a similar mechanism, but what it has is the ability to actually fund those headworks from its current revenue, its ongoing revenue, and we've often seen situations where the provision of the local infrastructure is dependent on provision of those headworks, and so councils are left holding a sizable amount of money in a trust fund, waiting for the building of the headworks before they can spend their money.

And we've got a lot of critique of councils. You've got hundreds of millions of dollars in funds that you're not actually spending. You're not providing these resources, and councils thinking, "Well, you know, we're not able to. We're not able to touch the money, and we're waiting for the go-ahead from the state for the provision of our part of the deal, and we understand why we're being criticised, but there's not much we can do about that". And so I suppose I would say I can see examples outside roads where this alignment between responsibilities and between the different priorities of the state.

Now, the state might legitimately say, "Well, we had set aside the funds. We had it programmed, but there is a need for a new hospital or a new school, or we're under pressure to provide public transport. I am

sympathetic with states which have the most expensive responsibilities in a federation and not enough revenue to deal with those responsibilities". They also have an issue of trying to balance the provision of resources, and we've got a situation now – far be it from me to play the bushfire card, but we have a situation now where councils are under immense pressure to provide all sorts of services, and things are going to slip, and it's unfortunate that that is the situation, but councils are not transport agencies. They're covering such a wide range, 150 types of services and infrastructure that local government provide across the country, and it's a difficult balancing act with a limited revenue base.

MR LINDWALL: Can you comment on the approved guidelines for granting access for road permits that were revised in December last year?

MR FOSTER: We haven't seen them yet. We know they're being discussed between the National Heavy Vehicle Regulator and the jurisdictions, but we haven't seen - - -

MR LINDWALL: Well, I can't ask you then.

MR FOSTER: And we've been through that process early in the piece leading up to the regulator kicking off. We were involved in that process, but, yes, we're still waiting. We have asked and will ask again.

MR LINDWALL: Well, I don't have any more.

MR BAXTER: No, I don't have any more.

MR LINDWALL: Well, I think we've exhausted our questions, unless you've got any final points you want to make, Adrian.

MR BERESFORD-WYLIE: I look forward to your report, as I have to earlier reports on such a wide variety of issues.

MR LINDWALL: Indeed.

MR BERESFORD-WYLIE: And I particularly enjoyed your report on natural disasters and your advocacy.

MR LINDWALL: What about the one on remote area tax concessions? Not so happy about that one.

MR BERESFORD-WYLIE: No. But I like the one on that supported the idea of greater investment in mitigation.

MR LINDWALL: Yes.

MR BERESFORD-WYLIE: Something we've supported for a long time and something that I think is still a requirement.

MR LINDWALL: That's very important, yes. Yes. Thanks again, Adrian. We'll see you at the next budget, I think.

MR BERESFORD-WYLIE: I've heard much about (indistinct)

MR LINDWALL: We're slightly ahead of time, but if we could plough through, I suppose, this morning.

MR ROBERTS: Why not? Well, it will get you to the airport earlier, won't it.

MR LINDWALL: Lachlan, did you want to do – is it all right? We're slightly ahead of time. Did you want a coffee, Lachlan?

UNIDENTIFIED SPEAKER: I think Lachlan is ready to go.

MR LINDWALL: Let's get going.

UNIDENTIFIED SPEAKER: Mick and Allan are on their way now, so we will probably just bring everything forwards.

MR LINDWALL: That's good. That's fine. We've got to get to Melbourne after this, so that's good.

MR BAXTER: No. That's fine.

MR McINTOSH: I won't be long.

MR ROBERTS: Very good to see you again.

MR LINDWALL: (indistinct) see you again. Usual thing. If you could just introduce yourself and say what you wish.

MR McINTOSH: Thanks very much. Well, thanks very much for the opportunity. I'm Lauchlan McIntosh. I'm actually chairman of an organisation called the Towards Zero Foundation, a UK charity, but I'm a member of the Australasian College of Road Safety, and the Australasian College of Road Safety hasn't actually put in a submission, and I'm not necessarily speaking on their behalf, but I don't expect that they will

disagree with anything much that I'm saying in the past present of that organisation.

MR LINDWALL: So would you like, just to be clear then, for your comments to be registered as a personal - - -

MR McINTOSH: As a personal comment. I think it's probably best. Thank you. But I appreciate the opportunity, and I haven't put in a submission per se. I think a lot of people that I talked to anyway find putting in submissions is a tedious task for not much reward, and, however, the issues are pretty important, and I think the opportunity to make some comment on the record is probably useful. And I notice that, you know, safety is a key focus of this inquiry. In my last 30 or 40 years I've been heavily involved in a wide range of vehicle, roads and also industry safety and previous experience in the mining industry. I have a lot of experience with heavy vehicles and safety there.

I noticed this morning when listening to the Trucking Industry Association I actually was one of the earlier members of the TruckSafe committee, so I sort of do have some experience in some of these things. And I note that your draft report says that there's insufficient evidence to link substantial improvements in heavy vehicle crash rates to the post reform of the Heavy Vehicle Regulator, and I think that the key points I sort of want to really make – we face a lot of legacy issues in road use that – everybody is a driver almost or a road user in some form, and everybody has a history and anecdotal experience.

Whereas in the workplace or in other places we're able to change attitudes or change infrastructure or change investment, we have a huge raft of historical views of what you can and can't do, and I noticed there was a program on TV last night, I think, of the showman driving heavy vehicles with people in the cab with, you know, dogs and cats and kids, and everybody heads off, and we all think that's a wonderful thing and it's entertainment. And the reality is they said they had had a serious crash some two or three years ago because they drove in the dark, and now they decided to drive in the daylight.

MR ROBERTS: Well, that's progress.

MR McINTOSH: Well, you know, we have all these anecdotal sort of things that make it difficult to look at safety as industry does in the closed industry situation where safety is a priority, and my experience as a mine manager is that that's – we think differently to when we think about our own behaviour, mine included, I guess, in the road. So I think your recommendation of number 5.1 where the fall in crash rates is consistent

with the longer term trends and likely to be due to factors affecting all vehicle types, such as improvement in road safety, road infrastructure and safer design.

I think the word "likely" there is far too weak, that the reality is that high-level global analysis shows from the National Road Safety Strategy Inquiry that was done and completed in September 2016 made it very clear on page 16 that the business case for safer roads is estimated Australia would reduce fatal and serious injuries by more than 30 per cent by improving road infrastructure to achieve more than the 75 per cent travel on three-star or better roads for all road users, not just car users, but truck users as well. Infrastructure – we know the duplication of the Pacific Highway, the Hume Highway, the Bruce Highway have seen death rates drop dramatically or fatal crash rates drop dramatically.

I think using deaths as a surrogate for performance, particularly related to heavy vehicles, is very dangerous. Statistically, the numbers are very low for the exposure. We don't cover the death rates tied to – things are missing. There is no end cap. There's no crash testing of the trucks themselves. We don't know whether people because the truck cabin collapsed. We still don't know that too much. In vehicles we generally have a lot better knowledge, but we have no idea about what happened in the truck itself to whether people died or didn't die or how they were injured.

Were they injured, were they maimed because the gear stick damaged their legs and they've got a permanent injury? None of those questions are raised at all in this analysis, and so if you take injuries and deaths, it's very dangerous. I mean, I think statistically that's a mistake we all sort of take, and we don't really ask the question, "Is the road fit for purpose?" I heard you this afternoon talking to Local Government Association about this access to the roads. You know, we all expect that the road is okay. That is, I can drive along it, so it must be safe. Well, is it safe for a 10-tonne truck, 50-tonne truck or 100-tonne truck? Who has done that work? Nobody. It's not even factored in to any analysis.

We struggle to get this business of the star rating of the roads up in Australia. In 2006 I launched the AusRAP program in Australia to star rate the National Highway, and we are still struggling to get the roads assessed. Certainly, some states are doing it. iRAP now, the International Road Assessment Program, is actually working on that, but we don't know is the road safe for these trucks that are being put on them. We have these complicated standards, the Austroads standards, that the local government has to accept or not accept, and you've heard, you know, I think, the local government talk about how under-resourced they are in this space.

When I was on the committee for the National Road Safety Strategy Inquiry a couple of years ago, we went and spoke to some local government people, and I've been there 10 years ago talking to the same people. They are so under-resourced the local engineer has no idea they are under pressure from the Heavy Vehicle Regulator and the industry and all of us to have – we want cheaper vegetables, so we want big trucks driving through regional towns to deliver stuff. Is that good enough? We have no idea, and maybe the bigger trucks are safer. We don't really know. Is the road any safer? So you need to take a much stronger line on the value of the infrastructure itself.

We've known, as I say, the duplication of the main highways where the majority of the heavy truck traffic is, and probably the most modern trucks are on there. We don't know whether are modern trucks safer than older trucks? Is the new technology better or not? I would promote to the case that it is, but we don't have that data. We don't know that the new trucks with the new technology travelling the most distance on the safest roads are dramatically better than whatever. It has been put to me that we have actually in the case now – because of these much better highways we have 20th century trucks on 21st century roads, but that's not always the case.

Many of the 20th century trucks are driving on 19th century roads in regional Australia or 18th century roads in some places, and we still expect that to happen. I mean, there's the showman driving old trucks with caravans and things along pretty ordinary roads. How do we know that their crash rates compare with these other crash rates? I mean, a truck is not a truck, I guess, and a road is not a road. So that's sort of the – improved infrastructure is absolutely vital. The other question is blame, and I noticed in the report quite a bit of discussion on blame and using data that says – well, I guess the Australian Trucking Association quote says, "Well, the trucks are not the cause of the problem. It's the other drivers".

Well, that may be so, but that's when you look at the crash from the point of view of the two operators, the other road user and the truck driver, and the police are tasked with finding blame, nothing more, nothing less, blame. Well, is that the issue? What about the road authority or the vehicle manufacturer? They're just left out of the equation. So using blame for a surrogate for safety no longer happens in good industry. Blame and safety are just out of it. I mean, you heard this morning, I think, people talking about the no blame investigations of the ATSB. That's what we've got to do.

You've got to do that hard work to do the investigation. We found it in the mining industry. I did it all my life. I was in the steel industry before that. It's a very different thinking, but when you start talking about blame – we

all want to blame something. We all think as soon as we see a crash, "Who was at fault?" We've grown up with that. It's in our head. We want to see that. And so I think, in my view, statistical analysis of crashes without the full investigation is a nonsense, and that's pretty harsh, I know, but, you know, I've seen it for so long that we use the wrong stats to make up some numbers. And the - - -

MR LINDWALL: So you would more probably say that it's misleading. It can be misleading.

MR McINTOSH: Misleading, yes. Yes. Well, are misleading. Are misleading.

MR ROBERTS: How about I water it down further and say incomplete?

MR McINTOSH: I will be blunt. They're misleading.

MR ROBERTS: They're incomplete.

MR McINTOSH: And we feel that's the only data we have, so we use it, but if it's wrong, why should we use it? Why don't we say that's not enough? And then the ministerial inquiry, the report was very specific. We don't apportion blame on individuals, but speak a more coordinated accountability from government organisations, researchers and leaders to implement a safe system and eliminate harm. Well, harm elimination policy practice is an outcome. So we need to have a shift in thinking, and that's really hard, and then improving accident investigation – well, you've had a good discussion this morning on the potential role of the ATSB. We would support you 100 per cent. Is it hard to do? Yes. Too bad. We have to do it. I mean, let's get on with it.

I mean, the NTSB in the US does. We know the NTSB quite well. I know some of the members of that board, and they do it, and they have the data and whether it's – I think the point was made this morning from the ATSB as well that they can release preliminary stuff and get out there. Why shouldn't we do that? It's not the police's fault they don't do the full investigation. They have a different task. They are out to find the blame. That's their sole task. Insurance company data is the same. Who's going to pay? That's nothing to do with the safety. It's just a nonsense to think about that stuff. That's a different purpose. That's not about the safety on those things.

And we were very strong in the National Road Safety Inquiry. We said there should be – establish a national investigative regime to enhance the current police, coronial and research-centred road crash investigations

along the line. We support that, and I would support that. And you have to resource it. I think ATSB said this morning, "You know, we just can't do it with the people we've got. We're under-resourced as we are". We've got to do it. You've got to make a huge change. That National Road Safety Strategy Inquiry said we need three billion dollars of extra money if we're going to make a difference in safety, not three billion dollars of the current money, three billion dollars, and in that work substantial slabs of money for these types of investigations.

We have to change the way we do things. We can't just bumping along the bottom. It won't work. And then the next issue was data and technology. There's no doubt we don't have the right data, and it's amazing how little data we have. I mean, it was interesting again listening to the ATSB this morning to say they've got a huge database on aircraft. You know, you can have a small aircraft that weighs – I don't know – half a tonne or something, and they spend a fortune investigating it. A truck crashes, 150 tonnes or something, and we haven't got an idea of the data. What are we doing here?

We have to change the way we think, and we need to see a decent national database. I mean, I think the states in the road safety space are building good road safety databases. New South Wales has got a very good database at the moment. TAC in Victoria has got a good database. Other states are building their databases. Why aren't we harnessing it together? The new National Office of Road Safety has to be seriously resourced to do that, and the Bureau of Transport and Resource Economics or whoever have to really change the way they're doing that to give you that data. I see you were using the National Crash Database for the thing, but it's so light on, you know. It's a shame, you know.

And 1200 people die and 40,000 are severely injured every year. I mean, it's ridiculous that we don't bring that to the thing. And the other issue on technology, again, I think Australian Design Rules – don't start me, I think. And everybody is the same. And we, the community, protect ourselves with this regulation that says we must make sure that these regulations are fit for purpose and, you know, we do all this sort of stuff, but, you know, we have to move much faster and forward. The whole business of autonomous emergency braking – in 2014, all new trucks in Europe had autonomous emergency braking. They're taking them out when they introduce them into Australia, and we know in the terrorist attack in Nice the truck killed 100 and something people, and in Belgium a newer truck that the guy stole stopped because of the AEB.

Well, why are we six years – here we are, six years behind. I mean, it's hard to say that a truck driving up the highway – and that (indistinct) say, "Wouldn't want to stop for a kangaroo". Well, should it stop for a kid

walking across the highway? I mean, of course it should. All the new cars have that in it. Those cars are driving up the same highway. Why wouldn't you have it in the truck? It's just – I can see why people are – you know, we've said, "Well, we never had to do that". It's something new. Like the autonomous things in the car, we're nervous about that. Okay. That has got to be changed. We have to do it, and we have to make sure we change over.

So I think we have to really – there has been too many reviews of the ADRs. We have to decide whether we're going to accept those technologies and get on with it, and it's not about just accepting other people's technologies. We do investigate a lot of things ourselves. We've got a big program going, as I understand, with seeing machines and how long it takes to change over to autonomous vehicles, you know, how long it takes to grab the vehicle back. Seeing machines in Australia are selling their product to the rest of the world. Rio Tinto and other companies in the mining industry are running the biggest fleets of autonomous trucks in the world. Why can't we transfer that technology into the road?

No good saying, "Well, they're on these private roads". What? They're driving trucks around big roads. If you went on those – I managed those big mines, not as big as they're running now perhaps, but, you know, we can transfer those technologies. We have to do it. We can't leave it in one silo over here and say, "Well, we have to accept that there". So I think we have to get over the hurdles of the restrictions we have in order to save lives. Why do 1200 people have to die? Why do 40,000 have to be seriously injured? We know from the AAA work that they did that the cost of road safety to the Australian Government alone is nearly four billion dollars a year.

Well, we have to change the way we're doing that. So there's a lot of things, I think, in what you're doing that are important, and a lot of things are valuable, but we really need to sort of look at things like the fleet age, the capacity of those trucks. I mean, as someone else has said, the trucks that are bought today will be on the road in 30 years' time, and those trucks that are being sold today without autonomous emergency braking and used on the highway today will be in the cities in 30 years' time carrying rubbish around. So what's the go? Is that acceptable? Of course it's not acceptable. We have to sort of change the thinking that says it's urgent to make some changes, and it's the regulation. You've got this duplication of regulation which I've heard so much about this morning. It has to be changed. There has to be a difference. So, you know, I could go on, but I think that's probably enough.

MR LINDWALL: That's very good, Lauchlan. I mean, you've touched on a number of areas, and I certainly don't disagree with much of what you've said. I mean, in terms of misuse of data, we see that a lot. But one thing you didn't mention, because you've spoken about the quality of the roads, the infrastructure, the technologies in the vehicles themselves – what about the operator? How would you comment on the licensing and proficiency checks of drivers, particularly heavy vehicles?

MR McINTOSH: I don't know a lot about it, so I have to be careful. I do know that in industry there is a lot of work to train drivers, and if you look at my experience working for a large mining company, we did a lot of work to make sure that people were trained to drive the large trucks. And I see that that happens in major corporations today still, the Tolls of the world, and they've got big programs. I see international corporations setting up training programs, and it is a trick because everybody expects that they can drive a truck at some stage in their life, you know, and the showmen are a good example, and they can.

The reality is it's not that difficult, but how many crashes are caused by the driver? I don't know. So other people are better at it than me. I know that it's important that people be trained. It's important they get the right type of training and they get the right sort of experience, and it should apply to everybody. But it's surprising people with limited training manage to drive cars and trucks from all around the world, you know. You can go and jump in a truck and drive it in some place in the world and survive.

MR LINDWALL: Well, yes. I think my view would be that it's easy to drive a truck. It's not necessarily easy to drive it safely.

MR McINTOSH: Sure. And I think that's the same for most equipment. You know, it's the same. We've stopped that with cranes and other things we now have much more stronger – we've got heavy vehicle – we track the heavy vehicles around the town, and we know where they are. You know, I think that's possible. I think one of the points made this morning about the professionalism of drivers – how we, the community, say why shouldn't the truck driver be of the same status as a pilot. We've got a legacy issue there that says everybody can do it, and we should be progressively moving to that situation where – and perhaps we're factoring – the driver assistance programs should be seen as that.

Just as in the aircraft, the assistance program helps the pilot, you know. The pilot doesn't like to sit there with their hands on the joystick any more, but they have to be alert. We have to convince the people that you won't be able to drive the car looking out the back window. So we have to – training will change, but we have to put a lot of resources into that and recognise it.

The same for the car driver. I mean, you made the point yourself about the autopilot. We're going to have to accept that you need other thinking, as well as training.

MR LINDWALL: What about the use of telematics in heavy vehicles? Is that something - - -

MR McINTOSH: Yes, absolutely. I mean, we should track and have the data. I mean, why not? Everybody expects the plane to have the data. As soon as the plane crash, quick, go and get the black box. Why haven't we got a black box in cars? We do have black boxes in cars, and you can interpret them, and the police do interpret and interrogate them now, and people should know that.

MR McINTOSH: everybody expects the plane to have the data. As soon as the plane crash, quick, go and get the black box. Why haven't we got a black box in car? We have black boxes in cars, and you can interpret them, and the police do interpret and interrogate them now, and people should know that. If you knew that your car was being interrogated, your truck was going to be interrogated, it might make a difference. I don't know. After a while people get immune to it as well, I suppose. But, no, you're right. Telematics, tracking things, where they are, whether they're on the right roads, giving them information about what's happening ahead is important. I mean, I was involved in the early days within telematics in Australia. I mean, yes, I think it's a huge opportunity, and it should be fairly simple to do and keep going.

MR LINDWALL: I will ask one more question and pass on. In Sydney we had testimony from a gentleman about the insurance for vehicles and, in particular, how regulated compulsory third party is, and he thought that by changing the regulation and allowing the effect of different pricing for different operators might improve behaviour and so on. Do you think that's worth investigating?

MR McINTOSH: Well, it has been shown to be effective in some – I think in the UK they have got some good programs going. We started some programs here in Australia. I mean (indistinct) ran some programs in Queensland. They have stopped doing it. I don't know why that has happened, and I know the guy you're talking about in Sydney. I mean, you're right, there is an opportunity, I think, for insurance to be used more for – but you can – and that probably happens to a certain extent already. I think you would be surprised how policies are risk rated for companies.

The problem is we have a – generally, third party insurance is not risk rated, and you could start another whole argument in the world if you wanted to

risk rate third party police, but you should do it. People are then more accountable for their behaviour and their actions and also for the vehicle they drive, but they're not then accountable for where they drive. How do you insurance rate for the road and the infrastructure and those things? So you have to sort of make sure you don't just hope that the driver is competent to handle all those circumstances. The driver can't.

MR BAXTER: There was reference from Paul, and then you, about the third party policy. Is it time for that whole insurance on that side to be overhauled and revisited?

MR McINTOSH: Yes. Yes.

MR BAXTER: Or is it just regarded as being politically too difficult?

MR McINTOSH: Both probably. I mean, the ACT has had a big review here, and I don't think it got – well, it's very complicated, and there's an issue about equity and all those sort of things. It is tough, but I think you need a bigger conversation with the community first about why is it so and why is it that – my understanding in Sweden, for instance, that people – it's so expensive to ride a motorcycle you can only register it for one month of the year, I mean, because the insurance is so high, and that's okay. People are prepared to pay it because the risk is so much higher. I mean, it's not no one's fault. It's just the risks for those sorts of vehicle are – some vehicles are far more risky, and people want to take that risk. The question is can you – you can insure for your own risk, but what about the risk of the other people using the road. That's the hard question.

MR ROBERTS: No, no. It's informative as always.

MR BAXTER: That was the only one for me.

MR LINDWALL: I've got a question about, since you support the role of the ATSB in heavy vehicles – have you thought about, or can you give us any thoughts about, how they might undertake their role there and contrast it to how they would undertake an aviation investigation for a start?

MR McINTOSH: Well, I'm not sure that it should just be related to the heavy vehicle crashes. I mean, it should be related to a range of crashes that we need decent investigation. I mean, heavy vehicles in many cases aren't any different to the ordinary vehicles or to people walking along the road or whatever. What are all the factors that contribute to these issues? And I think the ATSB has – properly funded and resourced, as I said this morning, and trained, are in the best position to do it. I know you have to then do it in conjunction with the people. I mean, the police do a good job.

Coronial inquiry does a good job. But they're different people looking for different issues.

MR LINDWALL: For a different purpose.

MR McINTOSH: They're generally looking for blame. They're not looking for what's the holistic view, what's the system, what part of the system failed. We talk about the systems approach, but we don't really go and investigate. Have they got a team of people who are good at vehicles, good infrastructure, good at behaviour, good at regulation and go and look at all those factors, the weather and whatever? What else happened there? Were there some other things that might have done – and they're good at it. That sort of people who do that, they are really good. I mean, the NTSB stuff is really good. The people are fantastic.

We had the deputy chairman out here last year for the College of Road Safety conference, you know, and they're ready. She carries a bag around with her all the time so that if the phone rings, she's on the plane and she's there. And the same with – we had one of the previous members out the year before (indistinct) so there are good people about who are ready and able to do that. And you've got to watch, I guess, the length of time that people were talking about this morning and all that. You've got it. You've addressed that pretty well. With the right resources they can be faster too.

MR LINDWALL: I think, Lauchlan, thank you very much for your profound thinking.

MR McINTOSH: Thanks for the opportunity. I appreciate it a lot. Thanks.

MR LINDWALL: Given that AMSA is not here at the moment - - -

UNIDENTIFIED SPEAKER: They are here.

MR LINDWALL: They are here. Well, I might take a five minute break or so.

ADJOURNED **[2.36 pm]**

RESUMED **[2.40 pm]**

MR LINDWALL: Well, today we've had one, two, three, four, five, six, seven – you're the last and eighth, but in public infrastructure I once had 24 on one day. So we're not quite as time constrained today, but shall we get going, do you think?

MR BAXTER: Sensible, I think. Everybody is here.

MR LINDWALL: So we just normally get you to introduce each other just for the record and then an opening statement, and then we will go from there.

MR KINLEY: Yes. Okay.

MR LINDWALL: So welcome.

MR KINLEY: Thank you very much, and thanks for the invitation to be here today. My name is Mick Kinley. I'm the Chief Executive Officer of the Australian Maritime Safety Authority. And for the tape now.

MR SCHWARTZ: Allan Schwartz, General Manager, operations division.

MR LINDWALL: Thank you, Mick and Allan.

MR KINLEY: So, as I said, thanks for your time. Short opening statement, and that is I'm very proud of how our agency has stood up when we were handed the reform for the National System for Domestic Commercial Vessels. It has been a long journey started back originally in 2011 when the IGA was signed, had several iterations and then culminated in us assuming service delivery in 1 July 2018. Our systems all stood up to the additional workload, moving from, basically, a few hundred Australian vessels. We were regulating to 27,000, 66,000 seafarers. Our systems worked. We've produced the permissioning and the certificates and the things we needed to do with that. So we're very happy with how that went. The National System for Domestic Commercial Vessels is different, I have to say, from the other national transport regulators in many ways.

First one is that it's actually Commonwealth law, so it's based on live Commonwealth law, as you know, to the extent of the constitutional powers of the Commonwealth, and also that our sector is – well, it's actually not one sector. It's not a transport sector. It's numerous sectors. Fishing and tourism are just as important as the transport aspects there. Being Commonwealth legislation means that the coverage is uniform. States can't opt out, although I have to say we are still waiting for Western Australia to pass the application laws that they signed up to in 2011. What that actually

means in practical terms is that in WA we still have a gap if there are sole traders who are operating in internal waters, and, for example, I think a lot of Cockburn Sound is internal waters over there constitutionally. Then we actually don't have a regulatory – if someone challenged the laws in that space, it would be interesting.

However, what we do have, though, is we've got seafarers certificated under the National Law, have Australian national qualifications, and we do have vessels that are certificated under a truly national system. The main beneficiaries of that are, of course, the industry and the seafarers who have qualifications that are portable around the country, seamlessly recognised, and there's not a lot of interstate vessels operating, but, certainly, the vessels and the vessel builders are very happy that they're now actually able to produce a vessel out of the yard with an Australian certificate of survey that can go into operation immediately without having to get permissions from the different jurisdictions. We're not tasked with collecting economic data with the sector, so we're not in the position to comment on the long run economic impacts of the regulatory reform being investigated under the scope of this inquiry.

We're also not a work, health and safety regulator for the sector. The data – and we've had a lot of discussions, I think, and exchanges about data issues. We are working hard to actually set ourselves up for the future with our data, but the data we inherited – there are certainly gaps that are scarcities, inconsistencies. Ultimately, though, the data that we do have about the fatalities in the industry – our first financial year of operation we recorded two fatalities attributed to the operations under the national system, the vessels there, and, you know, we're by no means claiming that's a trend, but it was really get to see that in the first year, and we aim to improve on that. Our people are working hard continuing to deliver the national system.

We've dealt, effectively, with many hurdles, including grandfathering records and data, trying to stitch together, effectively, seven systems that have each differently applied or didn't even apply standards which were agreed at the Transport Council over many, many years. I hope our supplementary submission has actually shown what that effort looks like and what we're managing to achieve, and it has also addressed some of the requests for information that the Commission have had, as well as trying to help balance some of the negative views that you've picked up from the submissions with our current senate inquiry into the performance of AMSA.

As we only assumed service delivery, though, on 1 July '18, we are still refining the system. It's still a work-in-progress, but we still welcome the opportunity this review has given us to reflect on the implementation of the

reform and look at how it can potentially be made better. So thank you and open for questions.

MR LINDWALL: Thank you very much for that, Mick.

MR KINLEY: Address them to Al. That would be good.

MR LINDWALL: Sorry? What's that – Al (indistinct) do you – how about we start by – because we have had a couple of contributions earlier in the hearing, we will start with the MUA. Now, they made some claims that there has been a diminution of safety because a number of things that were vessels regulated by the Navigation Act have moved into the DCV regime. Now, (a) is that true, and (b) then there's a claim that it's a lower standard of – would you like to address that?

MR KINLEY: So, from what we can tell – and we were just discussing this earlier – there would appear to be in the order of 40 vessels which we think have moved from Navigation Act into National Law, mostly in the tug area, and, generally, most of those tugs could have been under the state and territories anyway. Those operators usually kept them under the Nav Act so they could actually move them around the coast. So they will have – if they have dropped them into the National Law, it's still because they generally want to still have that freedom. The issue about reducing standards or whatever – there are – again, there are different standards to the Navigation Act.

The Navigation Act is predominantly intended for international trading vessels, and those standards are driven largely by international conventions, such as the STCW Convention. Under the National Law, for example, the qualifications, we have Marine Order 505 which governs those qualifications. They are lower standards in some ways, and some of the things you need for the international trading qualifications are not there, but they are still aligned with what the STCW Convention allows you to do for near coastal qualifications, and our near coastal is what we consider within our exclusive economic zone. So I would not say that there has been a gross or a mass reduction of standards, in our view, and, in fact, some of the standards have increased.

For example, what we've done with lifesaving equipment, those things, increasing standards for things like introducing float-free EPIRBs and what have you, and I'm not particularly aware that the states or territories had any higher standards than what we've brought in under the National Standards for Commercial Vessels anyway. So, yes, I would agree there has been some movement. There hasn't been a huge amount of movement than what we can see.

MR LINDWALL: Would that be mainly due to cost issues, such as the cost of a classification certificate versus a survey regime?

MR KINLEY: Again, we would have to go through the particular cases of each of those because, again, my understanding, for example, with the major tug operators – they still keep it in class because that's actually about maintaining the condition of their asset which they might want to sell in the future.

MR LINDWALL: Of course. Yes.

MR KINLEY: But with the Navigation Act you actually – if you have international trading certificates, you have actually got to carry a full suite, as opposed to the National Law when you can have a certificate of survey covered by a certificate of operation. So if you have a vessel over 400 tonnes under the Navigation Act, you will have to have international oil pollution prevention, international safety equipment. The convention specify a whole raft of certificates you have to have. So maybe it's about just the ease of administration for them.

MR BAXTER: Mick, does that apply to vessels that are – there's very few of them these days that do the Tasman run from Sydney to either Auckland or New Zealand ports?

MR KINLEY: All of the – the Trans-Tasman vessels are all international trade.

MR BAXTER: All international.

MR LINDWALL: They have to be outside the EEZ, yes.

MR KINLEY: And even the Bass Strait vessels all maintain their international – the TT-Line, those vessels are all certificated under the Navigation Act.

MR LINDWALL: The 40 vessels that you think – and I just go back to what the MUA told us the other day. Some of them would also include trader vessels, I guess.

MR KINLEY: Again, not that I'm – I mean, the actual trading ships that trade interstate, I can't think of any significant ones at all. So I think it's really in that tug and barge – I think some of the construction companies, some of those people.

MR LINDWALL: So the other concern they seem to be quite exercised by was about dangerous good transport, if I'm not mistaken, and, apparently, the rules for Nav Act are quite different to DCVs. Is that - - -

MR KINLEY: And the Navigation Act implements the International Maritime Dangerous Goods Code under Marine Order 41. The National Law, again, was specifically not intended to cover dangerous goods. The IGA, I think, says it wasn't part of the system, and it's listed as one of the things under section 6 in the National Law Act that the states concurrently continue to regulate. That being said, if there was a policy made that carriage of dangerous goods on domestic commercial vessels was regulated by us, yes, that's fine with us. Again, I'm not aware of where the – I can't think of any interstate. I mean, there has been the occasional vessel out of Tasmania, small one. Yes. So I'm not aware there's a huge - - -

MR LINDWALL: So is this a confusion of your responsibility with other bodies' responsibilities which is not an atypical thing I've seen in life, and, you know, because you're the name, AMSA, you will get attributed to something which is not really your responsibility?

MR KINLEY: And we've had, you know – as we've said in our submission as well, there is those range of things that were not intended to be under the National System for Domestic Commercial Vessels. Work, health, safety is one of them, dangerous goods carriage, and, yes, there is, I think, some confusion within industry. We are working hard with the – and, again, carriage of dangerous goods, I think, will often rest with the state work, health and safety authorities anyway. So we are working with them around how we actually make it clear that we are not the only regulator in that space.

MR LINDWALL: Exactly. Yes.

MR KINLEY: I've got hot off the press one of the bits of material we're about to put out there which we've got together and got agreement from all those authorities who have been working with them in forums to see what are the issues that we can work together on. But, yes, again, from my point of view, that's what the law says, we do what that says.

MR LINDWALL: That's fair enough, yes.

MR KINLEY: But we're trying to work to minimise what confusion there may be.

MR LINDWALL: Today we had the Australian Institute of Marine Surveyors testifying, and they, I think, had a view that – again, general

comment here – was that the surveying regime was being pushed down a little bit. Would you like to comment on that?

MR KINLEY: Again, that's pushed down or pushed out or whatever you want to call it. Now, that was the result of a streamlining review which was done back in 2012 looking at what the risks were around the vessels, and, basically, there has always been a five-year survey cycle, and where that comes from is lost somewhere, frankly, in the mists of time. Why is five years safe, as opposed to four years, six years or whatever? So what that review was intended to do was say, "Well, actually, can we look at having a survey regime appropriate to the risks of the vessel on the areas of operation", for example, and what that also did was actually tried to bring in, again, that harmonised system around the country where, again, each state – and I think we went into this in some detail in our submission.

Each jurisdiction had a form of a part of their fleet that was unsurveyed. They were all different. Some were bigger, some were smaller, so trying to stitch all that together while managing the risks, and, yes, there were vessels in some cases where the survey period was pushed out within that five-year cycle, but some were also reduced, and, ultimately, I think we really want to get to a point where we can tailor it based on the operation of the vessel and get the history which we can already do if we have an inspector that goes down and there is significant problems with a vessel. We can shrink that survey period already, but it would be nice to actually – once we build up that data and that history, to be able to do that across the fleet.

MR LINDWALL: So you think that the inspection regime is enough to give you a good handle on what the initial risk is and you don't need to necessarily do a full survey then.

MR KINLEY: Well, there are some of the vessels which are still not surveyed, and they operate what's called EX02 at the moment, and, again, this is going to be part of the gaining experience with how the conditions are maintained on those vessels and what our regulatory plan will be in the future for how they are monitored. At the moment, they're being monitored by the inspection program, whereas the surveyed vessels, of course, the larger, more complex vessels which you have the accredited surveyors, which are still also subject to our inspections which is part of that monitoring to see how the survey program is going as well, because it's part of the audit for how the accredited surveyors are working. So when you look at how you control the risks across that entire system, that regime forms part of that. The inspection regime and how that's targeted is another part of that.

MR LINDWALL: It's another part, yes.

MR KINLEY: And, of course, the standards themselves are gauged for the different levels of risk and the operation, and the level of qualifications and that that you have is another part of that. So it's - - -

MR SCHWARTZ: And incidents.

MR KINLEY: Yes. And what we do with the incident reports.

MR BAXTER: When you get down to some of the smaller ports and along the coast in Tasmania and you've got quite a few boats in a number of these places, not particularly large ones, you know, the fishing trawlers or things of that kind, do you think that the people who run these boats understand the changes that have taken place, and have they adjusted to the fact that it's no longer the Maritime Services Board or the Queensland board and so on, and there's still a degree of tension between relationships at a state level and between you people?

MR KINLEY: I would say that's patch still around the place, and it will take a while for that to pan out, and we're still running workshops around the country on safety management. We've still got liaison officers and that who are talking within industry, so we're still working our way through that, and it is – as you say, it's a very well distributed industry. Tasmania, though, is actually probably one of the easiest states to cover. I've got people in Hobart and Devonport, and so they do go down the southwest across to the east coast and that as well. So we are getting around the place. Some of the more far flung places like the Gulf of Carpentaria, we've run joint inspection campaigns up there with the water police and fisheries. So we're getting there. It's going to take – I wouldn't say we've hit everyone yet, but we are getting around there and getting on water as well with our partners and getting where we can get to.

MR LINDWALL: Would our proposal to transfer back responsibility for hire and drive to state assist in reducing that ambiguity, I guess?

MR KINLEY: I certainly wasn't seeing a lot of appetite in that from two of the submissions.

MR LINDWALL: No, no. Doesn't mean it's not a good idea though.

MR KINLEY: I do, I think, have a view that they don't want any of this back but - - -

MR LINDWALL: But they're not happy to hand leisure vessels to you.

MR KINLEY: Yes. But we certainly have – we still have the authorities in each state who are regulating recreational vessels, and, as I think I've said in the past and I've said to the state authorities, "You're on the water. You're looking at recreational vessels. What is the difference if someone has hired that thing that they're riding for a dollar versus if it's their own for recreational?", and there is a public expectation around that, I think. But, yes, who is best placed, and what is the most efficient way to do that, I think, is certainly something that – you know, who has got who were around the place, and it's different in every jurisdiction, of course, because in some states the water police will do some of it. Others have a boating and fisheries patrol. Others don't.

So it is very different ways it's done around the states, but a recreational vessel that is being hired out for a dollar versus a commercial vessel – and this goes back to, I think, some of the things we've also said where under the way the National Law is written is that someone exchanges a dollar to hire someone's boat for a day. It falls into the National Law and does not fall out again, the way it's written, and I think that, certainly, those issues and how the share economy is going to impact on that - - -

MR LINDWALL: That's a good point because I think I've seen them. They're the type of things where boats would be coming.

MR KINLEY: It's becoming more of a thing.

MR LINDWALL: You might end up regulating everything by default.

MR KINLEY: Well, if the damn stuff falls in and doesn't fall out again.

MR LINDWALL: I mean, the risk in leisure vessels – I mean, the fact that PWC licences are much more expensive than boat licences would suggest to me that someone somewhere thinks that (a) they're less price elastic, and, therefore, they can charge a high price, or (b) that they're more dangerous and - - -

MR KINLEY: And, certainly, in our, I guess, experience the fatalities in the hire and drive – the only one I can actually recall is a jet ski that was hired out, and, again, working with that operator about installing safety cut-outs and those sort of things, but the whole interface of recreational boating safety, but, certainly, one of the questions or comments that we will get hit by stakeholders when we are doing consultation on regulation or cost recoveries – why are you coming after us when there's far more fatalities in the recreational sector, and that's not something I can answer, but it is certainly a common thing that gets thrown at us.

MR BAXTER: Following that, how are you going to handle sort of north of Gladstone and around the cape and the interface with the Torres Strait Islands and PNG which are very flexible with boats not being registered in many cases, unlikely to be registered, but travel across that whole waterway?

MR KINLEY: And we have an office on Thursday Island, and we've actually been jointly running a program with Maritime Safety Queensland and PNG, the Torres Strait Marine Safety Program, and, certainly, there was a lot of training, and there has been a lot of work about beacons and use of beacons and safe use of boats up there. I would say that's actually, touch wood, one of our really good success stories, and the search and rescue activity very commensurately reduced with that activity, but it is – you know, some of our exemptions are for things like sea rangers and those sorts of thing, again, in that commercial world versus the recreational world. And I think that's still an area that would certainly benefit from more work.

MR LINDWALL: Now, anything you more want to explore about MUA or the AIMS type of issues?

MR ROBERTS: No. I think we've got good answers.

MR LINDWALL: Yes. So do you want to go now then?

MR ROBERTS: Just a couple of points in your submission, thanks, Mick. On page 10, we go back to your original regulatory plan and, essentially, said the grandfathering arrangements should continue to apply, and it has got incident data (indistinct) has a need to do something different. And then you've mentioned that you see the high-risk areas as fishing vessel stability, fire safety and electrical safety. I think we can all understand why those have been singled out. There have certainly been fatalities with each of those. And the next steps there are a set of steps which are under active consideration, so moving to, essentially, contemporary standards for a range of areas. How much of that is contingent upon regulatory change or funding changes because, clearly, we're rushing up against different views around what grandfathering was meant to achieve when it was first announced?

MR KINLEY: So, I mean, if I start from the IGA that started all this off, there was a principle written in there that any vessel that was doing something would be able to continue to do it, and we wouldn't apply temporary new standards, and there was no expiry date on that or any of that. So our view is that we really need to get policy approval to do these things, and because all of them are going to have sensitivities and there is going to be potentially costs involved, then we really need to approach this with a careful sensitivity and consult with industry and make sure that we

all understand why we're doing it and how we're going to do it. And grandfathering covers – the term "grandfathering" covers a whole lot of different things. So we have already been doing some of this work. For example, with fishing vessels we have been putting a lot more education out there, for example, about stability and how that sort of thing is meant to work. And we've already done some things like apply contemporary life-saving appliances, but some of the other things, some of these parts are allowed through some of our standing exemptions. And, again, if I just look at survey, the National Law Act basically says every vessel has to have a certificate of survey.

Now, that wasn't actually the case before 1 July '13. So giving effect to that grandfathering actually required us to issue some of those big exemptions to cover the desire to have the grandfathering. So they're an instrument which I issue, and, legally, I could cancel those tomorrow. Some of the other requirements were actually written into marine orders, such as Marine Order 503 which is about survey and what are the survey schedules. Again, we there delegated legislation that AMSA makes under the Act, and we could do that.

Things like how accredited marine surveyors are accredited are written into regulation, so that's a regulation changing process where the Governor-General signs those off, and then you come back to the fundamentals of the Act itself which are the things that says, you know – the Act is written that says everyone has to have a certificate of survey. That needs the Act changed. The Act also is still written along the lines of that delegated that the states were going to service deliver. So there are things that need some housekeeping back there, and we're certainly working with our department at the moment to actually come together with a package to then get the policy approval to how we're going to take that forward.

MR ROBERTS: So you're building the case at the moment.

MR KINLEY: Yes.

MR ROBERTS: And do you feel that the data points in particular directions where the priorities might lie?

MR KINLEY: Again, the data is a very generous word, I guess, for the number of incidents that we have.

MR ROBERTS: I'm dignifying it with the term.

MR KINLEY: But the number of incidents we have, the search and rescue work, for example, that is generated, for example, by the dory fishing

industry has led us to do, like, those dory campaigns, so the stability issues are certainly something that has been directed to from incidents, and, again, not only incidents that happened after the national system, but when you actually look at the coronial reports that refer to coronial reports stepping back into the history – and this is one of the good things about the national system is you can actually join the dots around the country now to say, well, something needs to be done about these things. So I think some of the data clearly indicates that some of these things need to be changed.

Some of them, I guess, if I look for an example that the Queensland system which had under the Transport Operations Marine Safety Act that was in Queensland, basically, survey was voluntary for operators. That has been carried over from under the grandfathering, but that's one that really it's, well, why does Queensland get that under a national system. That kind of doesn't pass the logic test, so how do we deal with that ongoing survey and come back and revisit that.

MR BAXTER: While you're on that, Mick, how long do you think that's going to persist, and some of the, particularly, fishermen working out, say, the northern rivers like the Clarence and otherwise who are sitting right on the edge of that – how long do you think that's sustainable?

MR KINLEY: Certainly, we would like to see it sorted out over the next five years or so. It's not a huge issue. They have all – the issue will be actually getting the records for those vessels so the accredited surveyors can access to know what standards were applied to it, and this is, I guess, the underlying real complexity of the national system is that, depending on when a boat was built, what state it was in, you have to know all that, and then you might actually be able to work out what standards were actually applied by that jurisdiction at the time it was built, and some of the things, for example – looking at things like fishing vessel stability, and you can see some of this in some of the coronial reports, some that were lost in Queensland that the vessels at the time they were built were not required to have stability information, and then since that time the vessel was modified you used to have stern trawling, and then they put (indistinct) quad net rigs and all this sort of thing.

So it's stuff that has really started here, and there wasn't stability information, and then it was varied over the years, and there still wasn't. So trying to find the – where do you actually benchmark this at is a real challenge, frankly.

MR BAXTER: And is the Queensland Government supporting you with that?

MR KINLEY: Well, I think their submissions certainly thought that – grandfathering, you know, now that we've got it, it should be dealt with, yes.

MR LINDWALL: Yes, yes. So you can – you (indistinct) I thought.

MR ROBERTS: Just one or two – well, that would be an inappropriate matter for this part of the discussion.

MR LINDWALL: Indeed.

MR ROBERTS: I thought one of the interesting things here – you mentioned operation holiday, and I'm sure many people would be surprised to think that there's no requirement to have smoke detectors on passenger vessels, and it certainly sounds as if that – it's hard to imagine that ministers wouldn't see that as a flaw in the system. So are there avenues open for AMSA to seek those sort of changes?

MR KINLEY: Yes. And this is where I say that, you know, using the term "grandfathering" as one blanket term is – it oversimplifies what stuff you can actually pick out and deal with, and, yes, smoke detectors are a no-brainer.

MR LINDWALL: As are EPIRBs.

MR KINLEY: As opposed to rebuilding a ship to make them fit structural fire protection. Sorry, Al.

MR SCHWARTZ: I was just going to say but that's exactly why we have actually stepped up and reduced some of the grandfathering already because we've done exactly that and gone, "This doesn't make sense. This doesn't meet public expectations", you know, whether it be EPIRBs, whether it be residual current devices on electrical systems. You know, some of those you just go, "That makes perfect sense", and that's where, as Mick says, that definition of "grandfathering" means so much to so many, and our approach is certainly, well, to do it in the short term it has got to be achievable.

So turning around to a boat and say, "Well, you now have to meet the current construction standards", you know they can't do it, so it's what standard is acceptable if they don't have a benchmark already, so that's the approach. Until we get enough data, you know, who knows. Eventually, we might get enough data that says, "You know what, your boat doesn't comply. It never will comply. Sorry. You've got to pull the pin on it".

MR BAXTER: Are the insurance companies helping you with this, or what's their approach to it?

MR KINLEY: Certainly, they have not been overtly helping. I have approached them in the past and said, you know, "Would you like to share data?", and what have you, and didn't get a particularly positive response, and I don't know if you have had any other. So it was interesting – and I'm just trying to think whether they made a submission. Was that on Marine Order 503? I think they were – insurers, I think, made a submission when we were looking at the survey regime and put in a submission saying, "You can't lower the standards because it will impact on us", and it's like, "Well, why were you not so worried about that when Queensland, effectively, had a no survey requirement for the last 20 years? It doesn't sort of stack up".

So, yes, you know, the door is open, and, sorry, internationally I've got issues with insurers and things at the moment as well, but, yes, there's certainly – they must have a rich dataset, and, you know, I certainly wouldn't like to – it would be lovely to just get that and de-identify it and actually see what lessons are in that as well.

MR ROBERTS: If I might, I'm just trying to work out where the decision-making lies, and if we look at the contemporary safety equipment requirements, you have been able to achieve quite a few worthwhile changes there. Did that require a process of going back to the Transport Industry Council or some other Commonwealth state mechanism?

MR KINLEY: The Transport Industry Council still approves the standards, and National Standards for Commercial Vessels have been going back to them, but I think that the grandfathering – to actually have the full open and frank discussion about that underlying principle of the IGA and saying, well, now can we draw a line under that and move on because it's certainly – again, it's something the industry are very keen on, and I think some of the submissions that you had to the draft report still very rusted onto it. So how do we have – I think we do need to have that nuanced discussion about how we're going to deal with it into the future.

MR LINDWALL: So when a grandfathered vessel changes its area of operation or has some alteration or modification, it loses some of that grandfathering privileges, and yet when it's sold it doesn't. Is there any – is that just a historic artefact, or is there some reason when you sell it, it doesn't revert to a new status perhaps?

MR KINLEY: Probably not, apart from that's just the way it has been done, and, again, if it's sold and the operation is not changing and those things, but, again, that's something - - -

MR LINDWALL: So it triggers it differently, yes.

MR KINLEY: Because it does, you know – and the grandfathering itself, just coming back to some of that, when the area operation or certain things trigger the transition provisions, again, we need to do some more tuning of that about exactly what that means and how manageable is it because you can't rebuild the thing to comply and meet current stability requirements, so what is the acceptable level.

MR LINDWALL: But there are things like crewing and that which, obviously, you can change that to some degree. Now, on a totally different – unless anyone else had (indistinct) grandfathering.

MR BAXTER: I mean, it is – on the grandfathering and related matters, isn't one of the other challenges that, particularly in the more sort of pleasure vessels, say, below about 40 foot, that a lot of these were bought for cash, they're transferred by cash, and there's no particular record of them being properly registered. I mean, if you go up and down the New South Wales-Queensland coast, you will see a fair few of them. I mean, how do you deal with these?

MR KINLEY: The recreational side I'm not even going to try and go there, but it is, I guess – it's this whole why is maritime different to rail and road, and it is that you don't generally have a – there's the Uniform Shipping Laws Code which then turned into the National Standards for Commercial Vessels. Some states – you know, it was implemented in different ways around the country, but at least there was a standard, but for recreational. Now there is the Australian Builders Plate.

What else is there? I think each state will have different safety equipment requirements to a certain level, and this is why I guess coming back to that – why the Uber thing doesn't work in the maritime world is that, you know, if you got an Uber on the road, you've got a car that – you know it has got a roadworthiness of some form where standards are met. A recreational vessel that's suddenly used for commercial you've got no idea what standards it was built to, what it complies with, so it's a totally different kettle of fish.

MR LINDWALL: Once you've got a vessel regulated by either DCV or the Nav Act, I mean, is it easy to tell now that – which regime it's under, under DCV or Nav Act?

MR KINLEY: If you look at the certificates, it's very easy to tell because one will be issued under the National Law and the Nav Act will be issued under the Nav Act. Again, there was - - -

MR LINDWALL: So if I walk onto a vessel, say it's a passenger one, is that on clear display?

MR KINLEY: Not necessarily. But if you walk into a commercial passenger vessel in Australia, unless it's the Spirit of Tasmania, it will be under National Law, I think, pretty much.

MR LINDWALL: Yes, yes. Now, of course, you've brought this regime in and dealing with a greater range of stakeholders than you traditionally did under the Nav Act, some of which are fairly small mums' and dads' operations and so on. I know that you had quite wisely thought that we should approach it with more of a technological focus to reduce the costs because, after all, having lots of people face to face adds costs, and you're then charging the very people that you're regulating because of the cost recovery.

How have you found that since then, and I know that you've opened an office up in Coffs Harbour, if I'm not mistaken, and Devonport and so forth, and how are you changing your relationship with stakeholders, both big and small, in the light of all of that evidence, and how do you survey your – survey, that's a bad use of words again – your stakeholders in terms of what they think about your operations and how they deal with you?

MR KINLEY: So, you know, we certainly opened some extra offices, as you said, and we also put customer service officers into a lot of the offices around the place. It has really been, I guess, interesting to see that it all depended on what the jurisdiction was doing before. So Victoria, for example, had no offices or counters before, and so no one - - -

MR SCHWARTZ: We had one walk-in in 12 months.

MR KINLEY: We've had one walk-in to our Melbourne office, and, clearly, they're used to doing stuff online. Queensland probably by far the more walk-ins there. A few in Tassie, but not hundreds of people milling around at counters. And so what we're doing is trying to improve our online offerings and making our online forms and things better. Ultimately, I would really like to get to the point where we have a self-service portal where the stakeholder clients can actually go in, particularly for those who have a fleet of vessels, and update data.

MR LINDWALL: A bit like CASA has for - - -

MR KINLEY: Yes. We're certainly not there yet, but, again, it all comes back to the data and actually cleaning everything up so that then you can actually identify the people, connect them with their vessels, and then you can start doing that. So, again, it's going to be a cultural change. It's not going to happen overnight. And how we try and help people get – I think our online service has got to be better than it is now and roll in our other things. We already have online beacon registration, so how we join all that together will be part of that. Because IT systems are a major investment, so how we fund that development into the future – but, yes, reaching out to those people and how we communicate with them is still a work-in-progress.

We have various artefacts, such as our working boats, magazine, newsletters, Facebook, our social media. We use all those channels, but still I think our reach has got to be out there further. We do stakeholder surveys. I think, again, reaching the mums and dad operators I still think we're not doing, so how we can do that better is going to be an ongoing thing with, again, how do we get our local people to – because they are building up those relationships and networks out there as well.

MR SCHWARTZ: It has certainly been an evolution for us that we continue to sort of refine, but like in our model, when we first started, we weren't intended to do any sort of offshore inspection work, but we started, and we just found out the value of that, not just from an inspection and compliance point of view that that was useful, but just actually touching base with the mum and dad operators while they're out there doing their stuff in a very practical environment. The value of that has been really good, and, you know, like all those things, sometimes the initial interaction isn't particularly well received, but it actually starts, I guess, the relationship, and a lot of the times it gets better.

MR LINDWALL: They start seeing you're not a big ogre or something.

MR SCHWARTZ: And with customer service officers – I mean, some of the things - now that we're getting more experience with it, we've got a team of customer service officers, some in Canberra sort of in a central area, some in the regions, and around about 12 months ago, I think, when they would get a phone call probably about a third of them they would have to escalate up to someone because they couldn't help. Well, we're down to about – I think it's about seven or eight per cent now, so that has improved, and, as Mick says, with customer service officers and that shopfront where people can walk into an office we do see a lot of learned behaviour, but it's also interesting even just – you know, we've had one office where the customer service officer hasn't been there for a couple of months now, and

the number of walk-ins has actually just dropped. So it's not the – so people who are just going, "Well, I will just deal with it another way", and we're not getting complaints. So it's something we're still trying to, as Mick said, find that balance between what's efficient and effective service delivery and what is community expectations.

MR KINLEY: Because, of course, you know, it all costs money.

MR LINDWALL: Of course, yes.

MR KINLEY: Counters and people. Mind you, so do IT systems, but, yes, we're still working out what is the best way.

MR LINDWALL: Now, you've had a very large and challenging project in trying to consolidate data from the different state regimes which, from our earlier conversations, have been very rudimentary in some cases, and, obviously, you're trying to build up a proper dataset which will allow you to make safety analysis and feed through that. Could you describe the process in how it's going and where you see it ending up in the next year or two?

MR SCHWARTZ: Yes. Look, again, it's – how far down the path are we to saying the job is done? Nowhere near as far as we would want to be, and I guess we quite openly accept we will probably have to get through a full survey cycle of five years before we've got a high level of confidence. One of the problems, I suppose, when we talk about data quality – for me there's two different ways that look. One is you look at your data, and there's something missing. That's actually quite easy to identify and, therefore, fix. What our real problem is, is there is a piece of data in a field, but it is not right. So how do you tell? It's easy to tell when you've got a vessel where the length that we're given is that that vessel is 999 kilometres long. Okay, fine. That one is not right. Or one centimetre long.

That one is not right. So we're spending a lot of time and effort in that, and some of it is reactive, i.e., we have to wait for people to tell us it's wrong, but we're also doing quite a bit of work of trying to sort of be proactive and actually work through – for example, at the moment we're looking at a lot of the exemptions that were issued in the states. So we're now putting that in our system, generating a permission that never existed, sending that to the operator and giving them the opportunity to say that's right, that's wrong. So we're doing that work as well, but it's a big job.

MR KINLEY: And probably the biggest issue is when you say data, we get the data from the states, but, in fact, you would have a cell which was

full of free text containing lots of different bits of information and data. So you just could not do anything but manually - - -

MR LINDWALL: So it wasn't even consistent within the one regime then.

MR KINLEY: No. You just couldn't automatically do anything with it. It had to be manually dealt with.

MR SCHWARTZ: So we continue to have a team of probably about three people who that's their job is just going through bits of paper, looking for discrepancies and getting them fixed.

MR KINLEY: But, of course, you know, when you say data and will we ever get to the volumes of data that, you know, you can get a magic AI device and that's going to tell you where the risks are, I couldn't actually tell you the answer to that at this stage because, again, we know we've got an underreporting culture, so that is going to take time to get that up. Will people ever – I mean, the nirvana of people reporting all their near misses and things. I mean, if we can just get them reporting incidents for a start, it would be good, but, yes, that's not going to happen overnight. That's going to take a while.

MR LINDWALL: So in heavy vehicles the use of telematics, and rail has a similar type of reporting and analysis. It's not really on the cards for a lot of smaller vessels, I guess.

MR KINLEY: No. I mean, ultimately, one day, it would be nice to get AIS fitted across the fleet which will really only give you position data, but, yes, you know, the things that trucks might have, I guess, about, you know, speed limits and matching up speed and fatigue and all those things are probably much more – very much, much more challenging where you don't have speed limits, you've got multiple crew who are on duties at different times. So, yes, I'm not holding my breath for that one.

MR LINDWALL: On the role of the ATSB because it has a role, and it has had for a long time, in Navigation Act incidents but never was given one for DCVs, and we have, obviously, in our report said that it should, do you have any comment on that?

MR KINLEY: Yes. I would certainly welcome the ATSB in the field, and I don't want to be critical of coroners, but coroners don't do the full no blame, full causal factors investigation that the ATSB will produce, and I think that's an important artefact of the system to actually, you know, find out what were the root causes of the incident in an independent fashion. I

think that's important. I mean, we have an investigative role, but it's actually usually about compliance, and the ATSB has got those full coercive powers where people have to tell them the story which we don't have.

MR LINDWALL: One of the lessons and one of the themes that comes through in all different modes of transport in terms of national regulation is that you have – and to be fair to state governments I can understand this – you have state jurisdictions who are regulating something, and they know, "Here's a day that I'm no longer regulating that", and there's not a strong incentive for the state government to spend a lot of resources on that period from A to B because they're handing it over to a new jurisdiction, and they might tend to run it down a little bit. You know, they're not really building up, and yet all the governments have agreed to do this. So it's human behaviour, I guess, but is there anything that can be done so that this type of – can be minimised anyway or in future in national regulation?

MR KINLEY: I would really like to see – I mean, you know, actually, yes, some of the jurisdictions actually gave it a name. They call it dimming the lights in our case, and, despite our pointing out of the obligations, "Well, hang on. We all signed this IGA, and it was agreed that this was going to happen", but it just didn't happen, so we had no option but to pick up functions because, again, this is the problem, I guess, with live Commonwealth law. There's even less incentive to stay in there. So, yes, I don't know what the answer is, but usually, you know, leverage and threats of not getting money seem to affect behaviours.

MR LINDWALL: Competition policy is built that way, yes.

MR SCHWARTZ: We had almost sort of fallen in the perfect storm scenario because when we took carriage of the national system service delivery, that was at a period that just happened to align with the five-year cycle of survey which was – we knew for that first six months we were going to be bombarded with permissions anyway, and we were, as well as going on that voyage of discovery of what didn't we know was coming, and I think, you know, because we got through all of that, the system didn't fall over. That's why, as Mick said in his opening address, and I repeatedly say, the work the AMSA team did to make it happen, I think, is spectacular, frankly, so really proud of them.

MR KINLEY: And what was the oldest application we got handed?

MR SCHWARTZ: The oldest application I saw which I said – I just put that down at the bottom of the drawer because it obviously doesn't matter, but it was March 2013, I think it was. So that was one that came in the pile of here's the extras.

MR LINDWALL: Okay. And I've got a couple of questions here from the team. About the class for hire and drive, do you have an idea about how much it costs you to regulate that side of it?

MR KINLEY: I would probably have to go away, and we could get something.

MR SCHWARTZ: We would have to get the number.

MR LINDWALL: You can take it on notice, if you like, yes.

MR SCHWARTZ: I mean, you know, we're taking a relatively light touch approach to it. If an operator has 100 kayaks, we won't go and do 100 inspections. We will sit down with the operator and say, "Right. Tell us how you operate those hundred", so they don't get billed 100 times for effort on our part, but a quantum we would have to go and get.

MR KINLEY: But I can also say we haven't got around Australia looking at every patrol station or café by a river, if there's any rivers left, and say, "I see you're hiring out canoes", so we're certainly not resourced to do that.

MR LINDWALL: Final question from me is, obviously, we can all do things slightly differently. If you knew then what you know now, what's the major thing you might have done differently, if anything?

MR SCHWARTZ: You know, if we had had more time, we would have had more mature IT systems built. We would have been able to identify some of those – I guess those efficiency gains earlier on, and we've laid out some of those in the supplementary proposal. But, yes, that's probably it. I mean, how you control what is handed over that you don't know.

MR KINLEY: And it comes back to that leverage, you know. If you're getting it, what leverage do you have to actually say to the jurisdictions, "We want this information, and we want it in this format"? And, yes, we certainly didn't seem to have any leverage to do that, but that would have been good. It would have been – you know, if there had have been some way to say, "Before we take on the fleet, you go and audit it and tell us what's there".

MR LINDWALL: What are we getting into? Yes, yes.

MR KINLEY: Would have been nice, but, again, that's - - -

MR SCHWARTZ: We did do it for about a three-month period where we put one of our staff down in one of the state regulator's offices just to get a handle on what sort of work they were getting. That was beneficial, but probably in hindsight if we had done that across the broader scope of the national service delivery, we might have started to get a bit of an idea of it's not all what you see is what you get.

MR KINLEY: But, again, you would have, effectively, had to be running it in parallel with even more resources.

MR SCHWARTZ: Yes.

MR ROBERTS: When did you get the data transferred to you? So recognising that there's always going to be inconsistencies for different jurisdictions, so sort of get a sense of the task in front of you.

MR SCHWARTZ: We started – well, we had a lot of data in the – we had a database that the states were using, and so they were using that, and it wasn't exactly what we needed, so we built our own system, and the data migration across the and state records, that all occurred from about March to June of 2018, so in the last few months.

MR ROBERTS: Should that have ideally been done a little bit earlier to give you a little bit more of a sense of what was coming your way?

MR SCHWARTZ: I was going to say the only problem we had there was because the states were using that system, when we transferred it over, you know, we would have had to give them all access to that system which meant they would have had to change their arrangements, so it really was a case of we weren't able to switch one on and switch one off.

MR KINLEY: Trying to balance that when do you switch over, when did we populate our new database with stuff that we had that we had a reasonable degree of trust of, rather than just filling it up with crap, frankly, and that balance between when did we do that and when did we switch one off. There was a lot of agonising over that when it was done.

MR SCHWARTZ: Lots of transition.

MR BAXTER: Has that settled down?

MR KINLEY: It's still a work-in-progress, and, again, as Al said, it's because you have a cycle of five year for survey, people are still coming out of the woodwork with – and even though we actually sent out a whole lot of new survey certificates and everything in that first round and said to

people, "Look, if there's errors, come back with it", they're still coming out of the woodwork now, "This is wrong", so there's still that correction going on. Again, lining up operators with vessels and that sort of thing because the things are still changing. So it's going to be a continuing body of work, but, again, you know, there was a part of a fishing fleet, for example, in one jurisdiction which just had no regulatory touch at all. So there was no data. So trying to bring them into the system is ongoing work.

MR LINDWALL: Well, I don't have any more questions.

MR ROBERTS: No, I don't either.

MR LINDWALL: Well, Allan and Mick, thank you very much for your time today. Thank you to AMSA for its cooperation with this inquiry, and all the best with the challenges ahead, and may have some further feedback from you, obviously, what you took on notice today, but we very much appreciate you coming today.

MR KINLEY: Thank you.

MR LINDWALL: Thank you very much, Mick. And thanks to our transcript.

MATTER ADJOURNED
UNTIL WEDNESDAY 5 FEBRUARY 2020

Australian Government
Productivity Commission

PRODUCTIVITY COMMISSION

PUBLIC HEARING INTO NATIONAL TRANSPORT REGULATORY REFORM

MR P LINDWALL, Presiding Commissioner
MS P BAXTER, Commissioner
MR M ROBERTS, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT PRODUCTIVITY COMMISSION OFFICE
L12 530 COLLINS ST, MELBOURNE
ON WEDNESDAY 5 FEBRUARY 2020

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MR LINDWALL: Well, good morning. Welcome to the public hearings of the Productivity Commission inquiry into the national transport regulation reforms. My name is Paul Lindwall, the presiding Commissioner, and I've got on my right Ken Baxter, and my left, Malcolm Roberts. I would like to mention that we acknowledge the Wurundjeri people of the Kulin nation. The inquiry started with the reference from the Australian government in April 2019. The purpose of the inquiry is to investigate the economic impacts of the 2008/9 CoAG transport reforms; examine the implementation of the national transport regulation reforms, including the development of the three national regulators, the capacity of local governments in supporting the implementation and the delivery against agreed CoAG and intergovernmental agreement objectives; and finally, to assess the scope of future reforms to national transport regulation, including areas for further harmonisation and integration of the transport sector in the remit of the regulators.

We have spoken to representatives from governments, Australian state and territory, service providers, peak bodies, unions, academics, researchers and other individuals with an interest in the issues, and we received a number of submissions prior to the draft report and after the draft report, which was released on 12 November last year. We're grateful to all of the organisations and individuals who have taken the time to write submissions, appear at hearings, meet with us and so forth. The purpose of the hearings is to provide an opportunity for interested parties to provide comments and feedback on the draft report. This is the fourth and final public hearing for this inquiry. We will then be working towards completing a final report, having considered all of the evidence presented at the hearings, in submissions and in other discussions and research that we've conducted. The final report will be submitted to the Australian government in April and anyone who's registered for the inquiry, including those who have spoken to us, will be advised of the report's release by the government, which may be up to 25 Parliamentary sitting days after completion, which just could be quite a while, depending on what the government want to do.

We like to conduct all hearings in a reasonably informal manner, but I remind you that a full transcript is being taken. For this reason, comments from the floor can't be taken, but at the end of the day's proceedings anyone who wishes to can come up and have a – make a presentation. You're not required to take an oath, but you are required under the Productivity Commission Act to be truthful in your remarks. You're welcome to comment on issues raised in submissions and by other

participants at hearings. The transcript will be made available on our website about a week after this hearing, as are the submissions, of course. For any media - and I can't see anyone and as I said yesterday, some of them could be incognito. Please let one of our good staff know that you're here and they'll explain the way in which these hearings should be presented in the media or how they should participate. You should be also aware that of course, there may be media representatives who might use the internet in some way, such as through Twitter or whatever, to make comments on your remarks.

To comply with the requirements of the Commonwealth Occupational Health and Safety Legislation, you are advised that in the unlikely event of an emergency requiring the evacuation of this building, please listen to the instructions over the PA. There will be floor wardens that will assist and if you can't use the stairwell, which of course you should advise and - the floor warden and – so if you don't use a lift, of course, you can go down the stairs, which are twelve storeys up here, so a few stairs to go down and out the front that way. I think that's about it for that. I think the toilet facilities are out that way and to the left and right. Coffee and tea is available here. We'll have a break at some stage to have nibbles, I think. So now I'd like to welcome Pacific National and invite you to each say your name and your position, and then perhaps give an opening statement as you wish.

MR HUCKEL: Andrew Huckel, director of Corporate Affairs.

MS BOYLE: Tanya Boyle, director of Access and Network.

MR MILLAR: Robert Millar, Regulatory and Policy manager.

MR LINDWALL: Please, yes.

MR HUCKEL: Commissioners, thank you very much for inviting us here today to address this incredibly important inquiry into national transport regulatory reforms. I'd like to say that your engagement with Pacific National, Australia's largest rail freight company – and we're also a member of the Freight on Rail Group of Australia. In fact, our chief executive, Dean Dalla Valle, chairs FoRG. Your engagement with us and also the rest of the sector has been excellent and I thank you for that. This has been, from what I can see, a genuine attempt to really get to the bottom of a lot of structural issues which we believe are impacting upon our sector.

Now, we've been hauling rail – freight by rail since 1855, so what we don't know about rail haulage in this country is really not worth knowing

about. We operate in every state and territory except for Tasmania. We haul all sorts of wonderful goods and commodities – coal, grain, steel, refrigerated produce, fresh produce, even waste from Sydney. It's right to say that the Australian rail freight sector is experiencing some green shoots at the moment. Obviously the $10b Melbourne to Brisbane Inland Rail project is a game-changing project for our sector, particularly on the eastern seaboard. We have put our money where our mouth is by recently opening, October last year, inland regional Australia's largest intermodal logistics terminal at Parkes, what we like to call Memphis down under - obviously Parkes hosts the Elvis Festival – and on 10 October last year, we started running double-stacked freight trains between Parkes and Perth across the Nullarbor.

Obviously, the New South Wales Fixing Country Rail program off the back of Rebuilding New South Wales is an excellent initiative. This time last week we were actually at a round table with the Victorian Freight and Ports minister, Melissa Horne, in regards to on-dock rail infrastructure at the Port of Melbourne, another excellent initiative. Running freight trains, particularly regional freight trains, into our ports is becoming increasingly challenging, and this is something that governments really need to take a very close look at. Obviously, with the growing populations of Sydney and Melbourne and Brisbane, you've got those extra passenger services, understandably so. You've got issues of an encroachment. So improving those connections from paddock to port, from plant to port, from pit to port is incredibly important. So it was very pleasing to see that initiative from the Victorian government.

Obviously, you've got the duplication of the Port Botany freight line and ARTC has put out expressions of interest for the development of that incredibly important project, and then you've got governments having a lot of thought in regards to terminal strategies.

It is incredibly important that there is a network – a series of intermodal freight hubs in the outer suburbs of our capital cities to run what I call those rapid-fire train shuttles between the port and precincts which service distribution centres and warehousing. If governments want to reduce greenhouse gas emissions, if governments want to reduce traffic congestion, if governments want to reduce road accidents and fatalities, if governments want to reduce wear and tear on roads, particularly regional roads which are owned and managed by councils, the solution is very simple: put more freight on rail. Every port and freight strategy and plan you see talks about the need to shift more freight from road to rail, and this is not a criticism of the trucking sector. Not at all. They have naturally thrived under a unique set of circumstances which are largely government sponsored. The last 30 to 40 years, tens of billions of dollars

have been spent – taxpayers' money – upgrading highways and roads, and when a road is upgraded – a highway is upgraded, well then obviously, heavy vehicle movements become more efficient. Governments have also largely geared policies to rolling out bigger and heavier trucks.

Back in August 2018 the national heavy vehicle regulator approved the use of a new truck combination called a B-quad, a prime mover with four trailers. It's over 120 feet in length and it weighs over 105 tonnes. Now, it's not hauling mineral ore up in the top end or the northwest of WA. This particular operation is hauling carrots between Victoria and Queensland. So we've got to ask ourselves the question, how much bigger do you want trucks on our roads? But without trucks, trains stop, and vice versa. A very real example of this – and how this is not sending alarm bells throughout government agencies, I really don't know. As we sit here today, less than one per cent of palletised and containerised freight is hauled by trains between Australia's two biggest cities. Less than one per cent.

Now, that equates to 700,000 B-double equivalent truck movements on the Hume Highway every year. The Hume was fully duplicated in 2013. The Pacific Highway, and rightfully and understandably so, is undergoing a massive upgrade. It will be fully duplicated within the next two to three years. When that happens, again, heavy vehicle movements will become even more efficient, and governments do feel compelled to roll out those bigger trucking combinations. A-doubles, modular B-triples, so on and so forth. We're doing some work in regards to mode share between Sydney and Brisbane and our initial analysis – it's not great when it comes to rail. By the time the inland rail is completed – and that, at the earliest, is 2025 – the Newell Highway would have undergone massive upgrades. Between about 2011 and 2016, around about $240m was spent on upgrading the Newell. There's a further half billion dollars under Rebuilding New South Wales for further upgrades, and at the recent federal election there was more money committed. Again, truck movements between Melbourne and Brisbane will become even more efficient.

We also have issues with a lack of harmonisation within our sector. Whether it be drug and alcohol policy, whether it be fatigue management, obviously New South Wales and Queensland have different rules to other jurisdictions. But guess what? Freight trains run across state borders. Funny, that. When it comes to communication and signalling systems – and Sue from ONRSR would be well aware of this – that is a problem in itself. So we're going through a process where we're starting to standardise the steel, the actual physical infrastructure, but we've got to be careful that we don't end up with a myriad of communication and

signalling systems. So Pacific National, we're a great supporter of the rollout of ARTC's Advance Train Management System. A lot of our training requirements are quite outdated and are overly prescriptive, and there needs to be more focus on a risk-based approach in terms of our operations. A freight train driver – if you want to operate a particular class of locomotive, same payload, whether it be grain or steel or what have you – but if you want to use that on a different route, you might have to undergo up to 18 months of additional training. If you want to graduate from driving a semi-trailer to a B-double, that'll take you 48 hours.

So these are the issues which are holding back our sector, and all we're asking for is a level policy playing field. Why is it that the rail freight sector pays full freight in regards to supporting the rail regulator, whereas the national heavy vehicle regulator still receives a lot of funding through governments? And both regulators were formed around about the same time. So that's another cost to our sector at a time when, if you put a survey out onto that street, the vast majority of Australians want to see more freight on rail. They want to see less big trucks on the road. All those beneficial externalities of rail freight are not properly built into land freight pricing models. That's one of the reasons why on some of these key corridors - bearing in mind, between Sydney and Melbourne it's over a thousand kilometres. In any other country rail freight competes quite comfortably. Bearing in mind that's the busiest freight corridor in terms of volume in the country, over 20m tonnes. Less than one per cent of freight. Now, there's some factors to that, but one of those issues is rail access charging, which is too high and it is making rail freight operators at a competitive disadvantage to road.

So that's our introduction. We can go into further detail in regards to any specifics that you'd like to ask us about. But the sector, it is at a crossroads. Like I said, there are some very positive signs, but there needs to be a real focus – more of an effort through government to get to the bottom of these issues - and that's why this particular inquiry is so important – and no longer just to skim the surface, because companies like Pacific National, we're here and we are willing to invest, and we have shown that.

For example, we're proposing a freight hub in the heart of western Sydney at St Marys. That will help take around about 70 to 80,000 heavy vehicle movements off the M4 motorway and the Great Western Highway. That's good for traffic congestion in Sydney, congestion which is costing billions of dollars.

So that hopefully gives you some background and some context. I think we probably should start with the issue in regards to rail access charges.

Tanya and Robert have done a lot of work in this area and pricing is very, very important when it comes to helping shift freight from road onto rail. Thank you.

MR LINDWALL: Thanks for that. Could I start by saying that yesterday, we had testimony that – from the Australian Trucking Association that in fact, trucks do pay money to the NHVR, and in fact they gave an example of, I think, a truck – prime mover in New South Wales of $912 a year. Also, I've had testimony from the ONRSR that they do collect government money. Now, I guess it comes down to how much one is against the other. But it's not purely that ONRSR is fully funded by the customers and – or the regulators and the National Heavy Vehicle Regulator is fully funded by the government. It doesn't seem to be the case. Anyway, that aside, I'd also like to say that the PC has obviously advocated road pricing on a number of occasions and our general view on this type of thing would be that if you have the cost of building the infrastructure, such as new rails, the full lifetime cost should be reflected in something. The government built the Darwin to Alice Springs railway at a cost of $1.2b, of which the government paid $400m and others paid $600m. It's now worth $300m. It's now funding the Inland Rail, as you say. So I think there is a fair bit of government money going into these type of schemes. But I guess our view is, generally speaking, that it should be neutral, and that's what we did say in our draft report.

Could I talk, though, about issues such as – we can talk a bit more about it if my colleagues want to, as well – about the fatigue and the alcohol and drug testing, and they are – and of course, we think - and as we said in our report that they should be consistent. There's no particular reason why they should have different standard across different states, and we said the same in heavy vehicles, too, that the rules should be more consistent. Obviously states have their reasons for maintaining them. What type of evidence you'd like to present here to further what you've already given to us about why the cost of having the different regimes, to you as a – as Pacific National as well as the efficacy or – are there anything that the states' governments think of why they particularly maintain those particular separate regimes?

MR HUCKEL: I think - I can read out something in regards to – particularly in regards to fatigue management and then Robert can talk about drug and alcohol.

> *Trucking and aviation sectors in Australia have shifted towards greater use of risk-based approaches to fatigue management.*

> *Rail continues to be subjected to overly prescriptive and complex rules which often produce perverse safety acumens.*

This is in regards to fatigue.

> *For example -*

- this is quite a significant issue –

> *changing over train crews when outer limits of service are reached irrespective of the location of the train on the network results in staff driving back and forth on the roads between depots and locomotives, creating needless road safety risks and added operating costs. At times, freight trains can be suddenly delayed on the network because of problems beyond the control of operators, resulting in locomotives being parked up in odd locations at odd times. Mandated hours for train drivers are inflexible, removing the ability of freight operators to deal with these unforeseen events with any degree of agility.*

So I think that hopefully explains that issue.

MR MILLAR: The ARA commissioned a report that's publically available that suggests that the conservative estimates on one (indistinct) alone could cost a company up to $836,000 a year to comply with the outer limits legislation, and obviously with drug and alcohol, too, there's similar issues there in terms of the New South Wales requirements – extra testing applied, 25 per cent, and also three-hour time limit for testing. The other issue we made reference to in the report – so we do support the recommendations about conducting a review of the derogations, which include the drug and alcohol and fatigue management. One thing I think we should extend review to is also to the additional jurisdictional, sort of, regulations and standards that remain in place. For example, the Asset Standards Authority in New South Wales, which puts additional requirements on operators which are counter to the idea of national regime.

MR LINDWALL: Would it be fair to say – and of course, technology is moving towards autonomous trains - I mean, there is an example in Rio in Western Australia as well as in Sydney - that these different regimes adding costs through fatigue and drug and alcohol testing might hasten the movement to autonomous vehicles, subject to appropriate regulations, of course? That, you know, makes - the cost differential between autonomous and non-autonomous is greater than it would otherwise be.

MR HUCKEL: Look, I'd imagine in the future that would be the case. Obviously, there would need to be quite a significant investment in technology. But yes, certainly, you've made quite a good point that in parts of the outer world, they're moving towards that system.

MS BOYLE: I think one of the issues that we want to raise isn't necessarily that yes, we've got all of these regulations. What we want to raise is that they're far more onerous than what the road industry has to bear, and I think over the last 20 years – and I do, you know, congratulate the Productivity Commission on many times, raising the issues about road – heavy vehicle road pricing and the need to get some parity. I think after 20 years – as a fresh-faced, you know, graduate, my first job in 1991 was to look at the reform of the heavy vehicle road industry, and then, you know, 20 years later I feel that what is being recommended is actually similar to what has been being said for the last 20 years. But the problem is that society has moved on, the community has moved on and the trucking industry has moved on, but the rail freight industry is stuck in, you know, a paradigm where governments tend to think of road and rail freight as being two completely separate markets, whereas over this time with the innovation of road and the types of vehicles they're driving, we're actually now in the same market, and then over that 20 years you've had a huge increase in population and the growth of the economy, and the forward projections - if you look at any of the state government's freight plans and even the Commonwealth government's freight plans, it's about a huge explosion in the national freight task.

When we're looking at that, it's not road or rail. It's actually – both sources of mode need to be able to be viable enough to deliver those sorts of quantities of freight, and we do have conversations with the trucking industry where they want rail to be more competitive on some routes because the rural road system is so dilapidated that they actually fear, from a safety point of view, for their truck drivers running along it. So one of the issues was Kalgoorlie, you know, there's – down to Esperance, you know, they're wanting to actually build a lot more structure around the rail side of the business so that they can focus on the smaller truck movements and supporting, you know, an integrated rail and road solution to the freight needs that they have down there both ways – both to the port and back up to Kalgoorlie.

MR HUCKEL: You've seen the extraordinary situation down on the Eyre Peninsula in South Australia. I mean, that bulk grain which used to be hauled by rail is now on road. Now, that's a full trucking sector there fulfilling a critical need because the infrastructure got to such a state that you just couldn't haul it. There's a risk of that happening in branch lines

in regional New South Wales, as well. This has huge impacts on these communities.

MR LINDWALL: Why do you think – and I probably should give the question to you – why – I had another question, but that prompts this question – why do you think that the infrastructure isn't maintained if the track access charges are sufficiently high to fund the maintenance and improvements to the track? Where's the money going, otherwise?

MR HUCKEL: Tanya, you're best to - - -

MS BOYLE: Well, I'm just trying to understand the question because when you look at - - -

MR LINDWALL: Well, when I think about road access charges, why do you have road access charges? It's to finance the improvement of roads and the maintenance of roads and the building of new roads.

MS BOYLE: Correct.

MR LINDWALL: But the same should be bestowed – I mean, logically speaking, your railways should be operating at a profit and they should provide enough money to build train lines.

MS BOYLE: Well, actually, I probably disagree. I disagree totally with that assumption that the railway industry (audio silent for 11 seconds) those. None of them are delivering the government a rate of return that is actually - - -

MR LINDWALL: But nor is the Darwin to Adelaide, and nor will probably be the Inland Rail, if you look at the economics of it.

MS BOYLE: Well, the thing is that no one's actually discussed what the pricing is that's going to be set and one of the most pivotal processes still to come is actually the ARTC access undertaking where ARTC, at a time when rail volumes are decreasing and rail volumes are not increasing – so over the last 10 years, if you look at the rail freight volume on every single leg of ARTC's corridor, there's been no demonstrable increase. It's stayed relatively flat, if not somewhat declining, in particularly the shorter corridors. So if they seek to do – to take your approach and go for a rate of return that will earn them a profit, there will be no freight on rail.

MR HUCKEL: I suppose it gets to that point I made earlier. Those beneficial externalities that rail freight provides to the environment, to the community, they're not being factored into land freight pricing laws. So

to that question, if you have a situation where, say, you know, down on the Eyre Peninsula now, what's it going to cost those local governments, those regional councils? They're going to have to find more money to maintain their local and regional roads. What's the price of accidents, fatalities, not to mention more vehicle emissions? And we're getting to a point where the public want to see this stuff built into these type of pricing models.

MR LINDWALL: Yes, well, I think we've agreed that the real cost, including the cost of the track, the lifetime cost, should be counter to all of that, yes.

MR HUCKEL: That's right, and Tanya, you'll talk about the return on asset - - -

MS BOYLE: I probably disagree with that, because when you look at the road infrastructure pricing – and we've done quite a big analysis of what road – heavy vehicle road prices are and how much they've increased over time, and they've been kept at, you know, under two per cent increase over that time, whereas ours is up around 22 per cent and that's a year on year increase. When you look at what is the money that ARTC has spent in the last 10 years since the last regulatory process, we had John Fullerton, you know – and they've done a lot. I'll congratulate them on that. But all they've done – and this was out in one of John Fullerton's speeches that he gave to the Inland Rail conference last year – is to bring the national interstate network up to a standard that is actually able to deliver the freight needs of just the existing freight. So that – the infrastructure that he inherited in 2008 is acknowledged to have been sub – below engineering standards, and so that four billion that he's spent has really just been to bring it up to the existing standard.

When you ask about innovation, we've got nine network providers. So to get from Brisbane to Perth, you almost could potentially go through seven network providers. Each of those network providers have individual pricing schemes, none of which are – some – the majority in the state are not related to an asset base and then you have ARTC, who seeks to price it at the highest level possible and they've already foreshadowed the intent to actually increase prices in the future. If there's no rail at the state level, there's going to be no freight – no rail freight at the state level, there's going to be no rail freight on ARTC. They shouldn't think that they're free to price their network in any way, shape – you know, to meet their own personal needs when each of the individual networks are contributing to the price at which we deliver freight from Brisbane through to Perth.

MR HUCKEL: If you've got a – look, we talked about this before we came in. The proof is in the pudding. We'll give it a classic example: the busiest freight corridor in the country, less than one per cent. The proof is in the pudding. Look at the outcome. Now, on that – in terms of access charging on that route, what have they got to lose? What have they got to lose? We're wanting – better yet, we're wanting to invest in this sector and we are investing in this sector. We're wanting to put more volume on rail and in doing so, that will increase revenue for an Australian government business enterprise. But help us. Help us with pricing, otherwise we can't compete with road.

MS BOYLE: We're looking to invest 500 million in above-rail locos and we're wanting to actually introduce automation and technology. One of the limitations is that the track standards on each of the networks are so different that even something as simple as ECP braking – that we can run locos with ECP braking on every single state except ARC's network. So we can run a train from Brisbane through to Kalgoorlie but then we have to change trains in order to get it from Kalgoorlie to Perth, and that's because the standard of track that ARC has to maintain is actually below the standard for the sort of technology that is out today around, you know, bringing in high performance locomotives, high performance trains, being able to have the flexibility of labour – none of that exists to actually support innovation for the rail industry.

MR LINDWALL: I think we should let Malcolm and Ken have a bit of a say now.

MS BOYLE: And then when you look at road over the last 10 years, they've been able to innovate their vehicles to such a high standard that they're now running A-doubles. But the heavy vehicle road charges haven't actually kept up with even the new technology, so that an A-double incurs the same charge as a B-double in terms of, you know, the registration charges. There's been no real difference between them and – so there's – it's sort of like the road industry has actually benefited from the more hands-off, less intrusive pricing scheme than what the rail industry has, and the rail industry has for a long time sought to actually complement what you were doing and saying, "Yes, we need to increase heavy vehicle road charges". But after 20 years, we've had enough.

MR HUCKEL: It's politically unsavoury.

MS BOYLE: And it's not going to be delivered, and so therefore, if you really want more freight on rail, you need to actually reduce the barriers that are actually preventing us from moving more freight on rail.

MR LINDWALL: I think we should let Malcolm and Ken have a bit of a say first.

MR ROBERTS: Just a quick question or two. Thanks for the opening presentation, Andrew. One question here that we've talked about before – and it was raised when we had that very informative briefing in north Sydney that helped Ken and I on this – is the institutional arrangements for the different sectors and the role of the regulator in every – in each of the sectors we're looking at, and in particular, I think, you're drawing comparisons with the NHVR that point out that the NHVR does that private ticketing as well as the safety mandate. Obviously it has to juggle those two responsibilities, but it does have opportunities to look at the regulation, taking into account the productivity possibilities, and your submission suggests that ONRSR should have a productivity mandate and it should also have some governance changes to help deliver that mandate. Anything you wanted to add to that?

MR HUCKEL: This is an issue (indistinct) of Australia and it would have been in our submission to you as well. Yes, we would like to increase the mandate and vision that Sue has so that there's not just a focus on safety but also on productivity and efficiency, just like the National Heavy Vehicle Regulator. We keep coming back to this equal playing field. What is interesting, Malcolm, it actually requires a bit of an attitudinal – almost like a cultural change. I really commend you for – you've actually had a good look at some productivity issues and efficiency issues in this report – this draft report. But technically speaking, your terms of reference only relate to safety. So your terms of reference, when it comes to trucks, for this inquiry is Safety and Productivity. For trains – for rail freights, it's just Safety.

There's some really deep attitudinal issues we've got going in the freight task in this country which hopefully – you're certainly teasing them out. Tanya was talking about the – and we've talked about how we double-stack freight trains from Parkes across to Perth. The Coastal Trading Amendment Bill (Revitalising Australian Shipping) in 2017, that's essentially a relaxation in regards – particularly with foreign-flagged shipping cargo vessels. Now, with the new Cape class, they can handle 14,000 (indistinct). That goes through without proper checks and balances. That will have another significant impact in relation to the competitiveness of rail freight east-west.

But yes, back to ONRSR, we're asking for – and in fact we've gone a step further. We've actually asked that - post-this inquiry, that we would like to see a piece of work done into productivity matters in relation to the rail freight sector. I think it's long overdue.

MR BAXTER: Can I just - - -

MS BOYLE: I think – sorry. Just with ONRSR, it was set up to ensure harmonisation of safety and, sort of, red-tape regulation. What has happened is that the states have still held onto their engineering standards authorities in each individual state. So what you're actually – you're almost getting – making ONRSR a toothless tiger at the moment because it's actually the state assets, authorities and the engineering standards in each of those states that are actually dictating whether or not we can run nationally, you know, some of our train services.

MR HUCKEL: And we know that frustrates Sue and ONRSR. There's over, I think, 80 derogations.

MS BOYLE: Yes. So it's around that derogation piece. It's a national productivity and (indistinct) issue, similar to what was looked at in the Helma times, in the sense of we need ONRSR to be able to actually set those national standards and have those networks actually comply with those instead of maintaining or sweating their assets and making us not able to implement the innovations that we want to implement.

MR ROBERTS: Now, there is some work under way, as I understand it, to – in a cooperative way to try to advance harmonisation of the (indistinct) rules. You know, very hard to drive that forward unless there's cooperation at the state level. There's no institutional arrangement that naturally owns that task and there's no clear leverage or incentive for change at the state level. So I take it that would be a key task for - - -

MS BOYLE: If you look at ATMS, which we're big supporters of – and, you know, ARTC has signalled that it's implementing ATMS for at least the last five years. None of the state governments are implementing ATMS. They're implementing a different form of, you know, innovative train technology. So what – we're getting to a situation that, you know - ARC, about four months ago, told us that they're introducing something that they assure us that it will be able to be run in tandem with the ATMS. The Queensland government is rolling our something very different on QR. The New South Wales government is rolling out something very different for Sydney trains and in Victoria, you know, I'm not aware that they're actually looking at that in terms of MTM and V/Line. So what you've got is you've got a national network that's, you know, proposing technology to assist the rail industry and the state governments, all of the state authorities and the state network owners and providers within those states are actually adopting different technology.

MR BAXTER: I was just going to say, isn't this one of the areas in which raw politics clearly comes to drive what should be sensible decisions, and that, for example, if you pick up Sydney and the ports at Botany, Port Kembla and Newcastle, you've got some core infrastructure which you can upgrade to be able to keep freight trains out of the central part of Sydney, and likewise with Queensland and with Brisbane. But there's just an unwillingness to grasp metal and make that – what would be a very large piece of infrastructure to be paid for, whereas on all the roads you've got characters driving cars who jump up and down when they drive from Sydney to Newcastle or Sydney to Bathurst and they're stuck behind a semi-trailer, and the first thing they do is – well, not the first thing. But they then ring their local member and whinge very loudly about it. But there's not the same political pressure that arises within the rail system to turn around and say - well, if, for example, you could do what they've done between Port Botany and Campbelltown at the moment with that freight – I think it's only a single freight line to Sydney rather than two freight lines. They're not prepared to commit themselves to – or governments are not prepared to commit themselves to that core infrastructure, and until you resolve that problem or resolve that challenge, you're going to have this very ad hoc approach as to how they deal with it. That seems to me to be one of the core issues.

MR HUCKEL: You're spot on, Commissioner. This sector has been too timid, too silent, for too long. So you know, I think you probably would have noticed in the last, sort of, 12 to 18 months that we've been a lot more vocal about a lot of these sacred cows and it's coming from a good place where we're wanting to put more freight on rail. But you're absolutely right. There's politics involved. We actually - - -

MR BAXTER: Sorry to interrupt. If you look at what's happening on the western line at the moment and what's going ahead with the second airport in Sydney, there would be a logical transition in between the western line and the southern line without going through Sydney. Having had a look at some of the preliminary diagrams, there doesn't appear to be any suggestion of a railway move that would – or a rail line that would avoid having to put train traffic through the centre of Sydney when you could in fact have it running between St Marys and, let's say, Campbelltown. I mean, there doesn't appear to be that whole-of-business structure that's involved in it, and that's likewise if you look at the Port of Brisbane.

MR LINDWALL: I think Ken's making the (indistinct) that makes – I mean, obviously, I think they'll have to wrap it up and – for now, but we've always argued, as you know, for neutrality. I think that we want more productive roads and more productive rail. I mean, obviously more

productive roads leads to efficiencies and you're competing against them, as well, so it's good to see neutrality in terms of charging, as well. So thank you very much for appearing today and we look forward to your continued cooperation.

MR HUCKEL: No, thank you for the opportunity.

MS BOYLE: Thank you very much.

SPEAKERS EXCUSED

MR LINDWALL: I now invite the Australian Road Research Board – I think Charles Karl – is that right? Now Charles, if you just could introduce yourself and make a statement as you see fit.

MR KARL: Commissioners, thank you very much for the opportunity. It was a real pleasure to read the report last year and my first day back in January, I read it and then I said, "I think I want to make a submission", and when I started writing I was thinking a bit from a private, individual point of view. But when I raised it within our management group, they said, "You should write it under ARRB".

MR LINDWALL: Excellent.

DR KARL: My name is Charles Karl. I work at the Australian Road Research Board. I have been in this area in traffic management and ITS and things like that for over 30 years. I lead our technical work in network operations, freight and heavy vehicles. So, the Australian Road Research Board basically has three work areas. The asset side, the things that move on our network, and the safety side, so I have - I sort of cover the things that move, and over the years I have been involved in looking at improved traffic management from a road transport point of view. I've been involved in telematics - regulatory telematics with the Intelligent Access Program, fatigue box, heavy vehicle architecture, and the last four years I've become involved in our efforts looking at connected and automated vehicle.

I wanted to sort of look at the two areas that this inquiry was addressing and looking at what is happening and then looking to the future, and I probably wanted to talk more about the future environment. Having come from being involved a lot in many of the - I guess the regulatory side on our road network, and as an engineer and being from - I joined in 2003. I will stay away from the political side or the policy side, and perhaps the

best value is if I talk about it from how rapidly technology has changed; that might be beneficial, and the reason I sort of thought I'd make a comment, because you normally don't hear ARRB's voice in forums like these, because we work for - we were set up by our members who are the state road agency 60 years ago, and our voice is in advice and research and development for our members, the state road agencies, and technical assist policy and so forth.

The biggest change in road transport, others have said, is the smart phone in the last 20 - I think 2008 was when the smart phone came along, and if we believe everything that is being said about connected and automated vehicles and mobility as a service and so on, then - and we see the cars being presented on our roads now that have more advanced driver assistance capabilities, we have to say and think what would transport be like 20 years or 30 years from now, and in becoming ready for that then have the appropriate regulatory and operational frameworks. It's almost a case of when, you know, if you can imagine me operating with horses and carriages down Bourke Street, and I see the first cars starting to appear, and really I've got no idea about how to water the cars, you know, because they - how to get rid of the emissions and stuff like that, because I know how to get rid of the emissions of the horses and carriages, but nevertheless - - -

MR LINDWALL: They were generally left on the road, if I'm not mistaken, if you see photos from New York City of the time.

DR KARL: But nevertheless, within the span of 20 or 30 years we sort of flipped, and you can look at every city and so forth and we flip, and that's been in the lifetime of one traffic engineer, and I say to the young people in our teams that, you know, in your lifetime we will flip again, but what would that concept of operation be like? So, we still have horses and carriages going down Bourke Street sometimes, and I think if we have an idea of where that will be, and there's no question that we have got some clues. We think about 5G, we think about cloud and so on, so we do have some clues, and in the earlier discussion there was talking about a more risk-based approach, so there are some clues there, and to me those clues are the - are sort of the key or the core elements in a future concept of operation, and if you have, you know, a risk-based approach as that approach, then it can accommodate that ecosystem that we have today and will evolve for in the future.

And so I prepared that submission, and I give you one more illustration, if I may, and the illustration is two years ago we had a visit from the Greater Jakarta Transportation Agency, so the head of this transportation agency has to be - is concerned with the movement of 30 million people within

his jurisdiction, and the first question he asked me was to say "You know, I'm thinking of getting our PT trips from 60 to 70 per cent. What is the situation in Melbourne?" and you know, it is really wonderful when you are the system manager for one jurisdiction and you are looking at all the journeys or all the trips in your network and then you decide, and based on the land corridors that you have and the vehicles that you have and so on.

So, the way Australia is run and so forth - so I won't get into the politics of it, but what I'm saying is that the technology is changing. So for example, in 2006 Lindsay Fox drove a Mercedes with a European tackle box, a fatigue measuring - monitoring device to the transport ministers, and they said - in Broome, and they said "We should have this for fatigue in Australia", and then I led a project to look at how we could bring the box over here, and the company that had that box was saying "Well, in Europe the rest breaks are defined by which country you had your rest break in, and over here in Australia the rest breaks you have to actually - even you can't even go down to postcode level; you have to be much more specific".

So they said "We don't think that we can sell this product in Australia because really what you need is a GPS sort of device, and if we brought our box down we'll be the laughing stock because it can't be used here". So, we developed specifications for an in-vehicle unit in about 2007, and as I mentioned, in 2008 along comes the smart phone and GPS and apps and so forth, so by the time you get the regulatory reform in place the technology has already moved on, because I remember in 2006 the Productivity Commission was talking about incremental pricing trials for heavy vehicles, and we still haven't - we're still trying to do something, and now it's 2020, and the Europeans are talking about a charging solution that doesn't need to have a box anywhere.

So, when we get down to the bottom line it's about safety, yes, it's definitely about productivity, and this future ecosystem, if you can imagine with me, would be an environment where we have the current regulatory environment. Say for roads it would be road rules, driver licensing, vehicle registration, state by state basis but operating nationally, and we would have an ecosystem of other safe systems. It could be the Tesla vehicle or the Uber vehicle that one day does ride share, does executive service, carries a bit of freight and so on and so forth. So, in that sort of environment where we have the current regulatory environment and all of these sort of systems operating under a so-called safe system approach, what is our regulatory framework and what is our operational framework, because all of them, have to interact with each other.

If I'm driving an autonomous vehicle on the motorway, how am I going to signal that I want to overtake or merge, and how am I going to give way to an emergency vehicle if I cannot communicate and that vehicle has no steering wheel and so on and so forth? So, architecture - logical architecture is important. What we have today is we are rolling out, in addition to physical infrastructure, digital infrastructure, connectivity with 4G and 5G. We have all these concepts. Different states, different local governments have got ideas about how they want to operate their urban precincts or their curb-side parking and so forth, and that is their prerogative. So, you've got the concepts and you've got all this infrastructure, but we haven't got this logical connection about - it's almost like I'm going to build a three bedroom house today and because I can possibly Airbnb it every bedroom is going to have, you know, probably an ensuite as well, which gives me that flexibility and so forth, you see?

So, we're still building the same infrastructure but with the technology we can actually be more productive, make more money, and so on and so forth. So, it is within that context that I wrote this very short submission, because I think the thing that I felt was missing in the report is when you look at a - future regulations, future operating environment, it's very good to have, I guess, a more common understanding about where we are heading and how the current regulatory reforms that we've put in place are going to be, you know - how they're going to accommodate, how are they going to survive in those future environments.

MR LINDWALL: Well, thank you very much, Charles, and thank you for the submission because I think it's a refreshing way to look at it. I'd like to explore a few things going beyond that, since you highlight technology a lot, and I used to talk about 5G and a few other things. I mean, I'd like to explore with you what actually is the difference between road and rail. We've had discussion about the competition between the two of them in the last session. Now in Sydney they've built the light rail on George Street, which was rather costly. They said the next stage of it is likely to be trackless trains, which looks like a bus to me, I would have thought, and when you think about it, what is transportation along the surface?

We're not talking about air transport or space transport, but surface transport here, on land. It ultimately is moving a mass, whether it be human beings or freight, from point A to point B over a distance, at the least friction with the energy source to back the propulsion most efficiency. You know, there are optimal ways of doing that, and I posited, and I've been thinking, that perhaps the evolution is that there won't be and difference between road and rail, and that they effectively will merge to a similar type of technology. I don't know. What do you think of that?

DR KARL: Well, that in my submission I drew some parallels with communications. So about 10 years ago ACMA, the Communications and Media Authority, was looking at the future regulatory environment in communications. So we had the TSDN, the wire network, and then we had the beginnings of the - I guess the digital (indistinct), and they came up with a way of looking at - through the layers which is in terms of, you know, IP and connectivity and so on. Translated to the road transport sector, or even the land transport sector, we have all these silos, right? You mentioned road, but you know, for me roads are - there's private vehicles, you know, public transport vehicles. There's many variants of silos in roads. Then there's rail.

So we do have those silos, but the thing that we really need to look across is, in terms of safety, in terms of productivity, you could argue to some extent it's agnostic of those silos. It's delivering a freight journey or delivering a journey. So if you look at our cities, if you look at our states, right, every day in Melbourne there's probably about 15 million to 20 million journeys, whether they be PT or private journeys or whatever, even a journey to the gym, whether you take a bicycle or you walk or whatever, there's that many journeys a day. So, you start to monetise that and you see where, then, Google and all these people are talking about mobility as a service. So it's not beyond your imagination to have a big company go to the government and say "I will handle, you know, 60 per cent of your journeys and this is the price", you see, and so on.

Anyway, what that - put another way, what will not change? What will not change will be our land corridors. So, Bourke Street will always be Bourke Street, and that rail corridor will always be a rail corridor or basically a corridor for transport, whether it's rail, light rail, heavy rail, double stacked trains, whatever. What will change, however, is because we have the technology it could carry some passengers, it could carry this, it could carry that, it could carry different vehicles and so forth, and the earlier presenters were talking about the need for more flexibility and so on, and that is the case with road transport as well.

So, when you look at the land corridor, the road corridor down Bourke Street, or the corridor down one of our waterways, and you say "If what I hear on YouTube or see on YouTube and believe it's true, and there's going to be a lot more occupancy in the vehicles, then what does that mean for how we're going to operate that corridor?", and it may be that in 20 years' time that corridor would be - half of that corridor could be filled with vehicles and the other half could be filled with cyclists and people on e-scooters, and pedestrians, and light shuttles, and so on, that travel at less than 20 kilometres an hour - something like that.

So these are new concepts of operations based on the same land corridors that we have. I think they will develop, you know, in different precincts, in different trials and so forth over the next 10 to 20 years before we flip, but the most important thing for regulations and for operations is to prepare ourselves so that we can accommodate these new innovations as they come and present themselves on the network. The way it is happening now is a proponent will propose, "Okay look, I want to do an automated heavy vehicles from the port to this DC", and then you'll say "You know, okay, give me your safety case, give me your traffic management plan, and oh, by the way, you can only do it from, you know, midnight to 3 am in the morning as a start". How do they get the - that's - so they get approval like that and it will be on a case by case approach, but can you see that it will become more and more and more (indistinct) as these innovations are developed to a stage where they can be commercially deployed?

MR LINDWALL: A lot of innovations now seem to be inside the vehicle rather than deployed upon the network, you know, and that must make it more efficient to us the network in different ways and more flexibly than it would have been in the past.

DR KARL: So, there are four parts to the puzzle. There is the network, there are the vehicles, there are the humans, and then there are the regulations and the operational framework, okay. So, in the old days and up to now I would deal with, I guess, the supply side, because I only control the infrastructure (indistinct).

MR LINDWALL: Yes.

DR KARL: And the innovation with the likes of Uber and so forth is basically on the vehicle side, and the technology that's appearing is on the vehicle side, and the business models that are being developed is on the vehicle side. The restriction, then, is on the infrastructure side and operational (indistinct), and also on the driver's side you see, because who is the driver? Do they need more training or less training, or whatever? So, to get that system to work, it's not the vehicles presenting themselves in Australia and saying "We can do all these things". No. We need to be ready on the infrastructure side, on the driver's side, and on the regulatory and operational frameworks. How do we give a driver's licence to this system and so forth?

MR LINDWALL: Malcolm.

MR ROBERTS: Charles, thanks for your submission and for coming along today. You started with a story about the difficulty of transferring sort of global innovation to Australia, and so that leads me to think a little bit about Australian Design Rules, and we've been talking about some of the issues that might face heavy vehicles in particular, but it would also apply to other segments of the transport industry. Do you have any experience with ADRs? Do you have any thoughts about whether the process for ADRs is too long on consultation or about right? Is it an impediment to adopting innovation? What's your practical experience, if you have some, with ADRs?

DR KARL: Yes I do. I am also, and have been, a delegate to ISO/TC 204, which is the committee for ITS standardisation across (indistinct). Basically Australia has vehicles from Europe, from the US, and other parts of the world, and if you look at our trucking fleet you'd be fair to say it'd be about 30 - one-third, one-third, one-third, depending on whether they are light or heavy or multi-combination vehicles. So, there is a huge opportunity in Australia because if it works here it's going to work in the rest of the world outside those regions, okay.

So, the ADRs in the early days was an attempt to harmonise or normalise so that what we had was consistent, but increasingly the world market has become a very consistent market as well, so there is less of a need for ADRs, and the trick is - to make it more cost effective is to have it into an international regulation or an international standard, because in order to meet that international standard, which includes Australian requirements, if they are not already part of that standard, then it will meet that new (indistinct). So, I think in response to that there has been a lot of thinking within the Commonwealth as well in terms of reshaping the office and what it wants to do, and the big driving force is really with the ADA Systems that are appearing in our vehicles, as you've raised.

With my standards knowledge - so if you look at, say - increasingly the safety or the efficacy, or the success of an ADA System or higher level ADA System or what we already have at level 2 or, you know, these things that can do lane keeping assist and so on, but you still have to put your hand on the wheel and then now it can do it lane keeping assist but you can actually, you know, read your text messages or something like that, these are higher level - - -

MR LINDWALL: Are you sure the police wouldn't stop you there? Anyway, go on.

DR KARL: The designers and the technical people are saying that we can't just say this system works. It doesn't, because it will work only in a

system which pays attention to the infrastructure that's around that environment.

MR LINDWALL: Yes.

DR KARL: The actual road itself, so what it's got and so on, right, and the driver training. So, there is a challenge there, and I think we all, in all modes of transport we are familiar with the safe system approach, and where the NHVR is going with their risk base or safety, and where the NTC is going with those sorts of things are all steps in the right direction. It's just that for road practitioners like myself, we've got no idea what a safe system is, a safe system for a traffic control system, whereas there is a lot of experience in aviation, for example, about what a safe system is and how do we differentiate between a Qantas and a Scoot, or a, you know, Tiger or something like that, that all use the same airspace. So, it will take some time for the safety people, the people within that organisation, to build up their expertise.

Otherwise - so initially it might be a bit of overkill because you bring people in from aviation and they've got these very high standards and, you know, roads are a bit different and, you know, so there is that - getting up that learning curve, and to me the sooner we do that the better, and the opportunity to build our expertise with managing safe systems in the new deployments that are presenting themselves on our network is to build that Australian expertise so that, as they advance, then we have the capabilities to assess whether that is the - a safe system (indistinct).

MR ROBERTS: Just one other question. When I was reading your submission I was intrigued by your statement that 30 to 40 per cent of heavy vehicles run empty on the Hume Highway. I had sort of mistakenly assumed that it was in everyone's interest for a round trip to be fully loaded in both directions, you know, that there would be - - -

MR LINDWALL: Could I just add to that point, because I had a thought myself on that, and that's Australia is a - after chatting to John about this actually - the - Australia is a large net importer of containers, so you know, we bring in a lot of produce from overseas in full containers and we have an excess of empty containers, and by definition our ships go out with lots of empty containers, so I was wondering if it was that type of - - -

MR ROBERTS: That's our problem, yes.

DR KARL: Yes. I think the points - there are two points to my answer. The first one is that we don't have much on the back haul, and in other

parts of the world, like in Europe, you can have policies and strategies where you can encourage triangulations so that out of 100 per cent of their runtime they go up to 60 or 70, or 80 per cent. I mean, if you are moving bulk, you know, grain for example, from A to B, you're not going to take back washing machines or something like that. So, it's just that's our environment. I think the second point that is raising the question marks, "Charles said 30 to 40 per cent. What evidence has he got to support that assertion", you see, and I think that is the big problem.

We do not have that visibility on supply chain data and what's happening, and what the loading is and so forth, and there was a big piece of work done with the national freight supply chain, and the (indistinct) project that looked at freight data. So there's a fair bit of information there, but until we have that visibility, you know, we're sort of guessing just from anecdotal evidence and statements like this.

MR LINDWALL: So we would know by international movements because obviously you have to register through customs and so forth, or even in the container and vice-versa and, well, within domestic (indistinct).

DR KARL: Yes. I mean more specifically on the domestic side, and when you start going down to the rigids and the light commercial we've got zero visibility at all. So, without understanding that problem and the sort of movements that are happening on our network, we are making decisions. So, then the question is how do we get that data?

MR LINDWALL: Yes.

DR KARL: It's not our data. Unless we mandate some data collection device in the vehicle that's owned by a regulator, it's all private sector data, and the big challenge that was written in that report is about trust and aggregation of that data, and accessibility.

MR ROBERTS: But Charles, if I could ask, I mean, that - I'm not trying to determine whether it's 34 per cent or 41 per cent or whatever it might. I'm just wondering, if there's anecdotal evidence that there's a substantial level of travel without a commercial load, and (indistinct), what's the anecdotal explanations that you've heard for that? Because it does strike one as - in terms of efficiency, a very inefficient way to run our land transport, putting aside that obviously these are commercial decisions being made by the parties, but I'm just wondering why it might be like this, whether there's any anecdotal explanations.

DR KARL: There have been some service providers who have been trying to get different operators to share the data and in that sense then try to get more loads for them on the back haul, not too successfully. In certain specialist areas like moving, say, equipment around or farm machinery or something like that there's more traction, but not for general freight.

MR ROBERTS: So there might be an information deficit for operators.

DR KARL: Correct.

MR BAXTER: You could do it by weighing them. I mean, presumably weighbridges would have some sense of where they - well, I mean you would know from a truck and its combination what its gross weight is likely to be, and - - -

DR KARL: I think the other thing, if you compare, you know, the entry of, I guess, commercial services, like the Ubers of the world, the possibility of that occurring with the freight sector, like Uber freight - - -

MR LINDWALL: Yes, yes.

DR KARL: It's not as easy because of the - sort of the regulatory environment that we have for the drivers and stuff like that as well.

MR LINDWALL: That makes sense, yes. Ken, do you want to - - -

MR BAXTER: One of the things that interests me is, on the basis of the work you've done so far, and if you look ahead the next 10 or 15 years, (indistinct) see in particular the smaller (indistinct) that have got to be distributed around cities which have got narrow streets in them or offloading facilities. In the course of another inquiry we saw Woolworths and Coles and they raised this question of having to bring big semis in, but having a depot out on the edge of whether it was Melbourne or Sydney.

DR KARL: Sure.

MR BAXTER: Where do you see that over the next 15 or 20 years, and what actions do planning authorities, which go from councils to local governments, have to take to ensure that you're going to be able to get that goods, or are we going to go sort of looking at the future and having drones that will pick them up and fly and take it and drop it and that sort of stuff? Where do you go, and how does the planner, who works for whether it's Melbourne City Council or one of the regional councils, turn around and say "This is what we're going to" - or "This is what we should

be doing if we're going to distribute the freight that needs to be put into, you know, shops and depots and other places"?

DR KARL: Sure. I think the advent of technology and applications, and as we discussed just one - earlier, enables, I guess, all our road users to potentially better sweat their assets, their assets being the vehicles, and what's holding it back in terms of freight, beyond humans - there's nothing holding it back for humans because the door has been opened already, but for freight I think they are the regulatory and the operational frameworks because, for example, you can put your car in a loading zone or something like that (indistinct). So, for light commercials and for rigids I think it would only be a matter of time before there will be more cases of commercial services which are - sweat the Ute or the truck to its maximum for urban freight, and that's happening more and more as we speak.

MR LINDWALL: I might just finish on one question, unless you've got one.

MR ROBERTS: No, go ahead.

MR LINDWALL: You know, one of the greatest, and some have said that the greatest productivity gain in the 20th Century was the introduction of the standardised container, and the data on that's pretty clear actually, by Malcolm McLean, if I'm not mistaken, was his name, in the 1950s. That of course, the standard 40 foot container is possibly, on the road, two of them on an A-double would be a tremendous productivity gain, one would argue, compared to the A - B-doubles where you have a 40 foot and a 20 foot. Would that make a significant difference to you in your estimation, since it's again a multiple - you know, even multiples of those - the large containers?

DR KARL: So, the geometry of our network and the fact that there are other road users on our network imposes a ceiling on how far you can go down multi-combination and axle loads and stuff like that.

MR LINDWALL: Of course, yes.

DR KARL: So we do have those natural ceilings, but when we start looking at our urban environments, you know, that's - the - look, if 30 years ago, when we had the single semitrailers and we had technology, would we go for a mechanical coupling? We wouldn't.

MR LINDWALL: No.

DR KARL: We would have gone for an electronic - electrical - electronic coupling. So, at that time, when we introduced the mechanical couplings for multi-combination vehicles, and we drove that productivity up with B-doubles, we sort of hit as much as we can.

MR LINDWALL: Yes.

DR KARL: I mean, you're not going to do triples or quads around here, and you have other problems about dividing it up and so on at the start - at the end of the journey. So, with electronic technology now, it is very possible to envisage these truck and follower combinations where the following could be three or four small, so a completely different concept of operations, and whether or not it occurs, then from a regulatory and operational framework I think my point is to say "What do we have in place so that we are ready to assess that and it's possible?", otherwise, you know, we're not going to fully - benefit fully from the technology that presents itself. Yes, I think that's - - -

MR LINDWALL: Yes. No, no, that's very good. Well thank you very much for your testimony today, Charles.

MR ROBERTS: Thanks for your submission. Thank you.

MR LINDWALL: All right, I'd now like to invite Grain Trade Australia, I think Tim Ross. If you could just introduce yourself and then go through it as you see fit.

MR ROSS: Yes, thank you. Well, I will keep this brief. We put a brief submission in to follow up a number of other submissions we'd put in.

MR LINDWALL: Thank you very much for that, yes.

MR ROSS: Some of the national freight requirements as well. My name is Tim Ross. I work for Grain Trade Australia. Just a very brief overview of Grain Trade Australia. Grain Trade Australia is an association that works within the grain industry obviously, and we represent 280 commercial entities within the grain industry. Our role is to provide frameworks for the industry and to support our members and the industry with structures and training, et cetera, to facilitate trade. We put in a - sorry, a little bit about my background. I've been in the grain industry for - an in the supply chain component of the grain industry for over 40 years, working in a number of different roles both at the national level. I've worked with the road and rail component of the grain industry as well as shipping and containers - the container segment.

Probably the key things that - and the key messages I just want to get across today is that obviously the grain industry, it's quite the critical agricultural sector within Australia. It supports a lot of rural communities. It supports a lot of people within capital cities and regional cities as well with employment and opportunities. It's an industry that's open to a lot of competitive forces from the global level. We're very much, these days, a commodity market, and commodity markets operate through trade at a global level, and we're subject to pressures and costs - and cost structures from obviously global players, and it's a challenging market that we work in, and it's also an evolving market, especially in the supply chain component of it.

Obviously with anyone who's been in the grain industry as long as I have - I started when the industry was very much a regulatory industry both at a state level, with state statutory bulk handling companies and rail companies, both above rail and below rail, and a different world to what it is now. Road industry was basically shut out of the rail sector, or the grain industry, through regulations. Now that's all changed, and obviously we have a different world, and it's a world driven by the market, and it's a complex world. It's not as simple as people see the grain industry anymore. It's very much a commodity market enterprise and, for example, if you were to be involved in loading a - say a 60,000 ton vessel through the Port of Geelong and you were the trading entity that was coordinating that sale, and had that sale contract in place, it would not be your task to coordinate and manage the whole 60,000 ton of your own cargo. You'd be buying (indistinct) from a number of different other parties within the trade and supply chain.

So you're basically aggregating through other parties as well as doing a component yourself. Now, that raises lots of complexities because all those other trading entities also will be backing off their positions with other traders. So what you end up having is you have a very disaggregated string sale process within a physical sale. What that means from a supply chain perspective is complexity. It means that one decision has to be passed through a number of different bodies and it creates churn, it creates disorder and it creates a lot of pain. It makes aggregated movements of grain such as rail movements quite challenging and quite difficult as compared to what the market used to be like. In South Australia and WA, the supply chain has been protected by processes that major bulk AMS have put in place where they've basically maintained an aggregated supply chain.

So that's the sort of – that's the market that we're operating in now, and it is complex. It's different in each sector. It's different in each court zone. It's different in each aggregation area, and it – the complexity needs to be

understood as we move forward with planning processes, both at the state level, council level and the federal government level, and I think our submission really is just saying, look, the critical thing with planning and the reform process is to make sure that plan is effective, make sure there is a lot of engagement, not just with associations such as Grain Train Australia because we don't represent the industry. We represent one sector of it. It needs to be across all sectors and across all localities, as well. There needs to be a lot of local representation and that takes time. It's a little bit like, you know, Chain of Responsibility. Chain of Responsibility, I think, came in 1983. It's still working its way through the rural supply chain. It's getting there. It's improved a lot and it's done a lot of value for the food supply chain. But it is still being rolled through the food supply chain.

That's probably all I've got to say, really. It's just that our answer is definitely a lot more complex than a lot of people see it and the planning process needs to be considered on a – from our perspective. Yes. We need to look at engaging people. We need to have some commonality of how we analyse different sectors, how we actually work out cost structures between road and rail. We've heard from the rail industry today. I hear their issues. It's been like that for a long time. It's – road and rail are just completely separate, always have been. Always have been from a cost structure perspective. I've been involved in a number of rail negotiations. I actually did negotiate a contract once for the rail contract on the Eyre Peninsula and I can understand why it's no longer operating, you know. There are certain challenges associated with rail with volumes and consistent volumes that are difficult to work through.

It's not impossible, though. There's certainly - we believe, with some proper planning processes in place across industry – and that's a number of industries – it's possible to get road and rail to work in an intermodal basis. Not everywhere, but certainly in specific corridors. The Inland Rail may present opportunities for that. Unfortunately, there hasn't been a great deal of discussion yet as to how that can happen. We've put a submission in to the Inland Rail review and we hope to work with them in the future to - potentially hope to look at some intermodal opportunities associated with that. That's probably all I've got to say in regards to this.

MR LINDWALL: Thank you very much for that, Tim. Could I ask, what do you think that's made you drive a – moving from the aggregation approach, as you say, to the more disaggregated market? Or is that an international development, I suppose?

MR ROSS: It's basically removal of the regulation – single district regulations around – or the state-based regulations around barley, oats, et

cetera. So you'd become – ended up with a pure market, and as the market has become more global it's become more of a – unfortunately, it's become more commoditised and as a result, the trading environment, the ownership and the risk profiles create that disaggregated market. Like, at the moment, Australia produces 45 million tonnage of grain on average, and currently – the latest estimate I've heard is that there's 17 million tonnes of farm storage and there's probably another 40 million tonnes of commercial storage and in-use storage. So we're over capacity on storage, but the market is driving those signals for growers to put in farm storage because it has a number of benefits for them from both a farm logistics and also from a marketing perspective. So that's driven farm-based storages. Farm-based storages mean the grain doesn't go to those – to what used to be 900 aggregation points at harvest time. It now holds back at potentially 15,000 aggregation points.

MR LINDWALL: And how has that affected the – so you take away the cost of production of the grain itself. If you look at just the transportation side of it, has it driven down the cost at all, or much, or how would you say - - -

MR ROSS: It's a very difficult question. If you had a – if you had the old single-desk Fat Controller system where everything goes through on negotiator who negotiates the transport contracts - we're probably all paying a lot more for freight than we did when the single desks were around. But from an individual perspective, the individual is probably getting freight for less than what they would have paid in those days.

MR LINDWALL: Otherwise they would have been doing this voluntarily, any of that. They've got no obligations.

MR ROSS: Yes, and it's out of a choice and they look at the opportunity. Sometimes they'll pay more for freight because the market – if you sell the grain into – if you're based in central New South Wales and the market you're selling to is southern Queensland, you may determine, look, I'm prepared to spend another 10, $15 on freight because I'll pick up 60 in price.

MR LINDWALL: Sorry, Ken. You were saying?

MR BAXTER: Are your people selling on a CIF or an FoB basis?

MR ROSS: Both.

MR BAXTER: So when they're selling on the CIF basis, who determines the actual freight shipment? I presume this goes from somewhere in the farm area into inner Sydney or - - -

MR ROSS: This tends to be the trader, who puts the trade in with the – on the international basis. So international traders will tentative CIF through to – or CMS through to their counterparties, so the – wherever that location is - that destination is.

MR BAXTER: And are you aware of that or you just - - -

MR ROSS: No, that's really – that's trade for trade. There's obviously market analysis as to what the costs are. The actual costs associated with each separate trade and delivery is between the two counterparties.

MR LINDWALL: Could you talk a bit about the increased use of containers for grain, which seem – I didn't realise this was happening. It doesn't seem intuitive.

MR ROSS: Yes, there's certainly been a marketing correction probably in the last – I'd say probably 15 years to 20 years, container use has started to evolve and started to increase. There's a number of reasons. A lot of it is risk price reasons from both the buyer and obviously also the seller. Containers, obviously, allow you to sell in smaller lots to a foreign customer and it means that, you know, anyone can step into the market, for example, and sell 300 tonnes on delivered basis into a foreign country, whereas if you're looking at an FoB sale into a bulk vessel, you've got to deal with the risks associated and then find the capital to deal with, say, 40,000 tonne of grain.

MR LINDWALL: So these modified containers that are closed and they have a little hole at the top and you pour it in or something, is that how it works?

MR ROSS: No, they've got a few of those around. But effectively, most of our trade goes in 20-foot containers, which unfortunately are starting to – there's a bit of a removal of those out of production, so we'll have to work out a way of how to use forklifts. But it's really the sum of a bulkhead. So one of the doors is closed. The false bulkhead goes in. There's a gap at the top and the grain is basically thrown into the container. The containers aren't completely filled because of the – they'll pick up weight regulations.

MR ROBERTS: Fascinating. I'm glad you mentioned the Eyre Peninsula because it gets raised from time to time, and I assume there's a

few factors at work there – possibly the condition of the assets, the investment required to maintain and upgrade them, maybe the production on the Peninsula itself and how that cycle has changed. Is there any practice – well, first of all, what would you say drove that change, or was there a CSA that disappeared and suddenly became - - -

MR ROSS: If you look at the events there, it's basically – it was a pioneer track, and I can recall we used to describe the wagons on the Eyre Peninsula as having wooden spokes in their wheels. That was the era of the wagons that were over there. They were very small. They were very – not very efficient. But they were built for purpose way back in the start of the last century, and there were some upgrades over time, but the costs of maintaining a pioneer-style track were extremely high. You need high volumes. There were volumes on the – the volumes on the Eyre Peninsula haven't dropped, but market forces have changed. There's now a new sea port terminal competing with Viterra on the Eyre Peninsula, and that's a road-based facility working further up the – basically working further up around the coast and what they've got is a slight – potentially a slight freight advantage from a road delivered into that point compared to road and rail delivered down into Port Lincoln, which is the most southern point of the Peninsula.

MR ROBERTS: That's very helpful, Tim, thanks.

MR ROSS: That's all right.

MR BAXTER: So just – are most of the people you deal with buying on FoB or a CIF basis? You earlier said you were buying from or selling to – buying the grain on a CIF basis?

MR LINDWALL: You asked that.

MR ROBERTS: I think you asked that.

MR ROSS: Yes, mainly – look, I haven't been involved on the sales side for a few years. The predominance of it used to be – certainly in bulk was on a FoB basis.

MR LINDWALL: Could I ask about access to the road network and your commentary around about the National Heavy Vehicle Regulator and access to roads by different, say, performance-based vehicles and so on?

MR ROSS: Yes, it's – certainly, I know that the F submission covers some of the issues associated with access quite well. We didn't give a great deal of detail about that one. Effectively, we do have a – we don't

have enough uniformity as to – and we don't have enough people who actually process things, essentially. The largest issue is - as far as difficulties there is access to certain routes and the – just the different councils, different states. It just makes – it makes it difficult to go across borders. It makes it difficult in a drought, especially, to move grain some – yes. Basically to move grain on routes that don't normally carry grain. So grain moving from South Australia, for example, up into central New South Wales by road. Grain in central Victoria is just about precluded from going up into northern New South Wales and Queensland, just because of the difficulties associated with moving grain by road compared to the cost of moving grain from South Australia by rail or vessels from WA.

MR ROBERTS: That's a cost rather than a regulatory hurdle?

MR ROSS: It's cost, yes, and obviously it's also, in these times – because grain – road movements normally try to work on three legs. You move one long journey and then hopefully one short journey with grain, and then hopefully fertiliser or something to get you back home. But those types of moves through the drought – for drought reasons, there's nothing to come home with. So as a result you're coming empty-handed a long way.

MR LINDWALL: Well, what about – sorry, I shouldn't - - -

MR ROBERTS: No, no.

MR LINDWALL: What about the issue of shipping – coastal shipping and access from the ports? I think you've said there are 18 ports used for grains?

MR ROSS: Yes, 18 ports used. Coastal shipping, it has been used and is still being used from – for drought reasons, and similarly, there's all seven (indistinct) movements of grain to the east coast of Australia to meet some specific demand. It – in a normal, average year, which – we've never had any of those – grain shipments, extremely rare from a coastal position to another. There is grain that goes down into Tasmania from Victoria.

MR LINDWALL: Is that because of the cost to – I believe because of our cabotage rules?

MR ROSS: It's basically most of the – normally, on an average year, all the states in Australia are always holding grain because they know it's always just an Australian export, so there's no real reason for it to go around. There's no real specific quality parameters that will demand a

specific grain out of South Australia, for example, to come up into Queensland.

MR LINDWALL: What about the intermodal side with - as you said, years ago it was just rail. It's now moved to – a lot more to road. How's the combination working, or is rail just being crowded out these days?

MR ROSS: Rail is still working where you've got an aggregator such as Cooperative Bulk Handling in WA and Viterra in South Australia who offer a bundle service, and they take on the risk associated with the rail contract. In the eastern states where it's more of a – there's more competition from bulk handlers and from ports. As a result, it's very difficult for a bulk handler to try and provide the same bundle service because of the risk associated with it. GrainCorp has tried and they've – obviously if you're paying fixed costs or rail assets and you're in a drought, that's obviously a cost you don't really want to assume. So it's – rail is difficult. It's a difficult beast. We need to, as an industry, discuss how rail can be best used in, I say, Queensland, New South Wales and Victoria because I'm sure – look, there's definitely some answers. If you're looking at – purely at a costs perspective – say you look at northern New South Wales where you've got a rail infrastructure that's built for mining. We should be running massive trains on that track, aggregating at Murray Road into a point and loading massive trains. That's obviously the cheapest option.

MR LINDWALL: Yes. Do you have any comment, then, on part IIIA of the Competition and Consumer Act in terms of – and respective access to private railways?

MR ROSS: No, not off the top of my head.

MR LINDWALL: No, that's all right.

MR ROBERTS: Very wise.

MR LINDWALL: What about transparency of permit applications? You know that, of course, the trucking business is applying for a permit from a road manager, a local council generally, to go from A to B to C and so on and the permit process takes a bit of time, but the permits themselves are generally not transparent. Is that something you would advocate?

MR ROSS: Are you talking from a perspective of information and data? I certainly agree that we don't have enough good interpretable data within the transport industry. It should be an objective that we should have and

also, I think we put in our report that from an analytical perspective, we've got everyone using different methods of valuing road and valuing rail and doing comparisons. So we need to find at least some standard or a benchmark that they can be applied against or to, to get a general understanding of how it can – how one report compares to a report from 10 years ago, for example.

MR LINDWALL: Did you have any more points?

MR ROBERTS: No, but it's been very interesting.

MR LINDWALL: We have a bit more time if you want to ask – all right. I think we've probably exhausted our questions, Tim. Did you have any final points you want to make?

MR ROSS: No. Just thank you.

MR LINDWALL: Thank you very much. Appreciate your contribution, and given that we've got a few more minutes, we might – how about a little cup of tea if someone wants to grab one?

SPEAKER EXCUSED

ADJOURNED

[1427]

RESUMED **[1445]**

MR LINDWALL: Okay, David. Yes.

MR JOCHINKE: Good day. So my name is David Jochinke. I'm here representing the Victorian Farmers Federation with regards to our submission around both harmonisation of road rules as well as the impact it has on agriculture and a few other topics revolving around both safety messaging and where we could see some bureaucracy that could create greater efficiencies if we go about it the right way. So from our perspective, the Victorian Farmers Federation isn't supportive of harmonisation for harmonisation's sake, but we are very supportive of

adopting rules and regulations that create the greatest opportunity for productivity.

Now, what we do see is a lot of cross-border issues that are created by having different regulations for different classifications of vehicles and also dimensions and weights, and we saw that quite obviously with the road train access to Victoria over the drought – movement of hay. But then also, we have different regulations for farm machinery widths - dimensions being different as well as beads as well for when we tow that equipment, let alone then having some clear messaging of what infrastructure is required to open up these opportunities. So we note that harmonisation is a noble piece and we do support good legislation coming out of it, but once again, not for harmonisation's sake.

We talk about, then, messaging of road rules. We find that agriculture especially isn't forefront of mind when people are either game licencing or when people are on country roads. When we see the vast majority of population – obviously, we're centred around cities and urban areas, especially along coastlines. But when you get out to rural areas, there's obviously different road conditions and then also the size of equipment. Now, quite frankly, I'm a farmer north of Horsham. I've got a harvester that's about six and a half metres wide. It can be, with the comb attached, about 23, 22 metres long. I've got a flashing light on the top of that and two red flags hanging out the side. Quite frankly, if you can't see that machine before you start the flashing light or the red flags, you have failed your driver's licence as far as I'm concerned, and the other part of that, too, there's a lot of people with licences that we probably would have to describe don't know how to drive in those conditions. Not for a moment are we suggesting that these people shouldn't be allowed to drive. But it's the general awareness of what is a piece of equipment, what is their obligation to slow down and safely manoeuvre around it, and as a part of that initiative, too, the Victorian Farmers Federation, in conjunction with a few other road authorities, have - - -

MR LINDWALL: Yes.

MR JOCHINKE: Beautiful, yes. We've produced some publications just purely for people to understand that a) you're not stuck behind the piece of equipment. When you've got clear path to pass, you can, and we've just found that that lack of driving skill and knowledge on country roads does contribute to both nuisances of people not understanding the machinery, but then also, when we've got effect of moving livestock, can also be a little bit dangerous as well. So contributing factors, just, sort of, skill-based, and I guess, finally – I touched on it a little bit earlier – it's that intergovernmental bureaucracy that we find also quite challenging

when we are either trying to get support for a regulation on a temporary basis - such as caught in the drought and accordingly trying to shift fodder and livestock, weights, measurements, in that case – but then also laws or hindrances that we have within local government - so access to B-double routes, especially at the local government level, the clarity of making sure that's a priority but yet still trying to make sure we've got efficiency in transportation – and then also weights and measures of just general farm machinery. We can purchase farm machinery of different dimensions and sizes. There is no obligation of the manufacturer to make sure that they're compliant across the board between different states purely because there is no coordination between the states.

So once again, we're definitely supportive of common-sense practical laws, but not for going – rushing to the bottom to get harmonisation just because that's the easiest way to adopt - or police a situation, and I have – just to finalise – finally say that sometimes, in our search for simplicity, the uniqueness of either the machinery or the adaptation of that can get lost. So sometimes we have to be a little bit complex in how we actually think about the solution and just - quite frankly, being simplistic in our views does actually disadvantage agriculture.

MR LINDWALL: Well, I think you're well said, and I mean, we would never say that you should harmonise for its own sake. It's got to be a productivity game there, and - otherwise you'd adopt the United Nations rules for everything, wouldn't you? Anyway, what I'd like to start with, I guess, is you've mentioned hay a few times. Could you just elaborate on your hay movement during the drought and what were the particular causes of concern? I take it this is moving it from Victoria into, what, NSW or something?

MR JOCHINKE: Well for anyone who's playing at home and for anyone doesn't understand, Victoria's basically going to be the plodder source, the hay and grain and straw source for basically all the east coast. And between different jurisdictions there are different rules on widths especially but then also some weights. And then also additionally lengths when we talk about road trains. So to get the maximum efficiency out of a trailer, out of a hay trailer, you've got to tip, usually, the bottom three bales of a flat deck on the side which means that you're over width by roughly ten centimetres. Now with those ten centimetres there's a significant fine. People had been in the past navigating their way through that and trying to maximise their pay load because ultimately productivity is what makes our product affordable.

And when we've got either a legislation or an interstate agreement that doesn't allow that productivity, everyone's going to try to go the least route of resistance and they'll – one state they'll run the gauntlet and the other one they know they're safe in. So quite frankly it – it was a common sense move to say let's allow that additional width, once again a mere ten centimetres. Makes all the difference and it's something that we're quite thankful that common sense was seen, it's not over the whole load it's only on the bottom loads. However, though once again having to make sure that it's got the additional five centimetres of reflective tagging on either side to make that allowable goes against some of the common sense principle but is understandable if that's what we have to do to make – get the allowance for that.

MR LINDWALL: So that extra ten centimetre allowance, was that a temporary adjustment for the drought or has that become a permanent change?

MR JOCHINKE: That is temporary, to my knowledge. However, both, like the road train initiative and the additional width – we are suggesting if this is a successful trial, that it then should become more permanent. Obviously, as it becomes more permanent the messaging has to be that – if you do not comply, if you're outside of those dimensions, you will be fined and accordingly dealt with, so we're more than comfortable with that messaging, if we can achieve that as a base, but, once again, productivity, the cost efficiencies, as well as the acknowledgement that the amount of product that's being moved out of Victoria, especially this year above any other year, is unprecedented, and if anyone has travelled north, the amount of trucks on the road is immense. So in some ways it's quite well needed for our industry.

MR LINDWALL: In previous testimony from others it was spoken about, the Australian Design Rules, which some people have said have led to removing safety equipment because of the width limitations, so it sounds a very similar issue.

MR JOCHINKE: Yes. And, once again, this is where the pragmatic part of me comes to the front. At the end of the day, we've got to look back and see what we're actually trying to achieve here. Are we trying to police to the letter of the law, or are we trying to shift something efficiently and effectively? And, unfortunately, I think the former defeats the latter when you're trying to deal with somebody who hasn't necessarily driven a truck, who hasn't necessarily had to feed livestock, hasn't necessarily even loaded a vehicle, even to the extent where once you've loaded hay as a product, and especially straw which can move around a bit on the truck, if you're getting a dogmatic law enforcement

officer, that can be both an irritation to both parties when you have the disagreement on the side of the road on a 40 degree day.

MR LINDWALL: That's correct. I can understand the campaign to educate road users to be aware of what they should do around larger agricultural vehicles. How do you judge whether it has been successful or not? Is it difficult to do, I guess?

MR JOCHINKE: The measure of success is usually in the eye of the one holding the ruler, but I would say for an example when you and your VicRoads licensing handbook – agriculture has traditionally only had one page in that handbook, and yet if you look at the road network, we have the dominant amount of kilometres to be travelled in this state. So when I went for my licence in Horsham, I had to know how to do a hook turn and be able to manoeuvre that quite effectively. However, anyone in Hawthorn who had to make their way through a mob of sheep, which was significantly worth more than the vehicle I was driving at the time, would not have that same skill applied to them.

So I think there's a bit of disparity between what we have to teach and how we teach it, let alone then correct signage and also enforcement for people who don't follow that signage. Once again, a flag on the side of my header will not make my header any more visible to anyone who can see. However, if I don't have that flag on my header, I can be up for a fine. So the realities of, once again, what we're trying to achieve and the restrictions that were put into place or the well-intended bureaucratic way of viewing the role – the reality is completely different when you actually get into the scenario and situations that is real life.

MR LINDWALL: I look forward to seeing your header doing a hook turn on Collins Street.

MR JOCHINKE: If I was allowed to demonstrate that to my driving skills, I would more than happily – and they gave me the ability to drive anywhere, I would be more than happy to take on that challenge.

MR LINDWALL: On a serious question, though, your permit applications by people in Victoria – obviously, you're Victorian Farmers Federation – how have you found the process since the introduction of the Heavy Vehicle Regulator? And, obviously, oversize, overmass type of vehicles, sometimes you need to get a permit application to the road manager, the local council – how would you describe the process, and what could be done to make it better, I guess?

MR JOCHINKE: It has been very mixed, and can I say frustration and annoyance would be two words that I commonly hear underneath that scenario. Not only is it for the actual road use permits, we've also got railway crossing issues as well. I would like to just put that on the record that that is another annoyance, especially for farmers that had been living on those railway tracks for generational situations, and I must say farming in itself is a generational occupation. There's not too many people that come and go into the industry at a whim. It is a career, a lifetime career in many ways. So understanding that, yes, there must be skill involved, but to continually have to apply for permits, to continually have to apply for access is, quite frankly, bureaucratic and doesn't actually rely on any real world application in my eyes – in our eyes, I should say.

So the process of application at the start when permits were first required to go through the National Heavy Vehicle Regulator – poor would be generous. Can I just underline that. It was an absolute shemozzle, and that has probably led to a fair bit of distrust in the whole process from the very start, and we at the time cautioned that we would prefer to see an operational system than a system that was met by the forecasted date, and, unfortunately, once again, the latter prevailed. So, yes, there is frustration because of the method that the permits requested of the local government network, and then also the requirement of local governments to actually be progressive in their thinking within their networks as well.

I must emphasise in that comment, though, we have to take some responsibility to the cost of upgrading and maintaining that network and how that responsibility relies on, especially rural councils that do not have the capacity, yet they're the ones that probably the greatest efficiencies and productivity can be gained from. So it should be noted that those – any programs or any state government initiatives should be aimed at assisting to open up the actual area or application of access, and we've got numerous councils in the southwest of Victoria and in the north central part of Victoria where, quite frankly, it is suboptimal the amount of high productive vehicles, let alone B-double access there actually is.

MR LINDWALL: Do they – well, (a), obviously, the approval processes vary by quite a lot by council depending upon their capacity and a few other things and amenity around and maybe complaints by locals about heavy vehicles and so forth and oversize and overmass vehicles, but is it also variable where – are you aware of cases where a council has approved something for a particular type of vehicle and later has rejected another application for exactly the same type of vehicle?

MR JOCHINKE: I know where they have downgraded a road and culverts. I don't know of two applications that have gone through the same process that have been rejected. I have to say, personally or in our organisation, I don't think we've got that knowledge. One of the greatest frustrations is planning and engineering capacities within remote councils, and not suggesting at all Victoria is a backwater state, but to attract talent, maintain talent and then also make it a priority that they focus on those issues is a challenge, once again, for councils that are under-resourced. Even though it is a great frustration we still acknowledge that they've got capacity issues. However, we have got to come to a solution of how do we unlock that lack of productivity purely because a council doesn't (a) want to assess the road, but then (b) the maintenance, how do they actually get that maintenance on that road and assistance for that to occur.

MR LINDWALL: Would you see a merit in sort of more transparency over permits such that, you know, council A here has approved this type of vehicle that you've got illustrated here, a header, and that's then publicised or it's available that that has been approved on such and such a date, and, therefore, any applications subsequent for the same council, for the same type of vehicle would basically go through a streamlined approach?

MR JOCHINKE: Once again, depends who's holding that ruler to measure the efficiency of that process, but I would suggest any waiting time over when we talk weeks is unacceptable. I don't care which process you use. It should be within days. It should be understood what the road network is, and, quite frankly, the other part that I really find amazing in this whole discussion is we don't actually have a clear view of the whole entire network, road network, over the state, conditions, standards and then projected upgrades or maintenance to get it to that standard.

And one of our things that we've really seen over probably the last three to four years is that – especially with regards to a truck blitz that occurred three years ago within the cropping area – that they were very heavy on making sure that we had roadworthy trucks, making sure that we had all of our logbooks correct, all of our paperwork in order, and yet the roads we were driving down would, I would suggest, be dangerous and quite the opposite if I was to give the same measure of competency to what is an acceptable standard.

So that is a great source of frustration, and any process that we can establish a standard, deliver that standard and making sure that we're efficient in delivering it – and I note roads like the Sea Lake – sorry – Manangatang-Swan Hill Road as being a case in point. C class road, got knocked down to 80 Ks just before harvest. To me that is completely

unacceptable, and that should be a core road. We're not even talking a feeder road in that case. So the state of repair of our major infrastructure, let alone our minor infrastructure, and how we measure that and actually get access to it is a huge area that needs work.

MR LINDWALL: Now, you mentioned railway crossings, and we have the Rail Safety Regulator here, so maybe you would like to elaborate on what the issue there was.

MR JOCHINKE: We've got farmers that will move pieces of equipment over a railway line several times a day, and to get both a permit for each type of machine and the size of machinery and note that we have got a slight increase in the width of that machinery that we can get access over the railway lines is still not quite applicable to the current farm machinery. Back in the '80s it might have been adequate exemptions for the widths, but now we have a lot larger – especially air seaters and harvest equipment that goes over.

So to get a permit to go over a certain route where farms might have six to even seven different crossings that they would utilise, depending on where they're located and, obviously, which branches they're on, makes it quite difficult for them to comply. And, ultimately, we want people to comply with everything. We don't want there to be any outliers, but we hear plenty of stories where people aren't either willing or capable of handling the amount of compliance that they believe is there.

MR LINDWALL: Do you want to speak about that later?

UNIDENTIFIED SPEAKER: Where does that permit come from? Is that (indistinct)?

MR JOCHINKE: To get a railway crossing - - -

MR LINDWALL: Yes. So, for the record, the question is how do you go – yes.

MR JOCHINKE: Where's the permit – sorry. Where does the permit actually get lodged to gain access or to be permitted to cross a railway crossing? I didn't think it was the local government. Sorry. I will just refer to my colleague, Annabelle. She's actually - - -

MR LINDWALL: Well, could you come up, Annabelle, then?

UNIDENTIFIED SPEAKER: It's from the Department of Transport, so that means when you're moving machinery that you can then literally

have to apply to three different government departments to – sorry – VicRoads being merged into the Department of Transport, you had the NHVR, VicRoads and the Department of Transport which could just be to move a piece of equipment, you know, 500 metres down the road.

MR LINDWALL: So I don't know if you want to repeat that. I'm not sure – did that get on the transcript at all? That won't be on the transcript.

MR ROBERTS: Maybe it's something we can take as on notice, if you like.

MR LINDWALL: We can take that on notice.

MR ROBERTS: That information. So if you wouldn't mind just dropping us a note.

MR LINDWALL: That might be the better thing.

MR JOCHINKE: Absolutely. Once again, as a side issue to this one in many ways of the main focus, it is a real contentious one, and, to be quite honest, the amount of non-compliance that occurs out there is suboptimal. So whatever we can do to increase the efficiencies, be it a blanket application for a section of crossings and then also a greater length of time would also greatly improve the people who are applying (indistinct)

MR BAXTER: Out of interest, have there been many serious accidents on any of these crossings, say, the last four or five years?

MR JOCHINKE: So, to my knowledge, there has been almost zero accidents with farm machinery and railway crossings. A lot due to just intrinsic knowledge of people living on that line and people understanding how the trains work on that line, let alone then the skill of the operator.

MR LINDWALL: I do want to mention there that previous testimony from the Office of the National Rail Safety Regulator – and I can understand this – is that people often don't – I live near Canberra. You will see one train a day, say, and then you will assume that's always the case, and occasionally sometimes a second train might pop on behind, and that's when an accident really happens. So sometimes complacency can lead to assuming things are happening all the same way.

MR JOCHINKE: Yes. Whatever part of life you would like to refer that to, railway crossings would definitely fall underneath that scenario, I would agree, but the reality is the - - -

MR LINDWALL: So I just hope they are very careful checking before they cross, yes.

MR JOCHINKE: Yes. Like when you're driving a B-double, you know you've got absolute metres behind you, and you need to make sure you can get over clearly. I don't think anyone treats it with any disrespect. As far as I'm concerned, everyone understands the intrinsic risk of getting caught short when they're crossing a crossing, but I would suggest our track record demonstrates that as well though. And even to the extent where we've got our – there's only a few lines that are National Rail that actually have multiple movements of any speed at numerous crossings, and so usually it's the older ones that have multiple crossings in shorter amount of spacing, and generally those are more freight routes than any other and not national freight routes when you look at the whole network within Victoria. But, coming back to the main point, yes, more than happy for there to be a level of skill. It's the amount of application of that and the amount of times to apply for it is the (indistinct).

MR LINDWALL: Well, I would appreciate if that could be given perhaps (indistinct) separately.

MR JOCHINKE: Well, when you've only got to apply for your driver's licence once until you're 70 and yet we've got to do this every couple of years at every railway crossing, I believe there's an anomaly there that can be easily remedied.

MR LINDWALL: We did write some of this in our Regulation of Agriculture report – Malcolm, you wanted to say something.

MR ROBERTS: No, no. You've asked most of the questions I wanted to. The submission is very, very clear. So I didn't have any questions further than what was already asked.

MR LINDWALL: Do you want to go on.

MR BAXTER: Can I just come back to the hay transit and being at the receiving end of some of what's coming from Victoria. What has been the experience with the police, particularly along the Hume Highway?

MR JOCHINKE: Particularly along the Hume Highway. I think - - -

MR BAXTER: I asked the reason because I know several people in the area that I am in, there have been complaints the police have – have been fairly difficult about the loads.

MR JOCHINKE: I think that, once again, pragmatic policing is – the best way forward for – especially the hay situation, there are some people who – with regards to restraint, with regards to actually dimensions, don't necessarily know what they're allowed to do. Unlike a (indistinct) trailer where you've got a fixed size, some people aren't sure on the appropriate way of stacking and maintaining a load. I'd definitely be in favour of a strike or a warning for somebody who needs to be picked up. But we've heard of people or the load shifting just by a little bit and a piece of straw sticking out doesn't mean the whole bale is sticking out but yet that's what they measure because that is the outside of the vehicle and that to me is nonsense.

So once again, let's get back to the real intent of the legislation. Let's get back to what we're trying to achieve here. Safe movement of product, if it's properly restrained, if there's been an absolute attempt to lock it down and try to get it in with width, yes you can mention to them that, 'You are over and can you please have another crack again.' But I don't know how many people have loaded a truck of hay in their life but every bale is a little bit different, I can guarantee you that.

So I think that there has been a few – a few people who have had a bit more time on their hands and gone through vehicles a little bit more than what they should in the spirit or the intent of what's actually occurring. I would even extend that out to the inconsistencies when we talk about roadworthiness of vehicles. So once again we refer to a blitz that we had in grain trucks only a few years ago. Quite a classic story in our area, a truck driver was pulled up two days apart, the first he was given the clear bill of health, second day he was told his truck was un-roadworthy.

Now we understand there's got to be discretion, we understand there's got to be the ability for law enforcement officers to be able to make calls on the side of a road on a hot day. But that in our eyes, makes it very hard for us to comply.

MR BAXTER: Malcolm?

MR ROBERTS: Well, only about whether you had any thoughts about how chain of responsibilities are operating. We've heard from other witnesses to the inquiry a concern that contractors are being asked to meet the multiple operating systems by their - - -

MR JOCHINKE: I think - - -

MR ROBERTS: - - - partners.

MR JOCHINKE: So we talk about chain of responsibility. If you break it down to its raw core essence, it hasn't actually – the obligation hasn't changed a great deal of what we should be looking for, you know, the operational health and wellbeing of the operator and then also providing a safe working environment.

When you break it down to those elements, it's not a scary piece of legislation. I think that it's become a part of our language, it isn't quite part of our DNA yet. It took a long time for weights and measures to become a part of our DNA, I think that the chain of responsibility has still got a little bit further to go. I say that mainly the myth part of it too. For somebody who's got a truck driver who rocks up onto their property, I've got no idea how many hours they've burnt. I've got no idea about the maintenance of that vehicle. I've got no idea what the status of the kingpins are on their truck. I've got no idea what their recreational use of anything is and where does my obligation start? And theirs is earning a licence, let alone then the road that it sits on, whose obligations starts when and where.

That's where the myth of chain of responsibility has probably done more damage than not, purely because we can't get clear answers over which jurisdiction takes which responsibility and you have to show due course that you've done what you can to prevent something from occurring. But when we break it down to making sure that the drivers are in a safe place and that you're providing safe equipment to operate in, if that's the pure intent of the legislation, I think that we're very comfortable with those elements. But once again, not having a clear answer on what, where and how our extent of our duty is – is very concerning that that's not been clarified throughout the whole chain.

MR BAXTER: Just out of interest, are the people – particularly in the current situation with a lot of the (indistinct) in New South Wales and Queensland, are the guys who turn up at your place or one of your colleagues' places, owner drivers or are they subcontractors and people who are doing it as part of general contract work.

MR JOCHINKE: I reckon we've actually seen an increase in the owner drivers. Generally there'd be a lot more contracting and there is plenty of contractors too, don't get me wrong, but I think we're seeing a lot more people coming down and owner drivers being on the road purely from the fact they're trying to make every dollar stretch as far as they can and they are in desperate times.

Yes, and it's a real mix. That's a really hard one to give a generalisation - -

MR BAXTER: I'm just trying to get a rough idea.

MR JOCHINKE: But in our circumstance, in our area, in my experience, the owner driver has increased and the amount of vehicles on the road has absolutely increased. It can be purely because you can't get a hold of the contractor as much as you having access to your own equipment and trying to (indistinct).

MR BAXTER: Is there anything you'd like to comment about from the VFF perspective about fatigue laws for drivers in particular by carrying livestock, for example?

MR JOCHINKE: So yes, once again, livestock would be the one that really concerns us and I dare say if you haven't heard it yet. The overriding animal welfare requirements versus the burning of a log book time is a real dilemma for us. When you've got either a road issue or a loading issue or even a heat issue and you're trying to move livestock in a welfare manner, it can be extremely difficult to meet all the requirements.

If there was any ability to borrow time from the next day or use time from the previous day to help the situation or even to the extent – I've heard of the odd case where the police officer's actually given the person a bit of a check over and gone, 'Right mate, you know, just I can help you get there but, you know, it's not quite the way we should be doing things.'

The practicality is that you've got to get that livestock to its destination, on water, in shade, and out of the heat.

MR BAXTER: Exactly.

MR JOCHINKE: And having some allowance to accommodate some areas that are outside of the driver's control and there are numerous examples of that, road blockages, loading times, yes. Road maintenance, there's numerous things that can burn your hours.

If you've got a reasonable – I wouldn't call it an excuse but a reasonable reason of why you need to extend for a very small amount of time and not talking half a day or anything crazy like that but just an additional hour or two to get the job done, because once again, you're counting or we're counting the loading times work which goes directly onto your diary as well. That makes it very difficult to meet – in certain circumstances to meet the letter of the law.

MR BAXTER: Yes.

MR JOCHINKE: So some ability to, not necessarily extend the amount of working hours over the seven day period but to be able to manoeuvre that to accommodate for those exceptional – I have to emphasise that, exceptional conditions.

MR BAXTER: And to be clear then, if you have to stop and take the livestock out and then reload them a bit later, that has a welfare impact upon the livestock.

MR JOCHINKE: If you're not dropping them off at water, if you're not dropping them off at the destination, the actual welfare implications or travelling that little bit further, will be more detrimental on that animal than not. That's where we have people who are concerned, they know and even in the situation that we currently see ourselves is 2018/19, where we've had quite hard conditions and moving livestock out of areas, the animal welfare is of the utmost concern and versus the managing the driver appropriately as well. There's a balance there but the realisation that this isn't like the shopping you take out of your car and put into the fridge for five minutes and then pull back out and keep going again. It's a fairly big operation to unload a four deck B-double.

MR LINDWALL: Yes.

MR JOCHINKE: And where are you going to put them, how are you going to manage that, it's actually quite extreme when you're only trying to get an extra hour and a half down - - -

MR LINDWALL: How long does it take to load a B-double?

MR JOCHINKE: Talking lambs or wethers or how old are these animals?

MR LINDWALL: Well let's talk about wethers.

MR JOCHINKE: A four year old wether that might've been on a truck before is usually not too bad, they're a little bit bigger so you don't quite get as many on, versus a lamb that's never been on a truck before, that's generally smaller, you get a greater number of them and quite frankly, they're designed to frustrate to you. The head's always attached to the wrong end.

But yes, it varies and then you've got cattle on top of that if it's – if it's an older animal that's been on and off a truck a few times, it's not too bad. If it's a bull it can be extremely dangerous as well. Quite frankly a driver by

itself should never handle these animals by themselves, you need to have other people there. Let alone where you put them.

MR LINDWALL: Well I think we've – unless you've – thank you very much then, David, and - - -

MR JOCHINKE: No worries, (indistinct).

SPEAKER EXCUSED

MR LINDWALL: Well do we have the Australian Academy of Technology and Engineering here by – no, not at the moment. They weren't due here quite yet so I think we might have to wait here a little bit longer. So does anyone else want to say something while you're here?

MS MCCARREY: Yes.

MR LINDWALL: Usual thing of giving an introduction?

MS MCCARREY: Sue McCarrey, I'm the National Rail Safety Regulator for those who I haven't met. Look, I just thought for point of clarification on a couple of issues that came up and point of support too (indistinct).

Look I probably agree with a number of things that Pacific National brought forward and certainly that frustration in the industry. We feel that frustration because it's often seen as these are regulations that's actually causing the different rules on the networks and the different standards on the networks whereas actually it's not.

It is actually the rules that are set and they're not State based either. This is actually about six or seven key rail infrastructure managers of which they are not necessarily jurisdictional or State based. So we certainly share their frustrations.

There are a number of projects underway but part of the problem is those projects at the moment rely on those rail infrastructure managers agreeing to a consistent set of rules and then taking them back to their organisations and driving that change in their organisation.

My concern is if they're not mandated that therefore it might just cause more frustration further down the track. If there is a role for the National Rail Safety Regulator to play in that sort of mandating, particularly rules and standards and systems where there is a productivity benefit as

opposed to it just being an open thing, more than happy to have a conversation about that.

Mention was made about all the States having standards, authorities - not all States do. To my knowledge the main one is in New South Wales, they have an Australian Standards Authority which does actually set standards in a number of areas. There's also standards often set by major projects and construction projects around rail et cetera. One of the issues around, I think it was talked about ATMS which ARTC are looking at putting on their system and I think it is actually a – it's a good system that increases safety across the freight network.

It is, at this stage, being looked at in terms of the freight system to suggest that it would also be used for Sydney trains, Melbourne Metro et cetera. Certainly the requirements of the two systems are very different. Passenger operators are after a much high level standard of train control system and communication system so that they can move many people over a short period of time and therefore they're wanting the sort of train control system that will actually allow their trains to have closer headways. So to run much closer together, safely, so that you don't have train to train collisions.

So you tend to have quite a different requirement and by insisting on it, actually all being the same across passenger and freight you are likely to end up with a higher standard system that is actually needed on the freight and therefore a higher cost. So my word of warning on that one but I think certainly a standard system across the freight network in Australia would be a huge step forward.

They also talked about the training requirements, particularly in relation to their drivers. Again, that's not actually necessarily a regulator setting those specific training requirements. Again, it's the training that is associated with the different network rules and standards that are actually set. What we do have a responsibility sure is to say, are they getting the training that they need to run the system safely within the context that they're operating.

You raised the issue around, sort of, the network different sort of systems actually perhaps moving rail companies more quickly to a driverless type operation. Look, we will get there but we need to not confuse the driverless type operation or the autonomous that Rio Tinto uses and the driverless at Metro Trains Sydney. They tend to be – particularly Metro Trains Sydney, where you've got a passenger operation as they do in Singapore and on a couple of lines in Hong Kong and elsewhere. They're a completely segregated system, it's not a driverless train put on an old

track that has level crossings everywhere, all sorts of interfaces. You'll notice the driverless it'll tend to be tunnels or it's completely segregated from the rest.

MR LINDWALL: With the barriers on the - - -

MS MCCARREY: Correct, with the barriers on the screen. So to actually step from one to the other is actually not quite as easy as it sounds. Rio Tinto obviously is an open network but of course it's in a much more remote part and they do have some pretty amazing technology that works on the level crossings et cetera.

One of the advantages of the Rail Safety National Law at the moment and referring to some discussion around not allowing regulation to stifle new technology and that would be that balance of where you mandate rules and standards you'd need to make sure there's a real productivity game because at the moment the Rail Safety National Law by not being very prescriptive, it does leave it open to new technologies. Now, they still have to step out their safety case and show us that they've identified the risk and they're managing the risk but there's not a prescriptive set of rules which technology will overtake in a hurry.

Just a little one that might help in the discussion around lines too and part of this is just my own knowledge in dealing with the economics of grain lines and it was referred to the access charges and if the access charges are what they are shouldn't that pay for the upkeep of the lines. What you tend to find in these grain type networks, they're low use lines, they're seasonal lines, although they're not as seasonal as they used to be in the modern movement of grain. But these lines a lot of them too will be quite old networks and so the access charges tend to fund the maintenance upkeep to keep it at a basic level. A lot of these lines are now getting to an age, some of them are the early 1900 railway lines which is the old 60 pound rail and they're actually in need of a capital upgrade in order for them to continue and then it's who pays for that capital.

If you actually recoup the cost of the capital upgrade through the access charges, you'll price it out of the market completely. So therefore it's often governments are looked to, to actually to do the investing of that capital and that might not always be a priority. So they were just a couple of issues which I just wanted to - - -

MR LINDWALL: Very much appreciate that Sue, unless you've got any questions - - -

MR BAXTER: If you took, for example, the route between say Enfield right through to Adelaide, how many changes - - -

MS MCCARREY: Remind me Enfield?

MR BAXTER: Enfield in Sydney, it's the main (indistinct). It made good (indistinct).

MS MCCARREY: Yes.

MR BAXTER: If you land a train from there to say Adelaide, how many separate systems does it go through?

MS MCCARREY: Look, potentially I think around – I'd have to look at the maps again but about three. Depending on if you're just coming in from the ARTC, coming into Adelaide on the freight so he'd stay on an ARTC not come on to the Adelaide system. So you've got regional network in New South Wales, you've got ARTC, so potentially three but again I'd need to look at the maps to give you a firm answer.

MR BAXTER: Okay.

MR LINDWALL: All right. Thanks very much, Sue. Does anyone else want to say anything including people off our team? Up the back there, no? We'll just have to wait a few more minutes for - - -

MS MCCARREY: Thanks very much.

MR LINDWALL: Thank you, Sue. We may as well have another tea break, I think. They're not due here until 3.50

ADJOURNED

[1530]

RESUMED

[1535]

MR LINDWALL: So Matt, if you just introduce yourself and give a presentation and then we'll get to it.

DR WENHAM: Great. Thank you very much, and thanks very much for the opportunity to speak with you today. So my name is Matt Wenham. I'm the executive director of policy with the Australian Academy of Technology and Engineering, or ATSE for short. In terms of who we are and our role, we're one of the five learned academies in Australia, as we humbly title ourselves, chasing essentially – or linked, in history at least, to the Royal Society of London as a body of expert fellows in different fields. So there are five academies in Australia. We obviously cover the applied science technology and engineering aspect of things. One of the roles of a learned academy is the recognition of excellence through an elected fellowship. So we have about – almost 900 fellows of the Academy who are elected based on their career achievement in applied science technology and engineering.

MR LINDWALL: So it goes back to, like, Isaac Newton being a fellow of the Royal Society.

DR WENHAM: Exactly, yes. So the thing that distinguishes ATSE from the other academies in Australia is that our fellowship is drawn in a mixed way from the academia and research sector - a large number of our fellows come out of the universities and CSIRO and the like – but we also have a large number of fellows from industry and the private sector - so they're people involved in, sort of, technology and engineering, heavy businesses in the energy sector and infrastructure and construction and engineering and the like - and then a small number in government and those positions. So the chief scientist, Alan Finkel, is a fellow, a former president, who was in fact the president until he went and got a better job offer to become a chief scientist. The CEOs and the heads of most of the government research agencies – ANSTO, the CSIRO, Defence Science and Technology – their heads tend to be fellows of the Academy, plus vice-chancellors and deans and research leaders. So we've got quite a body of expertise to draw on.

MR LINDWALL: No, very good. We've used the learned academies on a number of inquiries, most recently, I remember particularly, for the immigration inquiry. Glenn Withers, for example, was on – helped us on that.

DR WENHAM: From the social sciences, that's right. Yes, and we've had - ATSE's certainly had interaction with the Commission a number of times on various inquiries that you've run.

MR LINDWALL: Yes, and infrastructure, (indistinct).

DR WENHAM: That's right. So other than the fellowship, we also exist to be a body of advice, I suppose, to the government - or governments and the nation on policy issues that are impacted by science, technology and engineering, such as this one. So that's, sort of, the context of who we are. The connection to this inquiry is through a large research program we're running on industry technology readiness. So we've been looking at it – we've been running the program now for about two years. It's a three-year program funded by a grant from the Australian Research Council to look at the question of – largely around emerging technologies and the technologies that we might predict are going to impact and disrupt different sectors of the economy over the next 10 years or so, largely in the digital realm. But a number of other technologies, depending on the sector. So what we're interested in doing is identifying ways that Australian industry sectors and companies and governments can be best prepared to adopt, adapt or develop those new technologies themselves and – with a view to recommendations or advice to government on what government can do from a policy and regulatory sense to help industry be best prepared.

So we started the project in late 2017, I think. We've got a steering committee of fellows of the academy. It's co-chaired by Drew Clarke, previously of secretarial roles in the Commonwealth, and Kathryn Fagg, who's the chair of Boral - - -

MR LINDWALL: Yes, I've met her too. Yes.

DR WENHAM: Yes. She's just joined the NAB board, I think, so it has a diverse director career, both fellows of the academy. Looking at that question of technology and readiness, and the first – what we chose to do was look at a few specifics - rather than, kind of, address that very broad question of making the economy technology-ready, address some specific industry sectors, and we chose transport as the first sector to look at for, I suppose, three main reasons, one being it's a sector that is ripe for technology disruption and it is being disrupted at the moment thanks to technology. It's a sector that cuts across the economy in that it impacts on every other sector of the economy, so it's very important from a macro level in the Australian economy. And third, that there is a role – a strong role for government or policy or regulation to play in the way we handle this disruption and the introduction of new technologies.

So we set about assessing the technology - readiness of the technology sector. We had, I think – you'll see in our submission there's a very colourful sort of box diagram that was the framework we used to interrogate this. Coming off the, sort of, starting point of the linked challenges and outcomes for transport in Australia around sustainability

and climate change and the need to reduce emissions, the productivity gains or barriers that arise from issues in transport and aiming towards more efficient movement of people and freight, and also the health impacts of the transport sector and the objective of reducing deaths and injuries from transport-related - - -

MR LINDWALL: Safety, yes.

DR WENHAM: Safety. Yes. We then did a bunch of work looking at the enabling technologies or the emerging technologies that might play a role, and I won't go through all of them in great detail. But they're grouped into three areas, one being data and digital, which is around things like the application of artificial intelligence and machine learning in the transport sector, block chain and implications of cybersecurity technologies; a large chunk on communications, sensing and spatial technologies – so these are the things that you've picked up in your draft report around dedicated short-range communications (DSRC), 5G, the whole suite of sensor technologies that are emerging now, radar, Lada and the like, and as I said, 5G and the internet are things – and how they interact; and then new energy technologies and how are we applying battery technology in electric vehicles, it's the role of hydrogen, other things like super-capacitors that play a role. And we then took all those technologies and sort of sat them on different platforms or solutions, and they were the focus of the study.

So there were four platforms we looked at - low- and zero-emission vehicles, electric and hydrogen, connected autonomous vehicles, intelligent transport systems and high-frequency mass transit – and with those four solutions or potential platforms, we then looked across a suite of readiness indicators, which are: infrastructure readiness; skills availability and workforce readiness; social readiness and social licence to operate; economic and commercial feasibility; and policy and regulatory readiness, and sort of assessed those against each of the platforms, and there was obviously a detail in the submission and the report that came out of this to each of those. I'm happy to go into more detail. But the sort of – the overall picture was that on a broad perspective, looking out to 2030, Australia's not doing too badly in terms of preparing for some of these new technologies. Particular areas of concern across the board were in infrastructure and how ready our infrastructure is for new technology, and also on the skill side, how ready we are both from the – both in terms of preparing a future workforce to handle these new technologies that we might see in 10 years' time, but also how well we're prepared to transition the current workforce as these new technologies start to emerge, particularly around automation and autonomous vehicles and the like.

So that sort of then led to a set of recommendations we – for a learned academy, a fairly short set of recommendations – we tried to limit ourselves on this one – around driving a shift to low-emission vehicles and some things that could be done then. Perhaps of most interest for this inquiry, developing a framework – a national framework for regulating new transport technologies - and that's something that COAG – the COAG Transport and Infrastructure Council has been working on already, the need to develop and adapt transport technologies to an Australian setting and some of the – not necessarily unique settings, but particular environmental or geographical conditions in Australia - and then one around the workforce and preparing for a transition in those areas. So there's a number of recommendations in there.

So I suppose in the context of this inquiry in your draft report, we were – the Academy was very pleased to see the focus on emerging technology and that, as a context for what you're looking at – obviously you've got a very, sort of, here and now assessment of – in terms of the economic assessment. But I think the fact that there's a forward view to the way that the sector's going to change in the next five or 10 years is important - - -

MR LINDWALL: It is.

DR WENHAM: - - - because we think there are going to be some large changes to what's needed in terms of regulation. Certainly pricing and access models is going to be disrupted by some of these technologies, or should be, and there's a real need to make sure that the systems we have in place and the regulation we've got is fit for purpose or adaptable to what the future might look like. I think all of the – most – probably all of the technologies that we looked at in the report are mentioned in some way in your draft report, which is great. I think that perhaps a greater emphasis on the low- and zero-emissions vehicles is something to be thought about. It's often raised in the context of road pricing and fuel excise, and I know that that's – the road pricing is outside of the terms of reference. But I think, given that's going to have an impact on the pricing structure around freight movement in particular, it's something that's important to consider, and in addition, the focus in the draft report on data privacy, cybersecurity and that, they were themes that came through very strongly in the work that we did, particularly with an impact on the social licence to operate for some of these technologies – or many of these technologies, that - the public, freight users and otherwise, won't adopt these technologies unless they've got quite a high level of confidence around privacy and cybersecurity in particular - - -

MR LINDWALL: Indeed.

DR WENHAM: - - - were the big issues. So that's sort of a very brief outline of, I think, where our report might be useful to your inquiry. But I'm happy to try and address any questions that you might have.

MR LINDWALL: Well, could I – thanks very much, Matt. Could we talk about the energy side first, then? You've mentioned electric and batteries, obviously, and it's hydrogen. Could I start on the latter? You know, from my high school days of using electrolysis to break water into hydrogen and oxygen and then using platinum to recombine them and create energy, how – could you explain, in layman's terms, I guess, how the hydrogen cells work differently to that? And given that my knowledge is – you know, it's a very common element, but you need a lot of it, it would have to be compressed, and it has to be a very low temperature, and that's quite bulky and expensive, I guess, to keep it the low temperature in a liquid form, I guess.

DR WENHAM: That's right. So there's not a – in terms of the basic chemistry, there's not a – well, there's two main routes being explored for large-scale hydrogen generation and both are not new technology, although there's new technologies that are helping improve the efficiency. One is around the splitting of water through electrolysis, and there are becoming more efficient ways of doing that. But essentially it is around splitting water molecules. That does require a lot of energy, the – what we call the round-trip efficiency of that technology is not particularly high. So any sort of system that's built on that is sort of predicated on having access to large amounts of cheap electricity or energy in some other form. I think a lot of the excitement and – I think it's a bit more than hype, because I think there is some underlying truth to it – that in terms of Australia's potential in – for a hydrogen economy is heightened because we have a lot of particularly renewable energy potential. But it would require – the scales that are being talked about would require quite a large-scale increase in renewable energy infrastructure.

MR LINDWALL: So effectively, hydrogen, in that sense, is a battery.

DR WENHAM: Yes. So it depends on – there's potential for, sort of, local generation of hydrogen, you know, electrolyses at the pump-type systems with – connected to solar panels or whatever, or fed in electricity from somewhere else. The issues around storage are interesting from an export potential, because obviously there's a lot of interest in hydrogen being an export opportunity for Australia. It is, again, quite energy-intensive to compress and cool hydrogen for transport, although that's being looked at. I think the Japanese, or it might be the Koreans, have just launched their first liquid hydrogen tanker.

MR LINDWALL: Using ammonia, if I read correctly, is it?

DR WENHAM: So the other – the alternative is using ammonia as a transport vehicle. Again, there's energy loss there, but Australia's actually quite leading in the world through CSIRO, in particular in looking at technologies to generate ammonia from renewable hydrogen and then crack the ammonia back into hydrogen or in some cases, use the hydrogen directly – sorry, the ammonia directly as a fuel. So that seems to offer promise, that ammonia is pretty well-known – the transport of ammonia is pretty well-established in, you know, explosives and - - -

MR ROBERTS: Fertilisers.

DR WENHAM: - - - other industries. It can be handled in a similar was to compressed LNG, for example. So I think there's a lot of focus in that area. There's also, I think, the earlier steps in that – looking at hydrogen that could be injected into the gas network – the natural gas network, and I think the, sort of, most thought is that that might be up to levels of, sort of, 10 per cent hydrogen. So using the existing natural gas infrastructure but reducing the carbon intensity of that network because of the pumping integration.

MR LINDWALL: What - would the hydrogen-powered vehicles then be electrically powered with a separate source, like a diesel-electric engine, or would they be direct, like an internal combustion engine?

DR WENHAM: So most of the – in talking about hydrogen vehicles, most of them are hydrogen fuel cell vehicles. So they're using hydrogen as a fuel. It's used in a fuel cell which generates electricity. So in some ways all of these vehicles are electric vehicles because there's an electric motor that drives them. There's not an internal combustion and it's not a burning pipe.

MR LINDWALL: Which is simplified, isn't it? Yes.

DR WENHAM: Yes. So – and I think particularly hydrogen shows a lot of promise in the long distance transport sector because batteries obviously have a limitation in terms of energy density and how many batteries you can stick on a heavy hauler, whereas hydrogen has a lower intensity.

MR LINDWALL: Well, that explains it. I just want to say your future of energy, in that sense, is that in short haul within cities, mainly electric, purely, with traditional batteries, obviously – hopefully - to improve a lot

in terms of efficiency. But in longer haul, based upon the hydrogen as you just articulated - - -

DR WENHAM: I think that's what - most of the scenarios and predictions are moving into that – along that line, yes, that short distances would largely be battery-electric and longer distances – different in trains, perhaps. Railways might be electrified.

MR LINDWALL: But the capacity of these engines is, well, very large, I presume. They could be a very long train, I guess, powered that way.

DR WENHAM: Yes, that's right. There are – and I believe there are a few hydrogen-powered trains operating already around the world, and it's really just limited by the size of the tank that you put on the train.

MR LINDWALL: Exciting new energy sources. Do you have any more comment on that type of energy?

MR ROBERTS: It just brings back memories of my past job, and you'll find that Leeds has done quite a program on the use of hydrogen and gas networks, so that's quite – and Adelaide, now. So there's good work being done in Australia around that.

DR WENHAM: The other side of that which I didn't mention which is relevant, particularly in Victoria, is the other way of generating hydrogen is either from ammonia or from fossil fuel sources, which is what the project in the La Trobe Valley with Mitsubishi Heavy Industries is looking at.

MR ROBERTS: Yes. The (indistinct) has got to be useful for something. Sorry.

DR WENHAM: I mean, again, that's a – does have a lot of potential in terms of Australia has a lot of feedstock in the form of coal and gas. The critical question there in terms of emissions is obviously whether that's linked to carbon capture and storage and whether that can be done efficiently.

MR ROBERTS: In the U.S. at the moment, most – as I understand it, in the U.S. at the moment, most of the hydrogen that's being produced is being done from methane. So – but as Matt's pointed out, that clearly has got environmental complications that make it an inferior outcome if we can get the technology right.

DR WENHAM: Yes, and I think, given the way the world is moving in terms of the Paris Agreement and - certainly countries like Japan and Korea which are likely to be big export markets for Australia in hydrogen, their desire to move to renewable sources will mean that those blue hydrogen or green or brown hydrogen, depending on whose terminology you want to use - - -

MR ROBERTS: Blue and green.

DR WENHAM: - - - will require linkage to CCS in some form to be acceptable to those markets.

MR ROBERTS: I think the National Hydrogen Strategy – at least, Professor Finkel's discussions sort of talk about the possibility of a billion dollars in hydrogen exports by 2030. Just to show I haven't completely left a previous job behind, I'd say that's about two per cent of what our LNG exports are likely to be worth. But it's still a – it's a very exciting field. It's great stuff.

DR WENHAM: Yes, and it's a – surprisingly enough, in the energy policy area, it's something everyone seems to agree on. Everyone can get behind it. Pardon?

MR LINDWALL: I said good God, what's wrong with it?

MR ROBERTS: Well, it's because it's blue sky, to some degree, you know. It's a really exciting potential.

MR LINDWALL: I think hydrogen's good. I mean, you know, when I first thought about hydrogen it was more like nuclear fusion, I guess, which ultimately will be the solution, I guess, in 100 years' time.

MR ROBERTS: That's another interesting conversation.

MR LINDWALL: That's another interesting – but I think that's off the topic there.

MR ROBERTS: Possibly.

MR LINDWALL: Perhaps we should talk about regulatory issues, and you know that our – what we're looking at are the three safety regulators, and I don't know if you'd like to articulate about what you think are – how they're structured and are they, you know, ready for these types of technological and other changes that may be needed and are likely to come in the future?

DR WENHAM: I mean, I think it's sort of a general truism to say that technology moves faster than – quicker than the regulation in a lot of areas, and that's difficult for regulators to handle. There's certainly a lot of attention, particularly around the area of autonomous vehicles, I think. In Australia, the National Transport Commission is doing a lot of work in this area, the COAG TIC has been thinking about this in the federal department and standing up their new Office for Future Transport Technologies. So there is a lot of thought going into this area. As I say, it's a tricky area for them to deal with. In some ways, what the NTC is doing in looking at the road rules is the easy bit. They've been looking at, you know, definitions of what is a driver and, you know, who's required to have a licence, those sort of things, to make sure that the road rules might adapt to these new technologies. There's a whole bunch of other areas of regulation, I think, largely in those areas around data privacy, cybersecurity and data retention in terms of what's needed for forensic examination. Insurance and liability is obviously a big concern, again, particularly relating to driverless vehicles. So there's a lot of questions for regulators to deal with in an area where the technology is moving fast, but we still don't have a great fix on what it's going to look like when it comes into play.

MR LINDWALL: Yes. So do you think that if you take, for example, aviation, where you can have aircraft with auto-land systems but they still have a pilot in command, legally speaking. They haven't quite gone – well, there are drones, obviously, but no passenger ones, to my knowledge, at this stage. That leap from – going from a pilot in command who can override the automation and take control to one that's purely – with no qualified driver, that must be quite a challenge.

DR WENHAM: It would be, and that's the – I think the report talks about the five levels of automation in terms of autonomous vehicles that the Society for Automotive Engineers use. That step up to level 4 and then 5, which is, sort of, full automation in all circumstances, that's likely to take a long time. We're already seeing the lower levels of automation being included in vehicles now, so we've got some level of understanding with dealing with that. But as soon as you get into those higher levels and the – as the driver becomes less and less - - -

MR LINDWALL: Connected.

DR WENHAM: - - - connected, in some ways, once the pedals and the steering wheel are removed, it becomes a bit clearer in a, sort of, liability sense, because obviously there's – the driver has no input. It's – the danger is in that transition. Where a driver is able to take control or may

be required to take control, then there's some grey area about how that would be dealt with, I think.

MR LINDWALL: Indeed, yes. Yes, yes. What about – do you have any thoughts on the Australian Design Rules which previous people have testified to us that being an inhibitor to getting new technologies and particular safety technologies into this country.

DR WENHAM: We heard a similar – I don't have particular expertise relating to the design rules but we did hear similar views when we did the evidence gallery and the consultation from our report that Australia was viewed by people in the – by some people in the industry as lagging behind international best practice to the extent that some vehicle manufacturers were essentially switching off safety features in Australia because the Australian regulatory system hadn't sort of kept up with that. That's obviously not a good thing because we'd like Australians to have access to the newest technology.

I think it's complicated slightly by Australia being a relatively small market globally for vehicles and being a right hand drive market as opposed to most of the rest of the world. Although, as was commented by some of the people we talk to, once you get to the point of removing the steering wheel it really - - -

MR LINDWALL: Doesn't really matter, does it, because if we're all the passengers then - - -

DR WENHAM: Yes, so again that transition period when you've still got driving, you know, you've still got steering wheels and vehicles then Australia will be a limited market.

MR ROBERTS: Just a couple of quick things on that, obviously the Government and other parties are going through two year design process for a freight data hub that will hopefully provide a lot more quality information and more accessible information for people. Any thoughts about how that is best managed and how it might be used?

DR WENHAM: In terms of the consumer data rights or - - -

MR ROBERTS: No, in the sense that they're looking at designing over the next two years, essentially an accessible place where data transport movements are stored and accessible to – about this point a lot is still to be decided, but accessible to open end users. So that you can do some strategic planning around infrastructure and investment but also commercial parties would presumably be able to make some decisions

around their own operations and possibly their own investments as well. So, the idea is a little bit in the making if you like but when you look at that information and uses for this study, did anything come through about best practice about data we might collect through telematics or other technologies, how it might be made, you know, a valuable commercial tool?

DR WENHAM: Yes, there's an interesting – it links in to a lot of those different readiness parameters again around the social licence and the level of confidence that the public feels in what data is being generated, who owns that data, who has access to that data, where is it being stored, what are the privacy protections around it. We're seeing interesting parallels so that the second industry sector that we've been looking at as part of this bigger project is in health, which - - -

MR ROBERTS: Even more sensitive.

DR WENHAM: We though transport was complicated but health even more so and particularly around that issue of data and information and what people are comfortable – I think there's a general sense that the public, broadly put, can see the benefit in access to data sets be it in transport or health, genomic data is a good example at a population level. That can have some real benefits in terms of technology in the way that transport or medicine is delivered. But when you get down to the individual level and say but now we're talking about your data and tracking where you've been and what you've used your car for, or which means you've travelled on then you start getting into some - - -

MR ROBERTS: Well there's a risk that it may be used by, let's say, insurance company to change – I mean clearly we've got some legislative arrangements in place around community rating in insurance products.

DR WENHAM: Yes.

MR ROBERTS: But I can see there'll be concerns around (indistinct) access to medical care or the cost of medical care to you. Yes but - - -

DR WENHAM: Yes and it is fraught. So I think there's a willingness from what we saw, there's a general willingness from most people that there's a benefit to these – to this data and these technologies but they've got to have confidence that the right structures exist around that to protect privacy and that's difficult because again as we've seen in the health setting anonymisation is often used as – or de-identifying data is often used as a way of sorting grouping that and protecting it but we know that

that's – that could be got around sometimes depending on the data that's available.

MR ROBERTS: And in a transport case, might be something like the Intelligence Access Program which gives you some regulatory concessions but it's contingent upon a greater line of sight for the regulator and your behaviour.

DR WENHAM: Yes.

MR ROBERTS: So even in those cases where there might be an immediate benefit to the party participating there's still concern about how it may be useful for regulatory or other purposes.

DR WENHAM: That's right, yes.

MR ROBERTS: The other thing is, in the report, the draft report we made some recommendations – draft recommendations, I should say about liability and (indistinct) and the extent to which it might be held by the party that's developed the software for (indistinct) systems. Any lessons from your research around (indistinct) innovation and you don't want to discourage the (indistinct). But liability becomes a pretty important issue when there's uncertainly around risk.

MR LINDWALL: And especially if you watched 2001 and had (indistinct).

MR ROBERTS: He had to make a decision, didn't he, about the mission.

DR WENHAM: I think it's likely that the manufacturers and the developers and there's a question about – between those two thinking of vehicles is that the vehicle manufacturer is at the software developer that goes into that and the OEM's that are doing that work so the detail would have to be worked. But I think there's a move towards as – as the vehicles become more automated, more of the liability will fall to the manufacturers. Ultimately, that – I mean the manufacturers may have a different view but ultimately that should be a good thing overall because a lot of the intent of these technologies is to reduce accidents, reduce injuries - - -

MR ROBERTS: Yes.

MR LINDWALL: And they should.

DR WENHAM: So if that – if that comes to pass as we think it will then, you know, that will lower the risk pool overall in terms of the number of insurance payouts that might need to happen.

MR ROBERTS: It's mainly the division of liability, I suppose, and whether, you know, the manufacturer might say, 'I've built the physical product.' But to the extent they may wish to then say how that product operates is governed by the software developed by another party.

DR WENHAM: Yes.

MR ROBERTS: So, I can see (indistinct) benefit from some of these disputes.

DR WENHAM: I'm sure they will.

MR LINDWALL: Is there anything wrong with that?

MR ROBERTS: Well lawyers have to eat too, I suppose. You know what Shakespeare said, 'First thing we do is we kill all the lawyers.'

MR LINDWALL: (Indistinct) do you have anything pending? Two more questions from me. One, do you have any views on how important a role, no faults investigation such as the Australian Transport Safety Bureau undertakes its works into say, heavy vehicles and others we did explore that in our draft report.

DR WENHAM: Again, not something the academy is particularly expert in but we did sort of deal with that to a certain extent, I think, particularly in the period as these new technologies are being rolled out, that approach will even more important because it will be important to understand, you know, as we hope that the number of accidents and incidents will reduce, those that do occur will want to understand better why that's happened.

MR LINDWALL: Exactly. Yes.

DR WENHAM: Because, I suppose, there's a – because we'll then be dealing with system level faults potentially or faults that might affect a large number of vehicles as opposed – as opposed to individual personal error. It will be important to understand that quickly so that we can make sure that it doesn't become a more widespread problem.

MR LINDWALL: The other question is, do you think there's a greater trend – I think there is, from a lot of navigation and safety equipment was originally on the actual infrastructure, say it's on rail lines, it's on the

roadways, airports and more and more has been taken on board the vehicle, the truck, the train, the plane. Less and less has to be actually on the infrastructure. Is that a trend that you – would you agree with that assessment?

DR WENHAM: Yes, to a certain extent. It's an interesting question in general around the sensing and communications networks. Particularly for a country like Australia, if you're talking about rural and regional. So a lot of these technologies, again thinking about driverless vehicles, will be first introduced presumably and are being largely tested in urban areas. The initial thinking was that, yes, most of that – or a lot of that infrastructure would be in the environment and the vehicle would communicate with that. Whereas more and more, I think, the developers of these technologies are putting that technology on the vehicle. That's important in Australia because in an urban environment you have a fairly well defined, well mapped, you know, you know where the street is, you can – you know what the tolerances are.

MR LINDWALL: Yes.

DE WENHAM: Whereas if you start talking about regional roads, dirt roads, you know, changing weather conditions, you can't rely on accurate mapping necessarily. Having said that, there's a lot of work that's going on with Geoscience Australia looking at remote sensing and mapping of geospatial mapping, essentially which is going to be important. But then you're talking about different tolerances whether, you know, being accurate within 10 centimetres is enough or do you need to be one or two centimetres.

MR LINDWALL: Yes.

DR WENHAM: That also links to the communications networks and whether you rely on a 5G network to allow the vehicle to communicate to know where it is or the GPS signals or the like. Or whether it can do that based on its own sensing technology that sits on the vehicle.

MR LINDWALL: On 5G, which of course has the benefit of very low latency and quite high speed, broadband width. What's your understanding of how much of your old – how large the footprint will be in Australia over the next number of years?

DR WENHAM: I think we'll see pretty high penetration in urban areas and that's already starting with the major Telcos.

MR LINDWALL: Yes.

DR WENHAM: It has some technical challenges in that the communication distance is quite short so you need a lot of towers and it can be blocked by buildings and the like. But you can handle that in an urban area because you can just put in lots of them.

MR LINDWALL: Yes.

DR WENHAM: The key question, again for Australia will be in the urban fringe, rural, regional, remote areas where that's unlikely to go in. So if you saw, you know, vehicles that were coming overseas that were reliant on 5G technology that you couldn't take to the back of Bourke because there's no 5G, then it's a question of well, what else can that vehicle use to drive itself.

MR LINDWALL: Yes. It was one of our previous studies on the NBN and the telecommunications USO. So, I mean, technology just changes so rapidly, that was only a few years ago.

DR WENHAM: That's right. I mean, when we were doing it – probably when we started it, the talk was all about DSRC and how you would install that in urban areas and make sure you had the right sensors and communication networks because that was what was going to drive things. And within, you know, 12 to 18 months, 5G sort of developed and deployed and everyone, sort of, shifted away from – it's still relevant but it's now largely a question of well will that be driven by 5G.

MR LINDWALL: That's what I thought. Well, thank you very much for coming today.

DR WENHAM: Thank you very much. Good luck with the report.

SPEAKER EXCUSED

MR LINDWALL: To finish this off I think I have to say something like - there's no one else here so that's fine. I adjourn the proceedings and this concludes the Commission's public hearings for the National Transport Regulatory Reform Inquiry for today and for the Inquiry. Thank you.

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