



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, 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
5 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
10 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
15 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
20 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,
25 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
30 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
35 after completion or rather after giving the report to the government.

40 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
45

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.

5 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
10 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.

15 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
20 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
25 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
30 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
35 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
40 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.

5 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.

10 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.

20 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.

25 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.

35 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.

40 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.

45 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.

5 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
10 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
15 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
20 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
25 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 - - -

30 **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.

35 **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
40 \$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.
45

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
5 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
10 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
15 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
20 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
30 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.
40

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
45 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.

5 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.

10 **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
15 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?

20 **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
25 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
30 those processes involves closing, you know, major freeways for days at a time.

MR LINDWALL: Yes.

35 **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
40 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.

5 **MR LINDWALL:** That's fair enough. Yes. Yes. All right, any more questions on ATSB?

MR BAXTER: No.

10 **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
15 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
20 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
25 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
30 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,
35 is simply in the time involved - - -

MR LINDWALL: Yes.

MR MCKINLEY: - - -in managing the audit and having the staff involved
40 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.

5

MR BAXTER: Bill, just to interrupt, has there been any attempt to consolidate those various audits into a single audit?

10 **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
15 firm. Every law firm has a slightly different view on what the primary duties involves for that customer.

MR BAXTER: Yes.

20 **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
25 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,
30 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
35 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
40 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
45 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 of 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?
- 10 **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 - - -
- 15 **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.
- 20 **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.
- 25 **MR LINDWALL:** Okay. Good. Malcolm?
- 30 **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?
- 40
- 45

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
5 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
10 regulators. It's got to look at the compliance costs through the chain.
15

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
20 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.

25 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
30 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
35 evidence in court that you've met your duty or obligation.

MR ROBERTS: That would be TruckSafe?
40

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.

5 **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
10 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
15 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
20 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
25 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
30 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.
35

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
40 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
45 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.

5

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 - - -

15

MR LINDWALL: Yes. So they're a bit like marine orders issued by AMSA?

20

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.

30

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.

35

MR LINDWALL: Okay. Can I just - what is the reaction of the police likely to be?

40

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

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enforcing this legislative regime needs to enforce the regime as it's put together.

MR LINDWALL: Yes.

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MR MCKINLEY: Not an interpretation of what the regime is.

MR LINDWALL: Well that makes sense. Any more on accreditations?

10

MR MCKINLEY: No.

MR LINDWALL: Shall we move on quickly to cost recovery?

MR MCKINLEY: Sure.

15

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.

20

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?

25

MR MCKINLEY: Yes, it's separately listed on the registration.

MR LINDWALL: So it's clearly for that purpose? Okay.

30

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?

35

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.

40

MR LINDWALL: Yes.

MR MCKINLEY: And, you know, the two are added together to get the total amount.

45

MR LINDWALL: Yes, that's fair. No, I understand that. And Malcolm?

5 **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 - - -

10 **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.

15 **MR ROBERTS:** Yes. Yes, no.

MR LINDWALL: So Ken, do you have anything on the cost recovery?

MR BAXTER: No.

20 **MR LINDWALL:** Okay, should we move onto something else then?

MR ROBERTS: Well just one quick question, if that's all right.

25 **MR LINDWALL:** Please.

30 **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

35 that essentially most of these applications are not controversial and are dealt with reasonably quickly, and does that address the industry's concerns?

40 **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.

5 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
10 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.

15 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
20 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
25 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.

30 **MR BAXTER:** Have you got any actual examples of the time delays involved?

MR MCKINLEY: Particularly the real egregious examples actually relate
35 to state main roads departments.

MR BAXTER: As against local government and council?

40 **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.

5 **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
10 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
15 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
20 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?

25 **MR MCKINLEY:** Our material, Commissioner, is in the relevant attachment to our submission, which is appendix B.

MR BAXTER: Okay.

30 **MR MCKINLEY:** So it's all in our very comprehensive submission.

MR LINDWALL: Any more on that topic?

MR ROBERTS: No. No thanks, Paul.
35

MR LINDWALL: Anything else you wanted to raise, because I have a couple of things?

MR ROBERTS: No, go ahead.
40

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?

5 **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.

10 **MR LINDWALL:** Yes.

15 **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
20 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.

25 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
30 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.

35 **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.

40 **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
45 as much as they can within the law.

MR LINDWALL: In their constraints, yes.

5 **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
10 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
15 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
20 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.

25 **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.

30 **MR MCKINLEY:** So, turning first to truck driver licensing; that is not the
responsibility of the regulator.

35 **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
40 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.

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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.

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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.

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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.

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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

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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 -
5 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,
10 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
15 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
20 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
25 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
30 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
35 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
40 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
45 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
5 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
10 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
15 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
20 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
25 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
30 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
40 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,
45 or - - -

5 **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 10 the time I just don't think that it was considered important.

15 **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.

20 **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?

25 **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 30 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 35 annual basis, on a two yearly basis, I think it's a very good way to go.

40 **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 45 they get into the very large vehicles that that happens. So, haven't we got a

5 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.

10 **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 15 12 months, and then I can go and apply for my medium rigid or heavy rigid.

MR BAXTER: Yes.

20 **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.

25 **MR LINDWALL:** And then you have to maintain proficiency, is what I'm saying.

30 **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.

35 **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, 40 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.

5 **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
10 tying down a load.

MR LINDWALL: Of course. Exactly.

15 **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
20 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.

25 **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
30 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
35 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
40 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.
45 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 - - -

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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.

10

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 - - -

20

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.

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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?

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MR CLARK: I think Bill covered that quite comprehensively.

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MR ROBERTS: So you're happy with the ATA position?

5 **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
10 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
15 Victorian owner drivers and forestry contractors amendment legislation, which just came in, where they have now deemed those digital platforms to be transport intermediaries.

20 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
25 if that would assist.

MR ROBERTS: No, we will read that submission, Richard, that's really helpful.

30 **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?

35 **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
40 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
45 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

5 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.

10 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

15 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

20 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

25 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

30 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

35 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

40 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.

45

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
5 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
10 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
15 you do to improve them?

MR CLARK: Richard here might be better - - -

MR CALVER: Well, we agree with the ATA that the process of
20 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
25 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
30 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
35 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
40 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.
- 10 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.
- 20 **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 - -

- 25 **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.

- 35 **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.

- 40 **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 - - -

5 **MR ROBERTS:** They do have a different arrangement, the local government and the Territory as well.

10 **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.

15 **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.

20 **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.

25 **ADJOURNED** [10.49 am]

30 **RESUMED** [11.03 am]

MR LINDWALL: So the usual process, I mean just introduce yourselves and then ask you to give an opening statement.

35 **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.

40 **MR HOOD:** Good morning, I'm Greg Hood, I'm the Chief Commissioner of the Australian Transport Safety Bureau.

45 **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
5 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
10 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
15 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
20 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
25 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
30 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
35 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.
40

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
45 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.

- 5 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.
- 10 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
- 15 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.
- 20 **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
- 25 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.
- 30 Now, in our report, of course, we've suggested expanding the role of the ATSB in a number of ways, 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
- 35 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
- 40 task because funding often is a critical part, obviously, in how function is undertaken.
- 45 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?

5 **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
10 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
15 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,
20 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,
25 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.
30 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,
35 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?

40 **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
45 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.

5 **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?

10

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.

25

MR LINDWALL: So your role presently in terms of that is with vessels regulated under the Navigation Act. Is that correct?

30 **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.

35

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?

40

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 - - -

5 **MR ROBERTS:** I was clumsily moving to that point.

10 **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
15 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
20 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?

25 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
30 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 overlooking the safety of the fishing fleet. So the methodology
35 itself is quite applicable, but, obviously, it would come with some challenges.

40 **MR LINDWALL:** But, of course, you use your judgement about whether this particular incident is worthy of this type of investigation.

45 **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
50 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
55 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.

5 **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?

10 **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, 15 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.

20 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 25 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.

30 **MR BAXTER:** And who meets the cost of that?

35 **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 40 allows us to establish dedicated resources in Queensland to conduct those investigations.

45 **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
5 all this work up in Queensland and there's value not just for the operator up there, but for the operators down eastern Australia, over in Western Australia.

10 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
15 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
20 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 –
25 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
30 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.

35 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
40 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.

5 **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?

10 **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 - - -

20 **MR ROBERTS:** One other one.

MR BAXTER: No, there's plenty of time.

25 **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.

30 **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.

40 **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.

5 **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?

15 **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?

25 **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.

40 **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?

45 **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
5 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
10 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
15 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
25 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.
35

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
40 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
45 constitutional barriers to that?

5 **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 –
10 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.

15 **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
20 transport?

25 **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
30 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
35 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 - - -

40 **MR LINDWALL:** Hopefully.

45 **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.

5

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.

10

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?

15

20

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 - - -

25

MR ROBERTS: Unanticipated.

30

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.

35

40

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.

45

MR LINDWALL: Did you have any final points?

5 **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
10 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
15 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.

20 **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?

25 **MR BAXTER:** Well, mode of transport, particularly, in the terms of this
inquiry.

30 **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.

35 **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
40 of good work over the years, and yes. Thank you for appearing today.

ADJOURNED

[11.45 am]

45

5 **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.

10 **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.

15 **MR LARSON:** Mal Larson, public affairs and government relations bench.

20 **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.

25 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, 30 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.

35 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 40 through activity levels.

45 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

5 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.

10 **MR LINDWALL:** We're not politicians.

MR BAXTER: Yes, it's very much obliged to read the full one.

MR LINDWALL: Thank you.

15 **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
20 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.

25 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
30 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
35 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
40 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 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.

5 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
10 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.

15 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.
20 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 substitutability, 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
25 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
30 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
35 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.

40 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
45 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.

5 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, 10 we're alarmed that AMSR raised 13 million and received 193 million from Government, whilst ONRSR received no federal government funding.

15 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.

20 **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 25 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.

30 **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.

35 **MR LINDWALL:** I think we're getting a nod over there, so that's right.

MR BROAD: But not from the Federal Government.

40 **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 45 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.

5 **MR BROAD:** But, as you can understand, we're looking for the level playing field.

MR LINDWALL: Yes, we understand that. Sorry, Malcolm.

10 **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
15 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.

20 **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
25 thorough, transparent cost-benefit analysis, and that goes with new rail projects as well.

MR ROBERTS: I was just going to ask about fatigue.

30 **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.

35 **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
40 intervention.

MR LINDWALL: And the PC has recommended road pricing on a number of occasions.

45 **MR BROAD:** Right.

5 **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.

10 **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.

15 **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?

20 **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 - - -

25 **MR LINDWALL:** Could you turn the microphone - - -

MR ROBERTS: Sorry, Emma.

30 **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

35 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

40 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.

45

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
5 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
10 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
15 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
20 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
25 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
30 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
35 and alcohol testing?

MS WOODS: Fatigue is across New South Wales and Queensland. Obviously, drug and alcohol is only within New South Wales. According
40 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.
45

MR LINDWALL: Did the – sorry, Malcolm.

MR ROBERTS: No, no.

5 **MR LINDWALL:** Did the state governments, New South Wales and Queensland, indicate at any time what evidence they would require to rethink their view?

10 **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
15 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
20 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
25 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
30 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
35 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.

40 **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?

5 **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
10 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
15 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.

20 **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
25 constrained.

MS WOODS: I couldn't comment on the number of level crossings forecast for the Inland Rail line.

30 **MR BAXTER:** No. But, I mean, you only need to take a look at an aerial photograph or what have you.

MS WOODS: Yes.

35 **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.

40 **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.
45

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.

5

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?

10

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.

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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.

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MR ROBERTS: So twice as difficult.

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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.

35

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.

40

MR BAXTER: But not very many.

MR BROAD: Yes.

45

MR ROBERTS: More than you might think, Ken.

MR BROAD: Yes. And they do manage them extremely well. They can present that.

5 **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
10 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,
15 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 - - -
20

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
25 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,
30 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.
35

40 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
45 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.

5 **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 - - -

10 **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.

15 **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
20 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.

25 **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.

30 **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
35 points you would like to make that you think we've missed?

MR BROAD: No.

40 **MR ROBERTS:** You can always write another submission.

MR BAXTER: You also indicated that you represent, I think, New Zealand.

45 **MR BROAD:** Yes.

5 **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?

10 **MR BAXTER:** Level crossings and just generally running their rail system.

15 **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
20 partnered with what was then the Chris Cairns Foundation and made it actually TrackSAFE Australia and TrackSAFE New Zealand.

25 So we do certainly work quite closely with our 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
30 crossings. That's something we both sort of lead. Danny is actually a board member of TrackSAFE, so he might have further comments.

35 **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
40 hasn't quite taken that on as part of their scope.

45 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.

5

MR ROBERTS: I'm hearing in implications that's something the Australian Government should do more of.

10 **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.

15 **MR LINDWALL:** And we appreciate your contributions, and thank you very much.

MR ROBERTS: Thank you for your submission.

20 **MR BROAD:** Thank you.

MS WOODS: Thank you.

25 **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]

30

RESUMED

[1.09 pm]

35 **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.

40 **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.

5 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.

15 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.

35 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
5 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
10 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
15 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
20 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
25 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
30 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
35 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
40 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
45 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.

5 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
10 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.

15 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.
20 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
25 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
30 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
35 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,
40 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.

5 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
10 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
15 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
20 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.

25 **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.

30 **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
35 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
40 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?

5 **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.

15 **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?

20 **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.

25 **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.

30 **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.

40 **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.

45 **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?

5 **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.

10 **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?

15 **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?

20 **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?

25 **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
30 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
35 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
40 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
45 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” - - -

45

MR ROBERTS: So it's focused on a future possible insurance claim - - -

MS HULL: On insurance, yes, and the value of that vessel.

5 **MR ROBERTS:** - - - rather than safety. Okay.

MS HULL: Yes.

MR LINDWALL: You may as well continue as you were.

10 **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

15 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)?

20 **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.

25 **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.

30 **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

35 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).

40 **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

45 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
5 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 - - -
10

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 –
15 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.
20

MR ROBERTS: So you're saying that previously, all vessels over seven metres had a survey requirement. Now it's all vessels over 12.
25

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.
30

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?
35

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,
40 they're big. Like, you know, they're huge. Well over the 30-metre mark,
45

5 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.

10 **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?

15 **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.

20 **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?

25 **MS HULL:** That's right, and so they'd be surveyed under the old code.

30 **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?

35 **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 - - -

40 **MR LINDWALL:** And they obviously vary across jurisdictions, then.

45 **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.

5 **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 - - -

10 **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)?

20 **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.

35 **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.

40 **MR BAXTER:** And that's at the cheap end.

MS HULL: I beg your pardon?

MR BAXTER: And that's at the cheap end.

45

MS HULL: That's at the cheap end?

5 **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.

10 **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
15 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
20 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
25 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"

30 **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
35 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
40 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.
45

5 **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?

10 **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
15 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.

20 **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).

25 **MS HULL:** I know, I've been to one of those.

MR BAXTER: And you'll suddenly get out and the engine falls out.

30 **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.

35 **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.

40 **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.

45

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.

5

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.

10

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.

15

MR LINDWALL: What time is it? Sorry. It's probably – it's about time anyway. Did you have anything - - -

20

MR BAXTER: No, I've got no - - -

MR ROBERTS: Well, Susan, thanks.

25

MR LINDWALL: Susan, thank you very much for appearing today.

MS HULL: Thank you.

30

ADJOURNED [1.43 pm]

35

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.

40

MR LINDWALL: Could you introduce yourself?

MR BERESFORD-WYLIE: Adrian Beresford-Wylie. I'm the Chief Executive of the Australian Local Government Association.

45

MR FOSTER: Kym Foster. I'm the Director of Transport Policy at ALGA.

5 **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
10 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
15 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?
20

MR BERESFORD-WYLIE: That's it. That's the full extent of my comments.

MR ROBERTS: It's a model of brevity and clarity.
25

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?
30

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 - - -

35 **MR ROBERTS:** We saw them last week.

MR LINDWALL: Yes, we did.

MR BERESFORD-WYLIE: You explored these comments with them.
40 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
45 access to vehicles which are currently identified, you know, B-doubles,

5 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.

10 **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.

15 **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.

20 **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.

25 **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.

30 **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.
35 Do you think that – have you got any comments upon whether that's a useful thing to have more broadly across Australia?

40 **MR BERESFORD-WYLIE:** I think it is, although inevitably, the scale in Tasmania - - -

MR LINDWALL: Of course.

45 **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.

5 **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.

10 **MR LINDWALL:** Yes. Sorry. Malcolm.

15 **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?

20 **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.

30 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.

40 **MR LINDWALL:** Yes, yes.

45 **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.

5 **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.

15 **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.

25 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.

40 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.

5 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, 10 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 15 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?

20 **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 25 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 30 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 35 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 40 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 45 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
5 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?

10
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
15 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
20 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
25 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
30 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
35 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
40 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
45 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
5 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
10 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?

15 **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.
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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.

25 **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
30 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.

35 **MR LINDWALL:** Indeed.

MR BERESFORD-WYLIE: And I particularly enjoyed your report on natural disasters and your advocacy.

40 **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
45 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.

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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)

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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.

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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.

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MR LINDWALL: Let's get going.

UNIDENTIFIED SPEAKER: Mick and Allan are on their way now, so we will probably just bring everything forwards.

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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.

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MR McINTOSH: I won't be long.

MR ROBERTS: Very good to see you again.

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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

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disagree with anything much that I'm saying in the past present of that organisation.

5 **MR LINDWALL:** So would you like, just to be clear then, for your comments to be registered as a personal - - -

10 **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
15 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
20 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
25 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
30 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
35 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
40 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.

40 **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
45 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.

5 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
10 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.

15 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
20 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.

25 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
30 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.

35 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
40 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.

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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.
- 10 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?
- 20 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.
- 30 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.
- 40 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
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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
5 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.

10 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
15 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?

20 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
25 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.

30 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
35 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
40 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.

5 **MR LINDWALL:** What about the use of telematics in heavy vehicles? Is that something - - -

10 **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.

15 **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
20 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
25 Australia. I mean, yes, I think it's a huge opportunity, and it should be fairly simple to do and keep going.

30 **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?

35 **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,
40 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.

45 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
5 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
10 overhauled and revisited?

MR McINTOSH: Yes. Yes.

MR BAXTER: Or is it just regarded as being politically too difficult?
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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
20 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
25 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.
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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
35 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
40 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
45 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.

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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.

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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.

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MR LINDWALL: I think, Lauchlan, thank you very much for your profound thinking.

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MR McINTOSH: Thanks for the opportunity. I appreciate it a lot. Thanks.

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MR LINDWALL: Given that AMSA is not here at the moment - - -

UNIDENTIFIED SPEAKER: They are here.

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MR LINDWALL: They are here. Well, I might take a five minute break or so.

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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?

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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.

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MR KINLEY: Yes. Okay.

MR LINDWALL: So welcome.

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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.

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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.

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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

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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?

5 **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.

10

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.

20

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?

25

MR KINLEY: All of the – the Trans-Tasman vessels are all international trade.

MR BAXTER: All international.

30

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.

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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.

40

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.

45

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 - - -

5 **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
10 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 - - -

15 **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?

20 **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,
25 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.

30 **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
35 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.

40 **MR LINDWALL:** That's fair enough, yes.

MR KINLEY: But we're trying to work to minimise what confusion there may be.

45 **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?

5 **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
10 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.

15 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
20 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
25 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.

30 **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
35 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
40 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.

45 **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 - - -

5

MR SCHWARTZ: And incidents.

MR KINLEY: Yes. And what we do with the incident reports.

10 **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
15 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
20 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
25 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
30 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?

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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.

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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.

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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
5 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
10 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
15 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.
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MR KINLEY: It’s becoming more of a thing.
25

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 - - -
30

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
35 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.
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5 **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?

10 **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.

20 **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?

25 **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?

40 **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

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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
5 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
10 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
15 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.

20 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
25 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
30 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.
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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
40 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
45 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
5 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.

10 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
15 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,
20 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
25 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
30 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
35 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.
40 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?
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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.

5 **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.

10 **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
15 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
20 “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.
25

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
30 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
35 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
40 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
45 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?

5 **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
10 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".

15 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.

20 **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?
25

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
30 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
35 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 –
40 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
45 things, but, again, that's something - - -

MR LINDWALL: So it triggers it differently, yes.

5 **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.

10 **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.

15 **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
20 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,
25 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.

30 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
35 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.

40 **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 - - -

5 **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
10 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
15 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.

20 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 –
25 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
30 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.
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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
40 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.

45 **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 - - -

5 **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.

10 **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.

15 **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.

20 **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.

25 **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.

30 **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?

35 **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.

5 **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
10 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
15 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,
20 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
25 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
30 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.

40 **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
45 of here’s the extras.

5 **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.

10 **MR SCHWARTZ:** We would have to get the number.

MR LINDWALL: You can take it on notice, if you like, yes.

15 **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.

20 **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?

25 **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.

30 **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".

40 **MR LINDWALL:** What are we getting into? Yes, yes.

MR KINLEY: Would have been nice, but, again, that's - - -

5 **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.

10 **MR KINLEY:** But, again, you would have, effectively, had to be running it in parallel with even more resources.

MR SCHWARTZ: Yes.

15 **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.

20 **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.

25 **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?

30 **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.

35 **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.

40 **MR BAXTER:** Has that settled down?

45 **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,
5 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.

10 **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
15 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.

20 **MR KINLEY:** Thank you.

MR LINDWALL: Thank you very much, Mick. And thanks to our transcript.

25 **MATTER ADJOURNED
UNTIL WEDNESDAY 5 FEBRUARY 2020**

