

REPORT OF PROCEEDINGS BEFORE

JOINT STANDING COMMITTEE ON ROAD SAFETY

INQUIRY INTO NON-REGISTERED MOTORISED VEHICLES

At Sydney on Monday 24 June 2013

The Committee met at 10.00 a.m.

PRESENT

Mr G. J. Aplin (Chair)

Legislative Council

The Hon. W. Secord

Legislative Assembly

Mr S. L. Ayres
Mr R. Park
Mr D. J. Webber
Mr J. D. Williams

CHAIR: Good morning. Thank you for attending this public hearing of the Joint Standing Committee on Road Safety on its inquiry into non-registered motorised vehicles. The public hearings being held today and on Friday will explore a range of issues surrounding the current use and safety risks of mobility devices and associated non-registered vehicles on New South Wales roads. The inquiry is examining the status and definition of these vehicles in the road rules, vehicle standards requirements, the education of users, insurance implications and initiatives to certify, register and regulate their use.

MICHAEL SAVAGE, Roads and Transport Directorate Manager, Institute of Public Works Engineering Australia (NSW Division), and

BRENDYN WILLIAMS, Chief Executive Officer, Institute of Public Works Engineering Australia (NSW Division), sworn and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. As time is limited today, the Committee may wish to send you some additional questions in writing, the replies to which will form part of the evidence and be made public. Would you be happy to provide a written reply to any questions?

Mr SAVAGE: Yes.

Mr WILLIAMS: Yes.

CHAIR: Before we proceed to questions, would you like to make a brief opening statement of up to five minutes duration?

Mr SAVAGE: Yes, I would like to take that opportunity. When we looked at this issue the terms of reference covered a wide range of vehicle types but the terms of reference also made mention of road safety. The submission that we have put in suggests that—and this is information that has come from local government practitioners—mobility scooters certainly do have an impact on road safety and conflict with pedestrian usage of public facilities. The other types of vehicles at the present time do not appear to be having any major impact on road safety. Segways are not able to be used in public areas in New South Wales.

Probably the biggest other issue is quad bikes. There is clearly a major issue with the safety of quad bikes. Our submission makes reference to a survey of reported quad bike issues. The thing that comes out of that is out of the significant number of accidents and deaths from the use of quad bikes I think there was only one that was clearly on a public road and impacted on road safety as such. Having said that, in the terms of reference it does not appear that quad bikes at this stage are an issue. But to ignore the safety issue, particularly on farms and fire trails where these devices are used, is something that we would like to draw attention to and refer that to the appropriate place.

The three other things out of our research and included in our submission are, firstly, that there are no design rules for these vehicles. There are no design rules for these vehicles, and some are suited to particular uses. Three-wheel vehicles, for example, appear to be suited to shopping malls and high density pedestrian areas, whereas there is anecdotal evidence that those sorts of vehicles are prone to roll over and create injury when used on public footpaths and public roads. The second thing that we became aware of is that there is no uniform education associated with the use of these vehicles. I could go and purchase a vehicle and take it out on to public areas such as public footpaths, or public roads for that matter, without anyone having given me any instruction or pointed out to me the basic road rules that at the present time cover the use of those vehicles.

The third thing that became apparent to us is that it appears from our research that these vehicles are classified as pedestrians in terms of accident statistics and injury statistics being collected. In terms of how many of them are out there and how they are being used, there is little or

no information on that. It appears to us that there are probably some pedestrian accidents reported as pedestrian accidents that involve these sorts of vehicles. That has not been identified. The one thing that we as a community need to do, and local government in particular, is to start planning for the use of these vehicles, because more and more they are going to be used. An aging population is going to mean increased use of this type of vehicle. To suggest that we are not going to accommodate them creates enormous restrictions for the class of people that are currently using them and will want to use them in the future.

Now is the time to start planning. The sort of pedestrian planning that we have done and the shared pedestrian cycle routes and cycle routes that we have planned for in the past have not had specifically the additional use of these vehicles supported in that planning. I think that there is a need to identify the requirements for these types of vehicles and to start incorporating planning into our cycle and pedestrian routes for the future.

CHAIR: Thank you. In those introductory remarks, and indeed in your submission, you tended to stress the distinction between the various classes of non-registered motorised vehicles and differentiate their use by different user groups. Of course, that then led to the impact on road safety. You stated in your submission that your membership observes the different impacts of specific classes of non-registered vehicles in their work with local government. Can you briefly outline your relationship with local councils and your involvement in that area of road safety?

Mr SAVAGE: The roads and transport directorate was set up a bit over nine years ago as a joint undertaking between what was then the Local Government and Shires Associations and the Institute of Public Works Engineering Australia [IPWEA] New South Wales. I suppose it was set up to fill the technical gap in providing updated technical information for public works practitioners, most of whom are local government engineers. The funding for the directorate comes from direct contributions from individual councils. I think we have currently got 131 contributing members out of the 152 in New South Wales, so it is a significant support.

Another element of the directorate is road safety and support of road safety officers, many of whom are members of IPWEA, and their councils are members of the roads and transport directorate. I must admit, Mr Chairman, that in putting this submission together it is not an area that I have had a lot of firsthand knowledge or experience in. Our means of putting this submission together was to ask our member councils to provide information to us on their experiences and to try to distil an industry-wide view of the impact that these vehicles are having on local government. I hope the submission clearly points out a couple of detailed studies that have been done by individual councils to support the general conclusions that we have reached.

CHAIR: I thank you for that, because we were particularly interested in how councils were approaching the issues and you have brought those together both from an urban and a regional perspective.

The Hon. WALT SECORD: You mentioned local councils. Ballina, Lismore and Tweed shire have the highest percentage of people in Australia over the age of 65 in their communities and they have a large number of nursing homes, retirement villages and senior independent living. Do you believe there is a case for those councils to put consideration into their local government planning codes to take these kinds of vehicles into consideration?

Mr SAVAGE: Yes, I think that is critical. One of the things that the State Government is doing at the present time with the establishment of Transport for NSW is to look at planning for the total spectrum of transport. This is certainly an element of that that we have not particularly planned for.

It has not really been an issue in the past. But, as I said earlier, it is something that I think we can foresee increasing in the future. Areas like the far North Coast that people are retiring to would seem to be a logical place to be paying particular attention.

The Hon. WALT SECORD: Could you give me a couple of examples of what councils could do? I notice that your colleague simultaneously nodded. If there is anything you would like to add I would like to hear from you too.

Mr WILLIAMS: Sure.

Mr SAVAGE: Were we just talking before we came in here this morning. As I said, I have not had a lot of direct involvement in this, but I noticed there is a footpath across the road from my place and it is fully paved concrete.

The Hon. WALT SECORD: Where is that?

Mr SAVAGE: Randwick. It is a shared footpath-cyclepath, and there is a local resident who uses one of these devices on the other side of the road, I must admit, and I wondered why. I was walking home from getting off the bus the other day—this footpath is 3.5 metres wide, fully paved—and I noticed that there is a bus shelter right in the middle of it, which means it is very difficult, almost impossible for bikes to use it without getting off, and for a mobility scooter it is impossible.

The Hon. WALT SECORD: Would you like to see them widened?

Mr SAVAGE: If the bus shelter had been shifted towards the curb, or back for that matter, it would have allowed access. So there needs to be simple planning with the mindset that says instead of being this wide, it needs to be a little bit wider, with pram ramps, et cetera.

The Hon. WALT SECORD: Would your colleague like to add something? I noticed you were nodding in agreement through the first answer.

Mr WILLIAMS: I will put my comments in context. We are both civil engineers, but in respect of specific experience that I have had in this space, I am also a road safety auditor, and I suppose that gives the context of observing the interaction between vehicles and pedestrians in the road corridor space. Part of my professional experience is in risk management. This is definitely a risk management issue. We cannot give one element of all these interactions an overwhelming response compared to the others. There has got to be a balance in the right context in the right circumstance.

What Mick is alluding to is the fact that we need a planning system and guidelines in and around that so that councils can make an appropriate response that is still within a framework that provides consistency across all of our communities. You have used a couple of examples there, which have a higher volume of that type of need, whereas there is going to be other situations where one of the other transport modes is of a higher volume. It is matter of being able to have a framework that allows for all of those things in context. Where the risks are higher in respect of vehicle speeds and volume, then there is a greater separation required between the different modes.

Mr RYAN PARK: My interest is in the area of quad bikes. I know you touched on it in your submission. In respect of the regulation, can you outline to the Committee where you think it is falling down in respect of a lack of regulation and design standards and, more importantly, how we might look at addressing that? The subject of quad bikes is an ongoing issue. It is particularly

problematic in rural areas where young people are getting on them and probably do not have the level of respect for the vehicle that they are driving, and particularly the terrain they are driving on. I am interested in what can be done in respect of regulation and design.

Mr SAVAGE: The research that I did suggests that the vast majority of quad bikes have no rollover protection, that is no roll bars and once they roll over, you have got a tonne of bike sitting on top of you, which is not good. I saw a product that was a single pole that bolts on to the rear of a quad bike and overcomes that—I am not trying to sell the product—but it was something very simple that I came across that gives protection to the operator.

Mr RYAN PARK: Does that prevent it—

Mr SAVAGE: When it rolls over, it—

Mr RYAN PARK: It raises it up?

Mr SAVAGE: Yes, and provides some protection for the rider, rather than having the vehicle sitting—

Mr RYAN PARK: On top of you.

Mr SAVAGE: No doubt there are other products, just roll cages and various products. From that point of view, the generic outcome is that there should be some sort of design that protects against what is killing these people.

Mr RYAN PARK: I am assuming, if I am right, you could design the risk out of this problem? The vast majority of accidents that I have looked at have been rollovers, not hitting a tree or something like that.

Mr SAVAGE: That is right.

Mr RYAN PARK: Therefore they are what I would call one type of accident. It is not like accidents on the road where there are multiple interactions. From a rural perspective, the accidents are predominantly rollovers. It is not that the driver is hitting a tree or hitting a fence?

Mr SAVAGE: That is absolutely right.

Mr JOHN WILLIAMS: The other problem is that the driver is not secured in the vehicle as well, so once it tips over it can just squash the head.

The Hon. WALT SECORD: Are the quad bikes manufactured in Australia or imported?

Mr SAVAGE: I would suggest both.

Mr JOHN WILLIAMS: I would say that they would be all imported, from what I have seen. I do not think we have manufactured one in Australia. We will move on to Segways. The submission notes that the Queensland Government is allowing Segways to be used in public places. What are the particular features of Segways that may make their use on public roads problematic, and do you have any concerns about the increased presence of Segways in the public domain in Queensland?

Mr SAVAGE: I am not greatly concerned about the public place in Queensland. There is a totally different sort of user—younger. One of requirements to effectively use a Segway is to have good balance and to be able to control it, so it is not a device that is going to be used by the elderly or infirm. We are talking about a different group of people. For a range of users, as with anything else, there will be a range of capacity to control them. To allow these generally on our footpaths or our public roads is likely to create another problem. Obviously that is speculation at the present time because we do not allow them to be used on any public areas in New South Wales. The submission that we have made suggests that New South Wales should have a good look at the results that come out of Queensland and use that to inform where we might go in the future.

Mr JOHN WILLIAMS: Are there any results coming out of Queensland relating to accidents that may have been attributed to the use of these vehicles or devices?

Mr SAVAGE: Not that I am aware of. In fact, the approval in Queensland happened two or three days before this submission went in.

Mr JOHN WILLIAMS: It is early days.

Mr SAVAGE: I have not been aware of any reports since then that suggest outcomes one way or the other.

Mr STUART AYRES: It seems we have vehicles and pedestrians in two significant blobs, for want of a better term, and there is a proliferation of other vehicle types. In fact, this whole inquiry is set up because of them. As your evidence earlier indicated, pedestrians were considered when they are encountered in some form of accident-based statistic. Do you think we should be moving towards another classification when it comes to these vehicles?

Mr SAVAGE: I think that is critical if we are going to do planning for these vehicles. There is a range of information that we really need. We need to know how many, where they are, and that would come from some sort of registration system. How they are used, the routes they access and where they want to use them will not come from that, but then we do not get that with motor vehicle registrations at present. The very basic information that would come from some form of registration would be the number and where they are located, which would allow us to focus our planning. Instead of saying we are going to provide for these vehicles everywhere—and we know we cannot do that in New South Wales or Australia—we want to be able to say there is a concentration.

There was a question asked earlier about the North Coast. It would support that sort of focus and possibly provide a basis for additional funding to accommodate those sorts of uses. I think it is critical that we know. Having said that, I think it is also critical that it is not just another vehicle registration for mobility scooters because of the part of our population that is using them and the circumstances in which they are using them. To take that access away from those people by normal third party insurance and registration is, to my view, not going to accommodate that use.

Mr STUART AYRES: Even excluding the concept of registration, would a classification make it easier for planning professionals like you and councils to better adjust to their own local environment if they were able to develop a framework, as Brendyn said before? Currently we are operating in a duopoly between motor vehicles and pedestrians, but there is another emerging category that perhaps needs to be considered in a different light.

Mr SAVAGE: The simple answer is yes.

Mr DARREN WEBBER: In your opening remarks you mentioned that local government needs to plan to accommodate these vehicles and that shared cycleways do not incorporate them. Will you explain that a little further? In my area, Roads and Maritime Services is an integral part of main arterial roads. Were you referring to lack of width to accommodate them?

Mr SAVAGE: A whole variety of things; width is one of them. The condition of the pavement; relatively minor steps in, say, concrete or asphalt pavement make it very difficult and unsafe for the use of these vehicles. Width is certainly a concern. We put in facilities at road crossings to deter cyclists from hitting the road at full speed. Those same facilities in a lot of cases prevent these vehicles from using them. It is not a matter of taking them out, it is a matter of designing them with the three uses in mind, rather than the one or two that we have at present.

Mr DARREN WEBBER: In your submission you are recommending increased public awareness campaigns. What do you envisage is the best way to implement this? Is it something that a State government or Federal government implements, or is it a point of sale by the person selling the equipment?

Mr SAVAGE: My view at this stage is that it needs to be a combination of those. There should be at least a statewide framework that says these are the things that are important. Education needs to be provided for it or assessment needs to be carried out. Implementation then needs to be at the local level. There are two reports by the road safety officers referred to in the submission. One is from Holroyd in the metropolitan area; the other is a joint undertaking from Parkes, Forbes and Lachlan.

Both came to the same conclusion that education needs to happen. The retailers need to be involved in it, the local community and local government need to be involved in it. It does not make sense though if adjoining councils are going about it in a different fashion or have different standards. So from that point of view I think there needs to be a State—even better, a national—framework but implemented through the existing networks in local government, although State and local government.

Mr DARREN WEBBER: In the absence of a licensing regime, at the very least a State or national curriculum for actual education on how to use the vehicle and safety on the roads?

Mr SAVAGE: Yes. They are the results coming out of the studies from local government that I have seen to the present. Yes.

The Hon. WALT SECORD: Would you like the O'Farrell Government to introduce a one-off licence fee at point of purchase or an annual fee to the RMS so we know the number of these vehicles in the community? What would you like to see?

Mr SAVAGE: I have thought a little about that. An initial fee—there is an administration cost involved in it—and it could be built in to the purchase of the vehicle. I think that gives it value and it gives the data that comes out of it some value. From the same perspective, some sort of annual fee providing it is modest means that changes that occur can be picked up on an ongoing basis because vehicles are sold. There probably needs to be some tracking of that.

The Hon. WALT SECORD: A modest annual fee?

Mr SAVAGE: Yes.

The Hon. WALT SECORD: What do you think, \$250?

Mr SAVAGE: I would suggest less than that.

The Hon. WALT SECORD: What would you suggest? I am trying to get an indication.

Mr SAVAGE: If I was a user, I would want to see \$10 or \$15. To provide value to the data that it might generate, something closer to the \$250 that you have suggested. There is a range of considerations there.

The Hon. WALT SECORD: For the record, I am not suggesting or supporting a registration fee, but I understand your evidence.

CHAIR: Obviously, we are getting various views through the submissions.

The Hon. WALT SECORD: I just wanted it on the record that I did not support it.

Mr STUART AYRES: Extending that line of questioning, would it be possible to have some voluntary registration available at a local government level, given that local governments will respond primarily with the change of footpaths and engagement with the public?

Mr SAVAGE: My initial reaction is that it is going to result in another cost shift. As I said earlier, I think the framework needs to be statewide. How it is implemented and funded needs to be part of the consideration of setting up that framework. The number of these vehicles and what might be involved in such a process needs to be considered and assessed prior to saying, yes, local government will do that on the same basis as dog licences or other things that local government does. That is not the way that motor vehicle registration works. Somewhere between the two there is a solution for this set of circumstances.

Mr WILLIAMS: Do you mind if I comment briefly?

CHAIR: Certainly.

Mr WILLIAMS: I compare this situation perhaps to fishing licences, for example, only by the fact that, as Mick has suggested, we need this information. It is a necessary part of providing the right planning and infrastructure associated with these vehicles. The sorts of fee structure that might apply to that somehow needs to be subsidised or balanced by the fact that we need the information more than those users need to provide it, if you know what I mean. We do not want to preclude them from using these vehicles. We want to provide mobility access to the elderly and we want to have those other category types. Having some sort of system that can collect that information is far more helpful to us than perhaps the fee structure that might preclude them from providing information.

CHAIR: Thank you for expressing that view. We have some further questions that we will send to you, as you indicated that you are happy to receive them. I shall conclude by picking up something you mentioned in your submission, that is, the more elaborate designs you are now seeing in the market place. Last week in my town I witnessed a trailer added to one of these mobility scooters. The elderly lady, who was riding on the footpath, had been to a hardware store, namely, Bunning's, which was close by. She had timber lengths of at least two metres projecting up over her head from the trailer behind along with some fairly heavy items.

I refer to that in the context of your engineering skills and also draw to your attention a sport rider, which is the macho man's version of the mobility scooter. This is capable of 15 kilometres per hour. Obviously, it is limited to 10 kilometres per hour when it is provided. I am concerned about the weight, given the debate and limitation of current rulings to 110 kilograms. The total weight with battery is 188.5 kilograms. I refer to the direction this is heading and considering your engineering applications to council. You touched on it in your submission, but it this Committee needs to be aware of it because the boundaries certainly will be pushed as these devices are picked up by more people. I make that comment, but particularly also for you to think about it as it falls within your area.

Mr SAVAGE: Yes.

CHAIR: Thank you very much for appearing before us today.

Mr WILLIAMS: Thank you.

Mr SAVAGE: Thank you for the opportunity.

(The witnesses withdrew)

(Short adjournment)

CHAIR: Thank for attending this public hearing of the Joint Standing Committee on Road Safety's inquiry into driver and road user distraction. The public hearing today follows the hearing conducted last Friday and continues to examine a range of issues related to the impact of sources of distraction on road safety. I point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901.

MILTON COCKBURN, Cockburn, Executive Director, Shopping Centres Council of Australia, sworn and examined:

CHAIR: Do you wish to make a brief opening statement?

Mr COCKBURN: I did not think I would be called before the Committee. When we received the letter from the Committee my response was based on the sort of non-registered or registered vehicles commonly used in shopping centres. As I made clear in the submission, they do not leave the shopping centre. So, the matters you are inquiring into are probably not specifically relevant to the sort of vehicles we have described.

CHAIR: Your submission refers to the draft code of practice for traffic management developed by Safe Work Australia and the accompanying guidelines for traffic management in shopping centres. Was the Shopping Centre Council consulted in the development of Safe Work Australia's traffic management draft code and guidelines for shopping centres?

Mr COCKBURN: Yes, we were. We are not on the relevant committee of Safe Work Australia, but one of the organisations that is directly represented on that committee contacted us and advised us of the draft code and the guide. We supplied comments to Safe Work Australia in relation to both.

CHAIR: Will that happen on an ongoing basis?

Mr COCKBURN: I have not received any notification that the draft code is now a code of practice. I looked at the website on Friday and it still appears as a draft code. I can only assume that the consultation process is still taking place.

CHAIR: Have you been approached by any individual members of the council expressing specific concerns about the draft code?

Mr COCKBURN: Yes, but concerns only in the sense that the code was probably initially drafted by people who were not particularly familiar with the operations of the shopping centres. That is only to be expected. The people involved are expected to be generalists—jacks of all trades. The comments we provided were fairly constructive and simply pointed out some of the problems that might be caused by the code and correcting some other material.

Mr DARREN WEBBER: The Shopping Centre Council consistently stresses the lack of injury in crash statistics collected about the use of all vehicles in shopping centres. Do you think more effort should be made to collect information about crash- or safety-related incidents involving motorised vehicles in and around shopping centre precincts?

Mr COCKBURN: I made that inquiry of the head of risk for one of our major members. He said that the number of notifications received is so small that it is not worthwhile collecting data.

Mr DARREN WEBBER: My only concern relates to motorised vehicles coming from outside shopping precincts. I do not know whether you are aware of Lake Haven Shopping Centre on the Central Coast.

Mr COCKBURN: I know of it.

Mr DARREN WEBBER: It is surrounded by aged care facilities. People travel to the shopping centre from their primary place of residence. Obviously the centre provides motorised vehicles, but I am concerned about people coming from outside centres.

Mr COCKBURN: I made the point in the submission that we do not know where those vehicles come from and they obviously travel on public roads and footpaths. I read the City of Sydney and New South Wales Government submissions. We are obviously talking about mobility scooters. The comments made in both those submissions were sensible. As you said, we really only have responsibility for them once they enter the shopping centre precinct.

Mr STUART AYRES: Do you think mobility scooters pose any problem to people in shopping centres?

Mr COCKBURN: At the time I wrote the submission I would have said no. However, I was coming back from a function in the Queen Victoria Building late one evening and the only thing that prevented me being mowed down was the fact that there was a ghetto blaster on the back of the vehicle, which gave me a reasonable warning. I asked the relevant safety people about mobility scooters in centres and they stressed that most people who drive them—with one exception—are responsible. I have noticed that pedestrians make way for them; they are very considerate. However, it was suggested to me that someone tried to drive one down an escalator. There is not a great deal we can do about that, other than nominate the driver for a Darwin award.

Mr JOHN WILLIAMS: Is there any evidence of accidents caused by these motorised vehicles?

Mr COCKBURN: When I made the inquiry I was told that the number of accidents is so low that they do not collect data. I took from that that there had been an odd accident, but certainly not serious. It did not involve any injury. It involved a collision with a casual licence kiosk. Someone bumped into the kiosk and there was no injury.

Mr JOHN WILLIAMS: Is there evidence of increased use of these scooters in shopping centres?

Mr COCKBURN: They are becoming more common and will continue to become more common given our ageing population. I have to spend a bit of time visiting shopping centre managers and so on and it is still reasonably rare to see one in a shopping centre, but they will obviously become more common.

Mr JOHN WILLIAMS: Do shopping centres have a policy with regard to the qualifying criteria for their use?

Mr COCKBURN: We do not and it is not a question I specifically asked. I can take that question on notice.

Mr RYAN PARK: I want to clarify that your emphasis is that this Committee does not duplicate the work already being done. From previous interactions I have had with you I know that you are a good advocate of ensuring that we do not increase red tape. I want to be clear that that is still your view.

Mr COCKBURN: The draft code and the draft guide are intended to cover the field. The fact that they have nominated a draft guide for shopping centres specifically obviously indicates that they are intending to do so. There will obviously be some overlap. If you make recommendations, for

example, in relation to mobility scooters, that would have an impact in shopping centres. It is an overlap but it will not cause a problem for us.

CHAIR: You drew the Committee's attention to other uses of motorised vehicles in shopping centre precincts. That was valuable because very few other submissions addressed that issue. Your submission highlighted the use of car park vehicles used for maintenance and delivery purposes. Can you describe the nature and use of those vehicles?

Mr COCKBURN: The two I nominated would probably come within the terms of reference. There are obviously registered motor vehicles being used to make deliveries. The draft guide is oriented towards car park delivery areas. The first one is the shopping trolley collection vehicle. They are tractor-like vehicles or a motor vehicle to which trolleys are attached. I understand that those vehicles must be registered because they leave the shopping centre. The second vehicle is unregistered. I have only had them described to me over the phone. They are equivalent to a golf cart or a quad bike and are used for more heavy duty deliveries in shopping centres. They are also occasionally used to deliver infirm passengers to cars.

CHAIR: I am pursuing this line of questioning because the New South Wales Bar Association raised issues in relation to insurance and conditional registration for vehicles such as forklifts—but it would include the type of vehicle you have described—used in shopping precincts and markets. Obviously some of those are used within the confines of the shopping centre on private property but also on public roadways. Do you have any concerns about public liability for your members in this regard and can you cite any instances where they have posed a problem?

Mr COCKBURN: I will have to take that question on notice. I will refer it to the person I consulted. I did read the Bar Association's submission. Nothing like that has been brought to our attention, but that does not mean it is not an issue. I will certainly clarify it.

CHAIR: It was raised and the Committee believes it should pursue it and establish any data that we should be aware of.

Mr DARREN WEBBER: Do you have any idea of the proportion of shopping centres that provide mobility scooters?

Mr COCKBURN: No. They are more common in the larger centres. It is now very common for shopping centres to provide them as a service to their customers. I have not conducted a survey, so I cannot even hazard a guess.

Mr DARREN WEBBER: Is there any common form of monitoring or a standard practice adopted going out in the precinct?

Mr COCKBURN: Nothing standard. It is something that a centre manager would be expected to make sure they are aware of. I am not aware of a common standard that has been set down.

Mr DARREN WEBBER: Finally, my original point refers to that side of the precinct and to its own mobility scooters. Is there any policy for monitoring speed and how they are using the corridors of the shopping centre?

Mr COCKBURN: Not that I am aware of, no. I must stress that it has not been raised with me as being a major problem.

CHAIR: Various organisations, including yours, have referred to the provision of those mobility scooters at shopping centres. What sorts of training or conditions are applied to the use of those by visitors to the shopping centre?

Mr COCKBURN: The only use I am aware of includes speed governors on the scooters in a situation where they can only go at a certain speed. The only condition I am aware of is that they are not to be taken outside the shopping centre.

CHAIR: Would they be provided with carrying baskets?

Mr COCKBURN: Yes, they have a bigger version than the bike basket, either at the front or back, that is suitable for carrying the shopping.

CHAIR: I mentioned to a previous witness that on a footpath external to a shopping precinct I witnessed a trailer attached to a mobility scooter. Is that something you would envisage occurring within the shopping centre?

Mr COCKBURN: If that was the case that would be a situation where a centre manager or staff in the shopping centre would step in. It is one thing to be driving a mobility scooter but you do not have any control over something that might be attached to it. It is something that has not been brought to my attention, I am not aware whether it has ever occurred.

CHAIR: Thank you for appearing before the Committee today. It is interesting to note the provision of those devices at shopping centres and it is something that we want to explore further with you. We look forward to your response to the questions you took on notice.

(The witness withdrew)

PETER DAVID FRASER, Managing Director, Scooters Australia Pty Limited, affirmed and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Time is limited so the Committee may wish to send you additional questions in writing the replies to which will form part of your evidence and be made public. Would you be and happy to provide a written reply to any further questions?

Mr FRASER: Yes.

CHAIR: Before we proceed with questions from the Committee would you like to make a brief opening statement?

Mr FRASER: Yes, I think I would. Presumably everybody has read the submission we put in. I would like to say a couple of things that are important from our point of view and our company's point of view. We have been in the business since 1992 and we were the first company in Australia to specialise in mobility scooters. We do not claim to know much about customized electric wheelchairs but our main market has been a mass mobility scooter and off-the-shelf electric wheelchair market. We tend to market to the mass market rather than to the specialised custom made stuff that is made for people with severe disabilities. Basically, our contention is that scooters are very safe. I made a presentation to the Australian Competition and Consumer Commission seminar in 2009 which started a lot of this discussion about scooter safety.

There was a presentation by a woman from a Western Australian university who was doing her PhD in scooter safety and she noted there is very little information on scooter safety issues. Hospitals do not collect information and that is still the case today. She did note that there were about 70 scooter deaths between 2000 and 2008 and a third of those were from natural causes. If you look at the averages of how many people die as a result of using scooters per year per State it is about one. There is approximately one person per year per State that dies as a result of using a scooter. It is a very low figure.

To give you a contrast or comparison, in 2011 two people died in New South Wales falling off chairs. That is compared to one person dying per year as a result of a scooter accident. Over the June long weekend we just had there was a 79-year-old person who did a U-turn in front of a car and killed himself, a 77-year-old woman who died driving a car and there was a 79-year-old woman in Pagewood who ran into a mother and daughter killing the mother and severely injuring the daughter. I am sure you will remember that as it was all over the news.

We are not saying that elderly people should not be driving. What we are saying is that scooters are a very safe way to get around in the local community. It is crucial that the Committee understand how safe they are, they are not a danger, they are incredibly convenient and a useful means by which elderly people maintain their independence. For us that is a crucial issue. Everybody thinks that all scooters are the same, they think that is a little scooter and they are a novelty item. I heard you having a bit of a laugh about the stories people tell of nearly getting knocked down by a scooter. Everybody you talk to says, "I was walking down the street and someone nearly ran into me with a scooter." We do not say that when we are nearly run over by a motor vehicle, but we always say it when it is a scooter because it is a novelty item.

Scooters ranges from really small little units retailing at \$1,300, which people pull to bits, put in the boot of their car, take to the shopping mall, pull it out of the car and use to run around the shopping mall. But they also go up to \$8,000 units which are big and beefy and will carry somewhere up to 200 kilograms. In Sydney in particular, which is a difficult city for scooters, they travel up steep hills. This is important when you are considering standards and registration. If you make a ruling that makes it too difficult to register scooters that carry heavy people up steep hills that will knock them out of the market. It is important to understand how they work and a big scooter with big batteries is needed in Sydney. Sydney is the most difficult city we sell to. We have stores in every capital city and about 25 different regional areas but Sydney is the most difficult because it is steep and hilly and there are heavy people.

The previous witness spoke about shopping malls. We sell scooters to shopping malls and to shopping mall owners and we knock the speed down electronically to three kilometres per hour. All the scooters we sell to the shopping malls, and we sell to all the big shopping malls, have a three-kilometre per hour speed limit. I will close with one interesting fact: We sold some scooters to Warringah mall in 1993, which was the first mall in Australia to have scooters for use by its customers. Those scooters had a maximum carrying capacity of 115 kilograms. The centre manager of Warringah Mall left and he recently turned up in Blacktown. He rang us from Blacktown and said, "We want some scooters for Blacktown but they are going to have to carry 200 kilograms." The weight capacity has gone from 115 kilograms to 200 kilograms in a period of 12 years. People have got heavier and there are a lot more people wanting tougher, stronger, beefier scooters with a lot more power with much bigger batteries.

Currently the regulation is 110 kilograms tare weight. There are scooters on the market now that are 150 kilograms tare weight, that is, before the passenger. The reason is that you have to have big batteries and big motors. That is the reality of the market. The reality of the market is in Queensland they have been registering illegal scooters that weigh more than 110 kilograms and they go more than 10 kilometres per hour which is the legal restriction on scooters. Plenty of scooters do 12, 14 and 15 kilometres an hour and in Queensland they have been registering scooters for 20 years that are not legal. I would advise everybody, as we stated in our submission, that if you are going to look at the issues of registration and specifications, copy what has been done in the United Kingdom. It is by far the best in the world. It is simple and it is straightforward.

Because we import from different manufacturers in China and Taiwan, if legislators in Australia start making rules which are different to what is happening in the rest of the world the price here will go right through the roof. We are a really small market. About 10,000 to 12,000 scooters per year are imported into Australia. There are no figures on that but we know it is around 10,000 to 12,000. It is a really small market. If legislators here decide to make rules that are different to what is happening in the United Kingdom or Europe it will add a lot to the cost of scooters in Australia because they will have to make custom-made scooters just for this market.

CHAIR: You made that point in your submission and referred in passing to the United Kingdom and gave the example of the split speed category, six and 12 kilometres per hour. I have two questions: In the United Kingdom the formal term for "mobility scooter" is "invalid carriage". What does that imply? Second, what information do you have that you could elaborate on concerning the United Kingdom or overseas? You referred to European standards as well.

Mr FRASER: In Australia we used to call them "invalid aids" and the *Yellow Pages* used to have a category called "invalid aids", which we eventually got rid of. We convinced them that it was not a great category name. Scooters are for people who have some kind of disability and for a lot of people the disability is simply distance; they cannot walk more than 200 or 300 metres. If they are in

a situation where they do not have a car licence, have given up their car licence or never had a car licence and, like my mother, they live 200 or 300 metres from the shops, their friends or church and they cannot walk that distance, we would consider that to be a disability.

Cabs will not take people 200 or 300 metres. That is a big problem. They ring up and they cannot get a cab to take them 200 or 300 metres, so they cannot catch taxis. Buses, even though they drop down onto the footpath and allow people to get up and down, it is still difficult for many people to get in and out of a bus and if they have to walk 200 metres to the bus stop and catch the bus two or three stops they do not do it. There are lots of people who stay in their homes and do not get out and who are incredibly dependent on their children.

We would say an invalid person is someone who simply cannot walk more than a couple of hundred metres easily or carry shopping with them and that is really where our market is; it is in that 300 metres to five- kilometre range where most people use scooters—and five kilometres, they really do not go that far; it is usually about three kilometres. It is very difficult to cabs; if you are in a house without a car licence it is difficult to get around and this is where we sell most of our scooters.

In terms of what we know about the United Kingdom, the United Kingdom has a good system in the sense that anything under six kilometres an hour they do not bother registering mostly because they are little portable scooters that people put in the boot of their car and take to the shops. Over six kilometres an hour they have a category between that and 12 and they have put 12 as the maximum speed that scooters can travel at and we view that as the maximum; we think that anything more than 12 is getting a bit fast. There is plenty of stuff on the market that is doing 14 at the moment. We do not sell anything that does more than 12 and we think 12 is the maximum safe kind of speed but if you limit your scooters too slow, then what happens is that people do not buy them and they start complaining about them taking too long to get to where ever they are going.

The advantage with a dual registration system is a scooter that does go more than six and less than 12 is a bit beefy, it has a fair bit of power. There needs to be some kind of safety issue in relation to that. In the United Kingdom they register the scooters but they do not do what they have done in Queensland, which means they are forcing people to put numberplates on their scooters. There is a whole bureaucratic exercise in Queensland to get a scooter registered. You have to go and get a doctor's certificate. You then have to go to the motor registry. You then have to get a numberplate and work out some way of sticking the numberplate on to the scooter and that kind of stuff.

In the United Kingdom you fill in a form, you send it into the motor registry, they give you the little round MOT sticker, which is a bit like a registration sticker, and you just place that on your scooter. The great thing about it is that it gives the Government an understanding of how many scooters are out there. At the moment no-one knows how many scooters are out there. The NRMA and the ACCC have just done a phone survey of about 3,000 people and they took a punt on how many they reckon there are in the community and they think about 200,000 people in Australia are using mobility scooters. We know there are about 12,000 imported into the country.

There are no locally made scooters; no-one makes scooters in Australia; they are all imported. There are about 12,000, maybe 13,000 imported each year, and that is even a punt. The reason that is a guess is because customs only collect data on all mobility units, which includes all custom-made power chairs, all the ordinary power chairs, all the scooters, everything else, and that is around 20,000 to 22,000 and most of the people like myself who are in the industry make a guess that somewhere around 50 per cent are mobility scooters and the rest belong to all these other

categories. We are taking a punt that there are around 12,000 scooters each year sold new into the market.

CHAIR: And it is a growing market?

Mr FRASER: It is a growing market, definitely. In 1990 there would have been about 2,500 to 3,000—sorry, we did a survey in 1999 we figured there were around 3,000 so it has gone up 400 per cent in that period.

CHAIR: Thank you, that was useful.

The Hon. WALT SECORD: How would you envisage a New South Wales registration system working? Would you go to the RMS, your local council or the Department of Ageing, Disability and Home Care? What do you think would be the best?

Mr FRASER: RMS. RMS is the new RTA?

The Hon. WALT SECORD: Yes?

Mr FRASER: Definitely that. The United Kingdom model is really simple because it is a matter of filling a form in with your name and address, that kind of business, and the products you have. You are registering this particular product and brand name. There are serial numbers on all these machines so you can identify them with a serial number. Everything that is brought into the country has a serial number so you could identify them that way and send it to the RTA or the RMS and they would simply issue a registration certificate for that person and product.

Mr RYAN PARK: And no fee is attached?

Mr FRASER: No fee. The English do not charge a fee.

Mr RYAN PARK: You are doing that for data collection?

Mr FRASER: It is data collection but I think it is useful for other things. There is a small amount of theft that goes on, not huge but there is a little bit of theft and there are insurance issues. If you have a product that is identified and the owner can say, 'Look, I have the registration form saying I own this product', there is less of a problem with those issues. At the moment the insurance is a bit iffy.

The Hon. WALT SECORD: Does Queensland charge a fee?

Mr FRASER: No, it is free.

The Hon. WALT SECORD: If there were to be a registration system here, it should be free?

Mr FRASER: I beg your pardon?

The Hon. WALT SECORD: What you are saying is if we actually recommended a registration fee for scooter mobility vehicles it should be free?

Mr FRASER: It should be free or a really nominal cost, say \$10 or something like that. In general it has been free. It is free in the United Kingdom at the moment and it is free in Queensland,

which is the only State that does registration. They have to make numberplates. They use motorbike numberplates.

The Hon. WALT SECORD: Your estimation is about 12,000 per year are imported. Are there people constructing or making their own mobility vehicles?

Mr FRASER: No.

The Hon. WALT SECORD: There is not an underground industry?

Mr FRASER: No. What is happening, though is that a mobility scooter is registered with the TGA so they are all TGA registered and that is the basis upon which they are GST free. If you purchase a scooter you do not pay GST on it. The reason you do not pay GST on it is because it is regarded as a medical appliance so it is TGA registered. Unfortunately that is not being enforced at all so people are bringing non-TGA vehicles into the country quite easily. Any of us could do it; we could just order a container of scooters out of China that have not complied with the TGA requirements, bring them in and sell them in the marketplace. That can be done right now and people do it right now.

The Hon. WALT SECORD: What is the quality of scooters coming out of China and Taiwan?

Mr FRASER: Good.

The Hon. WALT SECORD: Very good?

Mr FRASER: Yes. We deal with two Chinese manufacturers and two Taiwanese manufacturers and the Taiwanese is better but the Chinese quality is quite good now. Ten years ago it was not but now it is just as good as anything out of Taiwan.

The Hon. WALT SECORD: So there is not an Australian industry? We do not make them?

Mr FRASER: No, there used to be. The last scooter manufactured in Australia was in Thornleigh in Sydney and he stopped making in about 1998 or something like that. They cannot compete basically with China and Taiwan.

Mr RYAN PARK: I am interested in the education component. I notice your company does a training certificate or something like that?

Mr FRASER: Yes.

Mr RYAN PARK: I do not think it would be a hugely onerous thing for retailers to be required to do something like that but given that you do this in business—

Mr FRASER: It is easy.

Mr RYAN PARK: If you think that it is overly red tape tell us?

Mr FRASER: No.

Mr RYAN PARK: It is at point-of-sale?

Mr FRASER: Yes.

Mr RYAN PARK: One is likely to pay more attention to it than any government campaign and I would not imagine it would be hugely cost prohibitive?

Mr FRASER: No.

Mr RYAN PARK: Can you take me through how it works?

Mr FRASER: Okay. About 80 per cent of our customers buy out of the back of a van so they do not come to the premises. They ring up and we go out there. The reason we go out there is because they cannot get to the premises so we take a number of products out there and we demonstrate them. If they buy, then we train them. Every customer who buys from us gets training; it is about a half an hour little training thing. We have a whole lot of boxes that they have to tick. The staff have to tick all these boxes and the customer signs at the bottom saying that they have been trained by us. We hold the document to say that they have been trained by us. We were the first ones to do this and a couple of other retailers now do it but it is not a common practice.

Mr RYAN PARK: It is not widespread?

Mr FRASER: It is certainly not formalised the way we do it, with a certificate, with tick boxes and a signature at the bottom of it to say that they have been trained. They also say that they have no medical reason why they should not be riding a scooter so they have to sign something to say they do not think that they have any medical reason why they think they should not be riding.

Mr RYAN PARK: Given that you have been in the industry longer than most, it certainly would not be something that you would see as overly prohibitive from a commercial basis?

Mr FRASER: No.

Mr RYAN PARK: We do not want to send anyone out of business but equally from my perspective I see an opportunity at point-of-sale being the most relevant component—

Mr FRASER: It is.

Mr RYAN PARK: —because that is where you have a captive audience—

Mr FRASER: Correct.

Mr RYAN PARK: —and someone is engaged in the subject matter in that they have just purchased and therefore you are more likely to change behaviour or alert people to the fact that, "When you do this, it moves like that"?

Mr FRASER: Correct. It is by far the best place to do it. It is simple and it takes about half an hour. The sales process takes maybe an hour, half of which is just training them and making sure that they are capable.

Mr RYAN PARK: It does not have a huge impact on your bottom line obviously?

Mr FRASER: No.

The Hon. WALT SECORD: Would it be a fair recommendation—you already do it—to have your competitors include as part of the sale a training requirement?

Mr FRASER: It ought to be now.

CHAIR: It is interesting at this point to note that the organisation conducted a survey and the submission contains quotes from various purchasers about the differences in their experience in purchasing and the education process from the supplier. I would venture to say that one very enthusiastic response is probably someone who was one of your purchasers and in glowing terms described the training process and how they felt very competent at the end of it.

Mr RYAN PARK: Well done.

Mr FRASER: That is good to hear.

CHAIR: It is good to hear and it is something that I think we should pick up on.

Mr RYAN PARK: I was just interested in it; it seemed like a reasonably non-cumbersome, non-red tape way of getting the message across.

Mr FRASER: It is incredibly straightforward. I will just add a little bit to that. One of the things we have tried to get the RTA to do—and we have done this twice—is to get them to issue a little brochure or something like that; once a person turns 80 and they get their licence renewal every year, to send them a little brochure saying, "Have you thought about using scooters." It does not mean stop driving a car but basically for local travel, why use a car when you can use your scooter because a car takes just as long to get to the shops by the time you walk from the car park to the shops than it does using a scooter. We have tried to get the RTA to include a small little brochure which does not identify us as a company, just a generic brochure that says, "Have you considered scooters as an alternative to the car?" when they are doing their licence renewal from the age of 80 onwards.

Mr RYAN PARK: What did they say?

Mr FRASER: They have knocked us back twice. The Queensland Government did it and they used our company to do it so they actually used our company and they allowed us—which was a real surprise—to put our name on the brochure; we did not even ask for that. We were not actually trying to market it.

Mr RYAN PARK: That is a bonus.

Mr FRASER: We were just saying, "Look, it's a really good idea for people to see that there is another alternative to a motor car for you just doing local transport. For us just getting the RTA to do that would be a really smart move because from a safety point of view a lot of these accidents happen with people going to and from the shops in their car. I have actually seen it. Our shop is in Lane Cove and I used to live in Lane Cove. I saw a person get into a car, panic and put their foot on the accelerator instead of the brake. They were in reverse, they went across a pedestrian crossing—no-one was on the pedestrian crossing at the time—and smacked into the TAB in Lane Cove right opposite the post office and this is what sometimes happens.

Instead of putting the foot on the brake, put it on the accelerator, did a big wheelie, blue smoke everywhere, screamed backwards across the pedestrian crossing and ploughed into the TAB.

There are issues about people using cars locally and we do not want to take peoples licences away or anything like that. That is a really bad thing to do. My dad was driving until he was 85 and we would not have wanted to stop him driving but it is safer to get on a scooter; there is no doubt about it.

Mr RYAN PARK: Especially for the bulk of the trips that they generally do?

Mr FRASER: Little trips of two to three kilometres.

Mr JOHN WILLIAMS: I would like to talk about two points. First, I would have thought—and correct me if I am wrong—but when someone is going to make a purchase of one of these mobility scooters, one of the prerequisites is that they have a doctor's certificate that says that they should have one because of their lack of mobility. Is that something you abide by?

Mr FRASER: No, we do not. We trust the person who is going to buy the scooter that they are competent enough to use it. The numbers of times there have been any kind of problem in that respect has been so small I can count them on one hand after 20 years of being in the business.

There have been a couple of instances where someone probably should not have got a scooter or deteriorated after they bought a scooter somewhere along the line, but there was definitely a person that I can remember in Wollongong who had this happen to them, about a year after they bought the scooter they ran through a plate-glass window and the children rang up and complained to us that we had sold them a scooter. But at the time the person was competent and it is very difficult to say, "No, you are not competent. We are not going to let you risk it".

In terms of medical stuff, they do that in Queensland and it is incredibly cumbersome. There is a whole process involved in doing it and it dissuades people from getting a scooter, that is the problem. They say, "I do not want to have to do that", or they are embarrassed about it. It is a really big emotional issue buying a scooter; it is not a simple thing like buying a car, there are a lot of emotional issues involved in buying a scooter. It is one of the last things you buy before you die— one of the last big items that you buy before you die. People find it very difficult emotionally to accept the fact that their mobility has declined and they kind of think, "I've got to get one of these things", and that is a really difficult emotional phase to go through, if you like. If you make it harder for them they just put it away and say, "No, I won't do that". It is a very disappointing thing for them.

Mr JOHN WILLIAMS: The other question relates to insurance. While you have not made it mandatory it is available, you can get third party insurance, which I think is one of the factors when we consider the use of these scooters. Take, for example, a young child not cognisant with the rules of the footpath or the road, who happens to collide with one of these—150 kilograms with a driver. It could result in a major injury to the child and we are in a situation where there is no financial support for their remediation.

Mr FRASER: There is one company in Australia that does insurance for scooters. It is a terrific company based in Melbourne. It costs about \$100, \$120 a year; it is comprehensive and liability, so it covers accident, theft and liability to \$20 million. It is a good policy. We encourage all of our customers to use it if they want to spend the extra \$100, \$120, that kind of thing. I think it is a very good idea. My personal view is that it is a very good idea to take out that kind of insurance because it is cheap, it covers you for accidents, damage to your vehicle—if you crash it you can get it repaired, it covers theft and it covers liability.

Mr JOHN WILLIAMS: Would you consider that if the Government made that mandatory it would be a good move?

Mr FRASER: Our company would not oppose that because I think it is a small addition to the price and it is a smart move.

Mr DARREN WEBBER: Just on that point, what is the typical cost of a mobility scooter?

Mr FRASER: Most people would spend around \$3,000.

Mr DARREN WEBBER: So it is not significant on top of the total cost.

CHAIR: What was the name of that company you mentioned that you are aware of in Melbourne? If you could supply that to us we would be interested not only in the cost that you outlined but also in any data that they might be willing to supply us.

Mr FRASER: Off the top of my head I cannot remember. They are a Melbourne-based company. It is a brokerage actually and I think they are the QBE, but I am not sure.

Mr STUART AYRES: Do you think there are scooters that are being used for non-therapeutic purposes?

Mr FRASER: Are there?

Mr STUART AYRES: I am asking you.

Mr FRASER: Extremely rarely. Over the years we have had a few DUI people—young guys, DUI, wanting to get to work, "Can I have a scooter?" When they find out it only does eight or 10 kilometres an hour they say, "Forget it". We have had accident victims, like people who have broken their leg and just need temporary transport; we have had customers like that. There are some factories, some commercial operations where they are in a very big factory area and they want to get their staff around, security guards getting around factory areas—less than 1 per cent.

Mr STUART AYRES: As an extension to that, if you looked at the TGA as a mechanism for the GST not being charged on scooters—and you spoke about the importation of scooters that are outside of the existing guidelines but are still being sold, and obviously sold without a 10 per cent GST—do you think there could be an opportunity for the introduction of the GST on these products and then have that GST rebated for people who have them registered?

Mr FRASER: You could do that but I think there is a much easier way to do it to stop this happening. The easiest way to stop this happening is when you get registration with TGA you get a number—each product has a number which means it is TGA-registered. If that number was put on customs documents and customs would not allow something into the country without that number on it, it stops it overnight. So that on the documentation that customs receive for the importation of that container if it is a GST-free product there has to be a TGA number on the documentation and if the TGA number is not on the documentation it does not get imported into the country. That is the simplest way to do it.

Mr STUART AYRES: I suppose you could extend that to the point of sale to allow the product to be registered when it was sold as well.

Mr FRASER: Yes, you could do that. That would be another way of doing it. So it has to have a TGA registration number on it in order to get registered. But I am saying the simplest way to stop

them coming into the country in the first place is for customs not to allow them to come in if they do not have that TGA number on the documentation.

Mr STUART AYRES: So you could kill two birds with one stone.

Mr FRASER: Yes.

The Hon. WALT SECORD: Back to your example. You said you had several examples of people who had DUI convictions. Are there any cases of loopholes where you could actually use a mobility scooter in lieu of a motorcycle or a car if you, in fact, souped it up?

Mr FRASER: You cannot soup them up, that is the whole thing.

The Hon. WALT SECORD: It is impossible to soup them up?

Mr FRASER: You cannot soup them up unless you pull the electric motor out and put a petrol motor in there. There is a video of a guy in England who has done that; he has got the world record and he has done about 70 miles an hour on a scooter.

The Hon. WALT SECORD: On a mobility scooter?

Mr FRASER: Yes. He pulled everything out and put a whipper snipper motor in it and he was racing around on some ice. But the problem is this: they have two 12-volt batteries, so they are a 24-volt system; the motor does a maximum 24 volts, that is the maximum that will come through it; the only way you can get more speed out of it—and the 24 volts determines the maximum speed, so if the scooter is a 12 kilometre-an-hour scooter, when you are going at 12 kilometres an hour the motor will be pulling 24 volts out of the batteries and that is the maximum you can get. That is how the speed is regulated; it is regulated by the voltage, and that is why I am saying if you say, "We are going to have a maximum of 10, not 12", which is what the rest of the world has, it makes it difficult for the manufacturer then to get that 10 kilometres an hour right without changing the gearbox, and that starts costing money.

But at 24 volts that is the maximum you can do. The only way you could get that to go faster would be to make a 36-volt or a 48-volt and the problem with that is the motors will not handle anything more than about 30 volts, they will just seize because they are not designed to take anything more than 24 volts because they are revving too high then. So even if you tried to soup them up I doubt whether you would get much more than about 15, 20—you would not even get 20 kilometres out of them.

The Hon. WALT SECORD: You would not get 20?

Mr FRASER: You would get 15 maybe, but that means you have got to carry more batteries around and wire it all up and you have got to bypass the electronics, which is not an easy thing to do.

The Hon. WALT SECORD: So in your opinion it is impossible to—

Mr FRASER: It is extremely difficult. It is just not worth it. These young guys—there might be one a year or two a year who think, "I've lost my licence, how am I going to get to work? What about one of those?" But they give it away straightaway; as soon as they find out they do 10 kilometres an hour they just say they will find some other solution.

CHAIR: If I could just pick up on that particular theme. I was interested to see the Sportrider variety, which of course is the macho man's version of a mobility scooter.

The Hon. WALT SECORD: Now that is souped up.

Mr FRASER: What is its claiming speed?

CHAIR: It does say up to 15 kilometres per hour. I did ask about it and they said obviously they are limited to 10 but can be dialled up to 15 if it is for off-road use and on farms or something like that, but absolutely not otherwise. But I do notice that the total weight is 188.5 kilograms. That would obviously be in excess of 110.

Mr FRASER: That is one of the bigger ones.

The Hon. WALT SECORD: How many a year would you sell of those?

Mr FRASER: Of that particular one?

The Hon. WALT SECORD: Yes.

Mr FRASER: Our company is not the importer of that product. Our company might sell 50, maybe 100.

The Hon. WALT SECORD: What kind of a person would buy it? It is like a Harley.

Mr FRASER: It looks like a Harley, yes—and that is exactly the sort of person who buys it: they are men who have lost their licence. You can bet your bottom dollar 90 per cent of the people that buy that particular product are men who have lost their licence and there is that emotional issue that I was talking about. So if you can make it easy for them to get into something that does not look like a granny scooter—and that is what they actually say, they say, "I don't want a granny scooter"; that is what they say on the phone, "I don't want a granny scooter. Give me something else", and that is the sort of product we would sell them. We have got a couple like that.

The Hon. WALT SECORD: How much would they retail for?

Mr FRASER: That is about \$6,500, that kind of thing, that particular model. That is a very good scooter.

The Hon. WALT SECORD: It looks very attractive.

Mr FRASER: But there is one other issue that you ought to consider, I think, and that is the issue of dual-seat scooters, because at the moment it is only legal to have a single-seat scooter. I will give you a story on this. We do sell dual-seat scooters—not many, maybe 20 a year, that kind of thing—and they are very specific, a husband and wife team normally, and it is usually because both have got some sort of disability or the husband who had the car licence no longer has a car licence and the wife never got a car licence so they are stuck. But here is a really good example: About 10 years ago we had a customer buy one of those, the predecessor to that, the guy was in his mid-90s and he specified he had to have a twin-seat scooter. He lived out Liverpool way. We said, "Why do you want a twin-seat scooter?" He said, "I have a disabled daughter who is in her 70s and I have to get her to the doctor". The only way he could get his disabled daughter, that he had looked after all

his life— and he is in his 90s—to the doctor was a dual-seat scooter. It is an issue because they are not legal.

The Hon. WALT SECORD: What improvements need to be made in that area involving dual-seat scooters?

Mr FRASER: I think as long as you keep the weight at a certain level and you say, "We cannot have a tare weight more than, say, 150 kilos", so you have got to have a restriction on the weight and the speed and if you say, "No more than this weight, no more than this speed", twin-seaters are okay. There is not a huge market; it is a small market—probably less than 5 per cent of our market would be twin-seaters, but there are times when people need them. There are quite a lot of twin-seaters down in the war vets home down in Narrabeen, for example, and they only use them internally but they are using them because there are two living together and how do you get around if you do not have a car?

Mr JOHN WILLIAMS: How are they arranged? Are they tandem?

Mr FRASER: Tandem—next to each other.

Mr JOHN WILLIAMS: Side by side.

Mr FRASER: Yes.

Mr JOHN WILLIAMS: So that makes them a fair bit wider?

Mr FRASER: Yes. There are various things that the manufacturers have done like they have put extra-wide wheels on them, big, wide wheels on the sides to give them more stability because stability is the issue of course.

CHAIR: Moving away from the specifications if we could, the submission that you gave us advocates a greater role for local government in the provision of infrastructure, education and public awareness. Should greater local government involvement in mobility scooter safety be administered through the traffic safety committees and by road safety officers or do you have other views of how this could be achieved?

Mr FRASER: If the local council does have a safety committee, they are great. We have dealt with Lane Cove Council a lot and they have a safety committee and they are a really active safety committee. Where I live now there is no safety committee, so there is absolutely no attention being paid to infrastructure whatsoever. In our submission we have said that the most important thing to protect people's safety is to give them an alternative to the motorcar; the second most important thing is if they are going to ride a scooter the footpaths have got to be fixed up—the footpaths are dreadful. Like Ku-ring-gai is a shocking place to try and own a scooter; you have just got to ride on the road in places in Ku-ring-gai because there are simply no footpaths.

The Hon. WALT SECORD: Are people being hurt because of this? Are they toppling over?

Mr FRASER: Yes. Where accidents happen it is usually the road-footpath interface where the ramp is not done properly: it is not wide enough, it is not carefully thought out before they put the ramp in. This is why I sing the praises of Lane Cove Council, because they have a good committee, they have consulted with us and with people in the community and when they design a ramp to go from the footpath onto the road they design it in a specific way to make it safe. But a lot of the

accidents happen exactly there—they are too narrow, they are too steep, they are badly designed and people try to get up them and then flip the thing over because they just have not been designed well.

It is crucial to get the ramps right, to get the interface between the road and the footpath right—that is really critical. Just decent footpaths that do not have tree roots growing up in the middle of them and huge bumps and potholes and stuff like that. All you have to do is drive around Ku-ring-gai and walk on their footpaths and you will see what a bad situation it is up there, and then compare that with Lane Cove Council where they have been proactive about footpaths for 20 years and it is a really good place, and it shows because the number of people using scooters in Lane Cove compared with Ku-ring-gai is hugely different.

The Hon. WALT SECORD: Would you say Warringah is one of the worst?

Mr FRASER: From my experience of living in Sydney all my life, yes, but plenty of places have not looked after their infrastructure at all.

CHAIR: It is a theme we pick up on in many of the submissions, the necessity for footpaths to be wide and smooth and have those ramps. Just to finish, you mentioned that people sometimes have no alternative but to ride on the roads. Have you seen examples of people riding in the midst of the traffic as opposed to the edge, because I have?

Mr FRASER: No. I did hear a story once of someone doing that but I have never actually seen that.

CHAIR: What concerns me is the capacity for some older people to believe they have the right to do so. I have seen it and it holds up the traffic. I wonder if that is prevalent or that was an exception?

Mr FRASER: It is not prevalent but you are right, some people think that once they get a scooter they can use it anywhere. That is an education issue. They need to be educated that this is not the case.

CHAIR: Yes, and these are the things we want to pick up on.

Mr DARREN WEBBER: It is worryingly regular on the Central Coast, when you come to a roundabout or an intersection.

Mr FRASER: If you had a registration process, that could take care of that because you could send them the rules of the road in the registration process. Then they would be made much more aware of what the rules are in relation to it.

CHAIR: We will be sending you some additional questions in due course.

Mr FRASER: Thank you.

(The witness withdrew)

GUY JOHN STANFORD, Motorcycle Council of NSW Inc., affirmed and examined:

CHRISTOPHER JAMES BURNS, Motorcycle Council of NSW Inc, Dirt Bike Subcommittee, sworn and examined:

CHAIR: Your evidence is given under parliamentary privilege. You are protected from legal or administrative action that might otherwise result from the information you provide. Any deliberate misleading of the Committee may constitute a contempt of Parliament and an offence under the Parliamentary Evidence Act 1901. Time is limited, so the Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr STANFORD: Indeed. I should add that the two committees I chair on the Australian Motorcycle Council are for motorcycle helmets and all-terrain vehicles.

CHAIR: Would you like to make a brief opening statement?

Mr STANFORD: Yes. We certainly appreciate the opportunity to give the Committee some information in relation to unregistered vehicles on road. Our concerns initially were in relation to all-terrain vehicles because there has been a lot of press and a very confused situation as to whether the situation on farms is relevant to the recreational use of all-terrain vehicles in particular. We have had an ongoing problem with data in being able to identify the types of vehicles, the locations of use and the types of injuries sustained in relation to off-road injuries. In general, off-road is pretty much ignored by just about every agency going. While we have some good data from on-road collection, there is a tendency for road authorities to throw overboard anything that does not fit into the road related area category. As a result, we get some distorted statistics.

One of those distortions is created by having all-terrain vehicles and off-road motorcycles combined together. They are different vehicles and behave differently. While it is possible to obtain conditional registration for an all-terrain vehicle for use on road under certain conditions, in New South Wales the Roads and Traffic Authority requires a car driver licence for that vehicle. This is quite distinct from recreational registration where most people who move to all-terrain vehicles come there from motorcycles, so they have had a considerable amount of experience with an active rider-type vehicle where you rely on body movements and multiple hand controls to control the vehicle.

The only other aspects we would say anecdotally are that we do get some stories from riders who have come across personal mobility vehicles in the middle of the street. They do not present any more problems than say a pedicab, those pedal-driven mobile roadblocks that we see, and every now and again we have a problem of finding one of those mobility scooters stuck on the roadway trying to get up onto the footpath somewhere. These are just the normal sorts of interruptions we find in travelling around on the road.

CHAIR: You mentioned the all-terrain vehicles in your opening remarks. I want to draw your attention to the Transport and Road Safety Research Unit at the University of New South Wales which made an observation that the term all-terrain vehicles in describing a quad bike is misleading as it promotes the perception that it is safe to traverse all terrains in such a vehicle. Do you think it gives a false impression as to where those vehicles can be used? What is your perception as a result?

Mr STANFORD: Not really. They are incredibly useful machines, for all sorts of things you can do. You can carry extra stuff on them. Farmers have taken to them like a duck to water because they are incredibly useful. I think it has gone a little bit outside of the frame and there is certainly a particular issue on farms because in that on-farm use—the reason they are so useful, they are narrow so they will go through very narrow gate areas. They are incredibly manoeuvrable. They also have a short wheelbase, so they do not bottom out over trenches and things in uneven terrain. If you get a longer wheelbase vehicle, for the same reason you cannot drive an ordinary Ford Falcon or Audi across a ploughed paddock, but you can get across that paddock on a vehicle that has a higher ground clearance. This is probably one of the biggest features of them. When you say all-terrain, yes they are pretty good at getting across a lot of terrain.

Mr BURNS: The basic design of all-terrain vehicles is probably a generic term. Even the two-wheel drive has the equivalent of what they call a lock differential in the back, so you can drive with two rear wheels whereas the standard vehicle will only drive on one wheel and as soon as one slips they lose traction altogether whereas an all-terrain vehicle will not because it is equivalent to a locked diff[erential] vehicle. A lot of them come out in four-wheel drive. The tyres they use are particularly designed for off-road vehicles. All-terrain vehicles are pretty good at getting to places others will not.

CHAIR: Can we move on to your views on the use, safety and status of trail bikes and whether your membership has concerns about their use and whether you know of any particular training for users and particularly for young riders?

Mr STANFORD: This is a big issue. One of the biggest issues is there is nowhere to ride them. As we have seen, with the front of urban settlement moving out, we are seeing all those places where people could ride them without causing interference to others. They are now turning up in local parks and industrial wasteland that has all sorts of things waiting to catch people out like lumps of steel under long grass, and things like that. There is a wide range of specific issues. Our big message here is that if there were places where the use of trail bikes can be managed, and this means managed ecologically as well as being managed in terms of people accessing those areas, I think we would see a lot of these problems disappear. It is simply that they have nowhere to go, they are pretty much hated by every agency going. The Environment Protection Authority goes after them for noise; residents go after them for noise. For those people who have a little bit of parkland over the back fence, people want to use them on the weekends just at the same time as these people would like to have a quiet Sunday afternoon nap. There is a lot of conflict with this.

Mr BURNS: The Department of Premier and Cabinet instigated a Hunter illegal trail working group to address or at least investigate and then try to address the issues with illegal trail riding in the Hunter area, which is at epidemic proportions. The report was prepared by Inspector David Robinson and which was handed to the previous Labor Government at the time. He detailed solutions on how to reduce illegal trail bike usage, not just in the Hunter area but across the State as part of an all agency approach to this and based very much on the Victorian recreational registration scheme, which acknowledges several key areas, including non-participants on the registration scheme, getting them registered, the benefits of tourism and generally promoting riding areas and giving young riders somewhere to ride where it is managed, safe and where they can get access to training. I have copies of the draft report.

Mr STANFORD: I have one copy here. We only thought about this at the last minute and did not prepare a number of copies. I am happy to table that and provide you with electronic copies

Mr BURNS: I have five copies of it and we can provide electronic copies. As I said, a fair amount of work was put into it by Inspector Dave Robinson of the NSW Police Force, who flew down to Victoria, did extensive work with the Victorians, came back and reported to the Hunter Illegal Trail Riding Group and I believe it is sitting in the Department of Premier and Cabinet at the moment. It has not progressed much since 2011.

The Hon. WALT SECORD: Are there places in New South Wales where you can do trail bike riding at the moment?

Mr BURNS: There are but they are incredibly limited. Local councils put up barriers to development applications. For instance a development application was put in recently for Tugalong Farm Station to allow trail bike riding in the Wingecarribee shire. It is noted in the minutes of the Wingecarribee Shire Council meeting that one of the reasons for rejecting this was because the consultant who assisted with putting the development application together did not have enough practical experience in the hearing loss of native fauna. That was one of the reasons for rejecting the development application.

As you can see, people are up against some interesting concepts when they are trying to get trail riding areas set up, whereas again the Victorians have embraced it. Dargo is a major tourism centre at the moment for off-road trail riding. The town was incredibly quiet for some time and on the verge of dying. Victorian tourism started promoting it. Now they are renting bikes and the place is full every weekend. There are people everywhere.

The Hon. WALT SECORD: How many trail bike riders are there in New South Wales?

Mr STANFORD: If you look at the number of registered motorcycles and double it that will give you a feel for the exact numbers.

Mr BURNS: There are 187,000 registered motorbikes in New South Wales at the moment. Of the top 10 fastest-selling motorcycles, seven of them are off-road bikes. Of those I believe five are non-Australian Design Rules compliant bikes. There are a lot of people buying bikes that they will not register and then finding they have got nowhere to ride so they are then riding on State forest areas, et cetera. If we brought in something like recreational registration they would then be encouraged to register their bikes, be part of a managed system and also pay into the green slip system.

The Hon. WALT SECORD: At the moment there is no registration of trail bikes. Nothing is to stop me from going out there and buying one and going through the bush on it?

Mr BURNS: No, nothing.

Mr STANFORD: That is correct.

Mr DARREN WEBBER: Your submission refers to the lack of education and training for the users of all-terrain vehicles due to their status that they cannot be used on roads, with the exception of conditional registration when intended for agricultural use. Can you expand on the training provided when an all-terrain vehicle [ATV] is used for agricultural use?

Mr STANFORD: WorkCover are encouraging the take-up of training. Most of the motorcycle manufacturers will provide the purchaser of an ATV with a guide to where they can seek training. There are various regional providers. It is a bit hit-and-miss; not every area is covered. Certainly as you get closer to the bigger population centres you will find that there is enough business to support

that training activity. Sometimes that training is done as an adjunct to the motorcycle dealership. Actually, in a lot of cases ATVs are not necessarily sold in motorcycle dealerships but sold through tractor dealerships. The question there is whether the particular framework of the business which has the agency for the ATVs has those people who have performed that training and obtained the necessary qualifications. It is hit-and-miss.

Mr DARREN WEBBER: Is the model sufficient to be used outside of agricultural purposes? Could it be used across the board?

Mr STANFORD: The basic core curriculum is the same, because you are concerning yourself with the control of the vehicle. That is what it is all about. They do have some interesting quirks. They have a relatively narrow wheelbase, which means using them on cross-slopes becomes a bit of a problem. Or if you are trying to climb something that is too steep you do need to control the use of the throttle, because on the more powerful ones in, say, a farm situation where there is a bit of a load on the back you can flip them over backwards. Yes, there are definitely some training issues that are quite specific to them, but really for most people who are reasonably competent—I am sure that everybody here could be trained to use one safely in a couple of days.

Mr DARREN WEBBER: This morning we heard about the issue of lack of roll bars on ATVs. Do you have a view on that?

Mr STANFORD: Roll bars are a contentious issue. There has been a lot of work in the United States by the motorcycle manufacturers in relation to roll bars. In one aspect it says that the roll bar there will tend to capture the rider into the crash and actually increase the number of injuries. The alternate argument says that if you put the roll bar there it limits the roll over to 90 degrees, in the same way that the roll over protection structure [ROPS] bars on a tractor or a road roller do so that they do not keep tumbling down the hill and fall onto people.

The farm use situation clearly has some issues because they are mostly very low speed crashes. We think that with recreational riding they tend to be scooting around a little bit quicker. Should the thing tip over, they tend to be thrown a bit further away. Also recreational riders are pretty good about wearing protective gear. There is pretty much all helmet use. If you have seen body armour for motocross riders, it is pretty comprehensive stuff, from knee braces, proper boots, proper gloves, and elbow, shoulder, and chest protection and things like that. We think that has probably got a lot to do with the difference between the two populations. It is very difficult for us to look at what is happening on farm and say that this is the same as what is happening off road for recreational users. It is a very different picture.

Mr BURNS: I think there was one statistic around that if helmets were enforced on quad bikes they would reduce critical injuries by about 30 per cent. There are a couple of issues which are practical issues with roll over protection on ATVs. If you have got an ATV travelling along and you suddenly put a big hoop over the top of it and you go under a low-hanging tree it is going to cause an accident. Secondly, as described, they are active rider types of machine. You have to move around. When you are going around a left-hand corner essentially the rider has to lean in and keep the weight on the inside. If you have got a cage around you and you are strapped into that cage you cannot lean, therefore there will be more of a tendency for the weight to throw outwards and they could cause as many crashers as they save.

Mr STANFORD: ROPS bars are normally only ever specified where the rider is seatbelted into place and their flailing limbs are contained within the frame of the roll over protection. With ATVs of

course, by the time you finish putting a cage on that you have not only destabilised the vehicle but made it so wide that it is useless in many agricultural situations.

Mr DARREN WEBBER: Do you have a view on being harnessed to the ATV by a seatbelt?

Mr STANFORD: I think that is a very bad idea.

Mr BURNS: Firstly, you cannot kick clear if you are harnessed to it. Secondly, if you are strapped in you lose the active component of controlling the machine via weight distribution.

Mr STANFORD: There are side-by-side vehicles. If you look at ATVs as a general class you will see there is a secondary type which is referred to as the side by side. This is where you have two seats side by side in the front. The vehicles are much broader, much wider on approach and they also have a much longer wheelbase. Those with a roll cage, I think there has been some discussion about being able to improve the safety of those by using nets, for example, to stop flailing limbs going outside the vehicle. Instead of using a basic seatbelt system, to use a four-point harness as is used in a racing car. But these are not at all relevant to the much narrower and shorter ATV. For example, I am originally from Griffith on a fruit farm down there. In Griffith you can use an ATV around there because you can get through the irrigation ditches, but the sides by sides, because of their extra length, they just bottom out and get bogged. There are pluses and minuses on all of these things.

Mr BURNS: Just to reiterate earlier comments, we need to be careful about not confusing farm and WorkCover accidents on ATVs and quad bikes with on-road accidents.

CHAIR: Yes, very clearly so.

Mr JOHN WILLIAMS: Obviously, the quality of these quad bikes and ATVs is a real concern. As an organisation does the Motorcycle Council of NSW look at some of the products that are imported?

Mr STANFORD: Yes, we have and have been very disappointed with some of the offerings. Most of the manufacturers who are represented through the Federal Chamber of Automotive Industries of Australia, or FCAI, in this area of ATVs bring in machines which comply with the United States standard, which has a number of classes depending on whether they are agricultural, recreational or for small kids. When we look at some of the unrestricted offerings coming out of Asia, some of those are particularly poor. They do not meet those United States standards. They certainly do not meet them on the emission standards. But on various parts of the componentry, the componentry is actually weak.

We have seen some of the very cheap little mini-bikes. I actually got on one but I could not ride it away because the moment I stood up on the foot pegs they broke off. You are right, there are some issues in terms of the quality. If we were to have a position on that, we have not got a declared position, we would certainly be looking at the United States standard, the American Society for Testing and Materials [ASTM] standard, for ATVs and saying that if it is not this we do not want it.

Mr JOHN WILLIAMS: Do you think that the United States standards are comprehensive enough for us to adopt to get compliance in Australia to ensure that these machines meet the quality standard?

Mr STANFORD: I would suggest that is the right direction to travel, but I would certainly encourage you to make contact with the ATV manager at the Federal Chamber of Automotive Industries, a fellow called Cameron Cuthill. Call him in and have a chat about that, because sometimes the manufacturers will have their international market and we have to recognise that something like 90 per cent of all the ATVs ever sold are in use in the United States. It is just a postage stamp of a market here. I think in order to ensure consistency it is important to talk to him.

Mr JOHN WILLIAMS: Is it necessary for a retailer of these products to be licensed?

Mr STANFORD: No, not specifically other than the normal business arrangements that one has to establish to set up any form of a business.

Mr JOHN WILLIAMS: Currently a motorcycle dealer is licensed and needs to comply with regulations set by the industry.

Mr STANFORD: That is probably a little bit more complex. I am not quite sure what form of licensing you are actually looking at here.

Mr JOHN WILLIAMS: The fact that when we do not have a licensed retailer he can obviously import whatever he likes in terms of the quality, the standard and the safety. From a consumer's point of view, you buy the product and the warranty is out once it is over the front kerb.

Mr STANFORD: That is right, and there was a little phase where some of these pit bikes were being sold in the local service station or out the back door of a hardware shop and things like that. We certainly do not feel that that is a good way to travel.

Mr BURNS: If they are not necessarily defined as a vehicle then you may not need a vehicle trader's licence for them, because they could be classified as farm agricultural machinery. But they would still be subject to the Department of Fair Trading, which is suitable and fit for purpose.

The Hon. WALT SECORD: You raised a concern in one of the submissions about cheap imports of small motorcycles. How small are motorcycles getting and what concerns do you have about that?

Mr BURNS: They can be as small as two foot long with a 50cc engine in them, what they call pit bikes or pit racers, and about 12 inches high. In the new talk that is about 60 centimetres long and about 30 centimetres high.

The Hon. WALT SECORD: How fast can you go on a vehicle like that?

Mr BURNS: I do not know, but I would not want to go very fast.

The Hon. WALT SECORD: But it is possible to achieve quite a speed on them?

Mr STANFORD: You would get 50 kilometres an hour out of them.

The Hon. WALT SECORD: Are they being imported into Australia?

Mr STANFORD: There was a surge of them, but the Australian Competition and Consumer Commission [ACCC] had a bit of a clamp down and that flow of them has reduced considerably. Most of the regular motorcycle manufacturers, such as the FCAI group, control their dealers very firmly

through franchise agreements. They are protecting their brand. When a dodgy product turns up that people go and buy, of course the people have a very unhappy experience. They break, they break down, things break off them and they cannot get parts.

The Hon. WALT SECORD: What would you do with a bike that small? What would you use it for?

Mr BURNS: There is a class of racing called pit bike racing, which is very popular in the United States and Europe. Essentially, they cordon off a car park area and they get permission and they race these things till the cows come home.

Mr STANFORD: And on go-cart tracks.

The Hon. WALT SECORD: How much do they retail for?

Mr BURNS: You could pick them up for as cheap as \$600 or \$700 in the early days for the really cheap ones.

Mr STANFORD: That is for the junky ones, but it is \$2,500 for the good quality ones.

The Hon. WALT SECORD: Are there many in New South Wales?

Mr STANFORD: No. Most of that was a bit of a fad. They have pretty much all broken and died. The only ones left really are those people who are involved in the discipline of racing. They are only using them on track at Motorcycling Australia controlled venues.

Mr RYAN PARK: I appreciate that you said education and training is available for agricultural use, but should that be mandatory as part of the purchase of ATVs at least in the first instance? I am not talking about a reissue. Obviously, an ATV it is a very different experience for a farmer used to driving a ute or whatever around the place because you talked about movement needed within a vehicle?

Mr STANFORD: Yes.

Mr RYAN PARK: Do you think that education and training should be part of a purchasing arrangement?

Mr STANFORD: I think that area certainly needs to be looked at closely. The question is whether WorkCover would make it conditional upon insurance of the business enterprise to ensure that the only people operating those vehicles had received training and did hold a current certificate. I think that is actually more the issue. A farm may have a whole family and the 18-year-old kid goes off. He gets the purchase because he has done the training, but everybody else gets to use it. You have that particular issue.

CHAIR: Of course, our main concern is the use of these vehicles on public roads.

Mr STANFORD: Yes.

CHAIR: We have touched on many uses. Frequently, quad bikes cross roads to get from one paddock to another. Let us leave that aside and concentrate on trail bikes. As local members, some concerns constituents raise with us are youngsters who would not be eligible for licences—as in a

normal driving licence—riding trail bikes to the nearest reserve or public land, which is off road. That would have come to your attention: How do you deal with that issue?

Mr STANFORD: It is a very difficult one for us to deal with because quite often what happens, as you are aware, is that a noise complaint is lodged and the next thing I am pulled over on the side of the road because the noise complaint is from just down the road from me. I am easy to find because I am a registered motor cycle.

CHAIR: That is exactly the problem.

Mr STANFORD: That is actually what happens. For the ordinary road-going, registered, insured and responsible motor cycle rider those noise problems bite us rather than actually having the problem dealt with. But as we said before, there is just nowhere for them to use them so they just go feral. They go everywhere—up the street, in the park, wherever—and it remains a problem. Until some provision is made for their use in a managed manner, I think the problem will be very difficult to police because of the feral nature of it.

CHAIR: Mr Stanford and Mr Burns, thank you very much for appearing before the Committee. We have a few more questions that we will send to you for replies in writing.

Mr STANFORD: Sure. Look forward to it. Thank you very much.

Mr BURNS: Thank you very much.

(The witnesses withdrew)

ANDREW JOHN STONE, Barrister, NSW Bar Association, affirmed and examined:

CHAIR: Thank you for attending this public hearing of the Joint Standing Committee on Road Safety on its inquiry into non-registered motor vehicles. In what capacity are you appearing?

Mr STONE: I am appearing as a member of the Common Law Committee of the NSW Bar Association.

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I point out also that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Unfortunately, time is always limited for these hearings and the Committee may wish to send you some additional questions in writing, the replies to which will form part of the evidence and be made public. Would you be happy to provide a written reply to any questions?

Mr STONE: Yes.

CHAIR: Before we proceed to questions, would you like to make a brief opening statement?

Mr STONE: I will, and it will be fairly brief. There are three points we would like to make. When I say "we", this is not just me appearing; it is the NSW Bar Association that stands behind me. I am not adopting the royal plural. The three points are these. First, motorised equipment that can move at speed is going to cause injury. In my practice I deal with people injured in accidents. I have done cases of accidents involving trail bikes, including deaths. I have been involved in cases involving mobility scooters, quad bikes and forklifts. They are all things that injure, and injure badly. The second point is that where there is injury, invariably, in some instances, there is going to be fault. It might be that the injured party is a pedestrian, a bush walker hit by a trail bike, a trail bike hit by another trail bike, people coming off quad bikes who were not properly supervised. I have done mobility scooter cases where they have run into or over other people and cases where mobility scooters have been hit by cars reversing out of driveways. Accidents happen. Where that does, you can expect there to be claims. That leads into the third point, which is that insurance is essential. If you do not have CTP insurance or public liability insurance, that ends up putting the owner of the vehicle's house or business on the line. It is really the insurance arrangements that we came here to talk about.

CHAIR: Thank you for your submission, which illustrated those points quite graphically. As you mentioned in your introductory remarks, your submission is primarily focussed on issues related to CTP and public liability insurance and the general complexities surrounding insurance arrangements applying to non-registered vehicles. Can you elaborate on the discrepancy between public liability and motor vehicle insurance, as identified in your submission?

Mr STONE: Yes. Until 1995, by and large, we had a seamless mesh between public liability and CTP. The CTP scheme covered anything that arose out of the use and operation of a motor vehicle. The standard exclusion clause in public liability policies was, "We cover everything except what is caused by the use and operation of a motor vehicle." There was a neat dividing line between the two. But in 1995 and ever since there have been restrictions in things that arise out of the use and operation of a motor vehicle as to what is covered by the CTP scheme. For example, it only covers what arises out of the driving of the vehicle, the vehicle running out of control or a collision with the vehicle. It also has to be a registered vehicle or it has to be a claim capable of being made

against the Nominal Defendant. At the same time there was not a matching change in public liability policies to say, "Well, we now cover, in effect, everything else. We will cover everything that isn't covered by the motor accident legislation." Some public liability policies still keep, "We exclude anything arising out of the use and operation of a motor vehicle" and that means things that arise out of the use and operation of a motor vehicle that are no longer covered by the CTP scheme fall into this gap.

Some of them have endeavoured to cover part of the gap, but not done so neatly or uniformly. I first went down to the Insurance Council a decade ago to talk to it about these issues from the 1995 amendments and the gap problem. Some insurers have responded, some have not. The difficulty is that the CTP insurers are all regulated through the Motor Accidents Authority. The public liability insurers, and there are a wide variety of them, have no such central regulation and, therefore, can all have their own separate exclusionary clause. A further complication is that for public liability insurance there are other general exclusions, one of which is usually illegality. For example, if a trail bike was covered by a public liability insurance policy in circumstances where it was not covered by the CTP scheme, it may nonetheless be that a public liability insurer would seek to deny indemnity of the householder using it on the basis that it was being used illegally. Almost all trail bikes are being used illegally unless they are on private property or Stockton Beach. That is just a start on the nature of the complexity of the problem.

CHAIR: Do you think the lack of adequate definition on what constitutes motorised vehicles has some bearing, given that mobility scooters, as one example, are categorised as pedestrians if they travel at less than 10 kilometres an hour? I add the following to that. I witnessed an individual on a mobility scooter travelling at less than 10 kilometres an hour on a public footpath with a trailer carrying what I would consider to be an excessive load with lengths of timber projecting out over the head of the driver without any warning devices. What is the nature of cover in that situation?

Mr STONE: It may be that it is covered by the Nominal Defendant scheme, which is an extension of the CTP scheme. The Nominal Defendant is a fund the Motor Accidents Authority collects to meet claims by unregistered vehicles. To claim against the Nominal Defendant it either has to be exempt from registration or capable of registration. Trail bikes are, arguably, capable of registration; the mobility scooter is exempt from registration—although I will come back to an exception to that in a moment. If they injure somebody they, arguably, have CTP protection through the Nominal Defendant scheme. Alternatively, they might be covered. If it was a business or a home owner with home and contents insurance and a public liability extension, they might have public liability insurance.

To show you the complexity of it: I spent two hours last night looking at a case involving a mobility scooter that has come around a corner and run into a worker up on a platform installing traffic lights, knocked the platform and knocked the worker off the platform. It involves a 90-year-old man. The first reports are that his scooter may be capable of going 15 kilometres an hour and may weigh 132 kilos rather than 110 kilos. That puts it outside the exempt from registration category. Arguably, that means that we—I act on behalf of the injured person—do not get to the Nominal Defendant, which may mean that we then consider whether this man has a home and contents policy or is he an impoverished aged pensioner. Do we then look at whether we can sue the people who sold him that bike? All I know is that I have a man with a badly busted arm after he got knocked off his platform. That case may well come down to arguments over speed and weight of the particular scooter concerned. Depending on that, there could be three or four different parties who might be responsible for this accident. That is complex.

CHAIR: The reality also is, as you mentioned in your submission, that people in that situation could face losing their home or their ability to pay for their residence in a retirement village.

Mr STONE: Exactly right. I do not think people have any idea of the risk in using this type of equipment. The other example we gave you in the submission really frightens me. Again, it was a case in which I was involved. Forklifts seemingly have to have two different forms of insurance. They need conditional insurance to cover when they are on a road or road-related area and that could include a factory driveway, and they need public liability insurance for use off the road or road-related area because the conditional registration they get from QBE under the CTP scheme is limited to the road or road-related area. I think we gave you two examples of where that goes wrong: one involving Flemington markets and another involving some people who used their forklift inside their factory, but for the three minutes it was out in their driveway and cost them several hundred thousand dollars. Certainly, I do not think there is anywhere near enough awareness of the need for that dual insurance on forklifts because of the demarcation line between road or road-related area and not.

Mr RYAN PARK: You would be aware that the Government's legislation about CTP insurance has stalled passing through the House for various reasons. Were the reforms you talked about and the changes you have been trying to get in place part of the package of changes to be brought through?

Mr STONE: No, the amending bill before the Parliament at the moment does not address any of these issues.

Mr RYAN PARK: What was the Government's reason for that?

Mr STONE: The Government did not share its reasons for that with me. It did not share its reasons for any of it with me.

Mr JOHN WILLIAMS: Looking particularly at the motorised vehicles that are being driven on the footpath, does the Bar Association see a big threat looming in the future with the use of these vehicles?

Mr STONE: In fairness I think the motocross motorbikes are the larger threat because they go faster and are used on trails, as the last witnesses said, getting to and from areas where to be frank they are by and large being ridden illegally on fire trails. I think that is the larger issue. The mobility scooters at 10 to 15 kilometres an hour do not cause a huge number of accidents but as you get an older population and more of them; as we help people live longer whilst they cope with a variety of illnesses and diseases that draw down on their riding capacity, you will see more of them.

Mr JOHN WILLIAMS: We had evidence provided to this Committee earlier from the retailer of these vehicles and he suggested that insurance was available. Would the Bar Association suggest to the Government that we should make it mandatory?

Mr STONE: Our position is that any motorised equipment of this nature that is taken out into the public domain, with the clear capacity of this type of equipment to cause injury, should carry insurance.

Mr DARREN WEBBER: Many of the submissions we have received highlight the current lack of adequate data collection to ascertain the current extent of the use of non-registered vehicles and their involvement in crash incidents. Do you think more comprehensive data collection on the use

and involvement of these vehicles in crash incidents would assist in developing a better insurance regime?

Mr STONE: Yes. You cannot underwrite that which you do not know the frequency and cost of. It is essential if you are going to move to better underwriting to have better data and one of the points the Government makes in its submission, and it is a good point, is that uncertainty of data means you need wider prudential margins in any insurance premium that you set. One of the things worth bearing in mind when you look at trying to insure these type of vehicles, and in particular the motocross motorbikes, is that regular road motorbikes are grossly over-represented in the Lifetime Care and Support scheme. As you would be aware that is the scheme that covers catastrophic injury. It takes in between 150 and 200 catastrophic victim injuries a year: paraplegic, quadriplegic and gross brain injuries.

Motorcycles on the regular road system comprise slightly less than 5 per cent of the vehicles but I gather close on, if not a little over, 25 per cent of those in the Lifetime Care and Support scheme are motorcycle riders—just because of the lack of protection around them. That creates particular challenges when you look to licensing motocross motorbikes. If you move towards a licensing and insurance system, it is not necessarily cheap insurance because although they may have relatively few accidents it only takes a couple of catastrophic accidents and the phenomenal cost of caring for people who have those sorts of gross injuries and your premiums get very expensive very quickly.

Mr DARREN WEBBER: Do you have any worthwhile suggestions for the other issues you have identified that you think the Committee would like to hear?

Mr STONE: We have put up four recommendations that are the starting point of education. This is a complex problem to solve. There is interplay between public liability and compulsory third party insurance and exactly what does the motorist, through the nominal defendant scheme, cover and what don't they cover? There is a starting point of education to make people who own this broad variety of equipment aware of the insurance that they need. I suspect it is not put in two-inch bold on the front of a conditional registration that you are not covered for your forklift on private property and you need separate public liability insurance to accompany it. Nor do they, when you buy a public liability insurance policy for any business, make clear that it may not cover you the moment your forklift nudges a tine outside the factory door. There is better education that can be taken at both ends.

For years I have been urging the Motor Accidents Authority to at least do the two-day job of going through the largest public liability insurers and looking at their exclusion clauses, comparing them and then writing to each of them saying, "Look, the one these guys have is much better than this one." I did that exercise when it came up 10 years ago and gave to the Motor Accidents Authority half a dozen examples of the differing exclusion clauses. Their answer was, "Well, we are the Motor Accidents Authority; we do not have to worry about public liability insurers." I said, "But you are the ones who have just withdrawn from the field creating a gap, take some moral obligation for it." Moral obligation did not get me very far.

CHAIR: Who do you think should take primary carriage of that education campaign?

Mr STONE: Part of the difficulty is that it is split between two agencies. You have the Motor Accidents Authority which is within the Finance Department and you have the general public liability insurance that is regulated federally through the Australian Securities and Investments Commission. Arguably the Attorney Generals' department could take carriage because those sorts of

accidents fall under the Civil Liability Act. Arguably it is a role the Finance ministry could coordinate as well. That is the first point, pick someone to take ownership.

The Hon. WALT SECORD: Earlier you responded to a question from Mr Ryan Park about compulsory third party insurance. Is there anything you would like to add to your comments about the Government's stalled compulsory third party reforms?

Mr STONE: There is a good deal I would like to add but that is probably for another committee. I have appeared on a number of occasions before the Standing Committee on Law and Justice as they have investigated the compulsory third party insurance scheme.

The Hon. WALT SECORD: I would be interested to hear.

CHAIR: Only if it is relevant to this particular inquiry.

Mr STONE: That is an invitation, as they say, to go off the reservation and I will restrain myself.

The Hon. WALT SECORD: Do you think the Government favours insurance companies over injured parties?

Mr STONE: I may well have a number of opinions about that.

The Hon. WALT SECORD: You are under privilege.

Mr STONE: I understand that. Let me say that I have been on various consulting committees and I have been talking to the Government about these issues and broader issues for years and we have had a long and constructive dialogue with the Motor Accidents Authority. The Bar Association's position, and it matches mine, is that we are disappointed with the proposed changes to the Motor Accidents Scheme and we have been perfectly frank in saying so and we put up an alternative suggestion. We thought the move to a no-fault system put undue strain on the Motor Accidents Scheme and we had question marks about where it was all going. They are concerns we have put on the record elsewhere.

The Hon. WALT SECORD: Do you think the balance is—

CHAIR: We are not talking about non-motorised non-registered vehicles.

The Hon. WALT SECORD: We have a rare opportunity with an expert in this field.

CHAIR: It is not within the terms of the inquiry. You can talk to the witness afterwards. Do you support the notion of conditional registration for certain categories of vehicles?

Mr STONE: Absolutely. The difficulty is that conditional registration, contrary to what a lot of people believe when they obtain conditional registration, only provides partial coverage. Normally a compulsory third party policy covers the vehicle no matter where it is, no matter what it is doing and no matter who is driving it. If it is stolen it is still covered by the compulsory third party policy. That is not the case with anything conditionally registered. It is only whilst it is on a road or road related area that it provides that coverage. That is an understandable and sensible restriction provided that everybody who has something that is conditionally registered understands that they need alternate public liability insurance for injury on private property.

CHAIR: Do you think that the categories should be broadened to encompass the new type of vehicles we do see such as mobility scooters being used on the roads?

Mr STONE: I think they need an insurance product; whether that is delivered through conditional registration or otherwise I think needs more study.

CHAIR: That is something we certainly intend to do. Do members have any further questions?

The Hon. WALT SECORD: I do but you will not allow me to ask them.

CHAIR: It has to be within the terms of reference for the inquiry.

The Hon. WALT SECORD: There is a bit of latitude. I would like to know Mr Stone's opinion: Does he think the Government favours insurance companies over injured parties?

CHAIR: I do not think the witness is obliged to answer that. If it was in relation to mobility scooters the Committee would be very interested, but they are not, at this stage registered.

Mr JOHN WILLIAMS: Evidence offered earlier today suggested that coverage for public liability for mobility scooters is up to \$20 million: Is that sufficient to cover it?

Mr STONE: That is certainly more than sufficient to cover it. There has only ever been one case in New South Wales where anyone has been awarded damages that exceeded that and that was the actor Jon Blake and he was in South Australia. That was reduced on appeal to about \$11 million. So \$20 million more than covers anything that has ever been awarded in New South Wales.

Mr JOHN WILLIAMS: Outside of the Committee making a decision about it the Bar Association would recommend to all owners of these motorised scooters that they should have public liability insurance?

Mr STONE: Yes, I recommend it to all owners. Although if I was giving truly frank and fearless advice I would say if you are a 90-year-old pensioner living in housing commission property and receiving nothing more than your pension, to be frank why spend the money because it is not as if you have any assets that can be sued. Speaking on behalf of somebody who has to act for the victims I would like it to be made mandatory so it is not an economic choice for people to choose not to insure. You have to remember that by and large the reason we have compensatory systems and why we have insurance is to look after people who get injured. That is a two-way street: It protects people who have assets who use the equipment and it protects victims. If you leave it as an economic choice you will have a large number of people who will make a poor choice either because they do not have the assets to otherwise pay for their hobby or because in most instances they want to believe that nothing bad will ever happen to them.

CHAIR: It was put to the Committee earlier that the initial cost of insurance could be built into the purchase price of a mobility scooter, but that avoids the questions of annual insurance renewals. Is there any way of having, in your view, a life-time cover or some other form of compulsory third party along the lines you are suggesting is necessary?

Mr STONE: It would only work if, in effect, there were sufficient new sales that it provided an income stream into a fund and everybody claimed against the fund. I certainly would not want to be put in the situation of acting for somebody who was injured of trying to find the insurer who wrote the premium five, 10, 15 or 20 years ago for a mobility scooter that has been through six hands and six sales on eBay over the intervening period. Whilst a number of mobility scooters are used by the young disabled you would have thought that there would be a group of them that would go through a high degree of turn-over because, to be frank, they are used by people in the last few years of their life as their mobility declines.

If you were starting to explore going down that path it would only work if everybody was contributing on the purchase price into a fund and that central fund met all claims against all of that class of vehicle. The hard part of that is that you have to collect enough money up front to cover future liabilities. I think that would be an underwriting challenge. One of the points of disappointment on my part personally, looking at the wide variety of people who have provided you with submissions, the Insurance Council of Australia and insurers were not amongst them. You received no feedback from the insurance industry about trying to expand insurance cover to this class of vehicles and to be frank they are people you need to hear from.

CHAIR: Thank you for raising your concerns and for your submissions. I want to conclude by reading onto *Hansard* one of your conclusions, which sums up what you have been telling us. Paragraph 39 states:

The interplay between CTP insurance, conditional registration and public liability insurance is complex. Nonetheless, it is clear that there are unsatisfactory gaps in current insurance arrangements.

I think you have talked to that particular theme very well today. Thank you for appearing before the Committee.

Mr STONE: Let me say that to the extent that we are the technical experts in insurance matters if the NSW Bar Association can be of further assistance to the Committee either formally or informally we are happy to provide whatever assistance we can.

(The witness withdrew)

CHRISTOPHER PAUL SPARKS, Executive Officer, Assistive Technology Suppliers Australasia, sworn and examined:

CHAIR: Good afternoon, Mr Sparks, and thank you for attending this public hearing of the Joint Standing Committee on Road Safety on its inquiry into non-registered motorised vehicles. I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Time is always limited; the Committee may wish to send you some additional questions in writing the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr SPARKS: Absolutely.

CHAIR: Thank you very much. Before we proceed with any questions would you like to make a brief opening statement?

Mr SPARKS: Firstly, I would like to thank the Committee for the chance to provide additional evidence today. Our association is basically an industry association that represents businesses, in the business of supplying assistive technology. Our members have a tremendous amount of expertise to do with the technology, the safe use, the set-up and the training of individuals who use products such as powered wheelchairs and electric mobility scooters. Your inquiry is clearly looking to issues of vehicles that are non-registrable and that, in our view, obviously includes mobility scooters and similarly electric wheelchairs.

We have a situation around Australia at the moment where the Australian Road Rules are clearly out of date with current technologies and need to be updated. We are aware that Austroads are looking at that but I think, as we all know, the Australian Road Rules are purely a template that will flow down hopefully to the States and I would encourage this Committee to consider looking at the amendments that need to be made that we have highlighted in our report governing assistive technologies under those Road Rules.

The key thing for us is that Australia is a very small part of the global market for these sorts of devices and highly specific laws governing them within the Australia context only will inevitably add cost, decrease competition and reduce choice to people with disability and older Australians, and that is really the basis that we put our submission in to the Committee.

CHAIR: Thank you very much. Your submission states that powered mobility devices must comply with the Therapeutic Goods Administration and the ACCC requirements. Do those requirements in any way restrict the range of devices that can be imported?

Mr SPARKS: Not really. The restriction tends to happen through, as I understand, the Department of Infrastructure regulations where they prohibit a device that is capable of doing more than 10 kilometres an hour from being imported as a wheelchair. Bringing something in as a wheelchair gives you certain benefits in duty and GST exemptions so it is a desirable way to import something. The problem with those laws is that there is a misunderstanding of the word "capable" because all of these devices now can be speed limited so nearly every device can be capable of doing more than 10 kilometres an hour but in fact it is speed limited by the importer or the suppliers to comply with State rules and regulations down to the 10 kilometres an hour limit.

The Hon. WALT SECORD: What would be a case where you would need a wheelchair that would go faster than 10 kilometres an hour?

Mr SPARKS: Someone who is in a hurry to get to the shops. I mean, we all jog; we all run. You have people who have lost their motor vehicle drivers licence and really they use their scooter as their one means of engaging in the community fully. We do not have any issue with the 10 kilometre per hour law at all.

The Hon. WALT SECORD: That was going to be my next question.

Mr SPARKS: It is understanding that word "capable".

CHAIR: Indeed. The Road Rules, as you say, do place that 10 kilometre an hour speed limit and the 110 kilogram weight limit on motorised wheelchairs and mobility scooters. The submission states on page 3 that these rules need to be brought into line with the needs of people with disability and the range of devices now available. Can you explain how the Road Rules then are failing to meet the needs of people with a disability and in what way those Road Rules are limiting their choices?

Mr SPARKS: Let me give you a "for instance". We polled our members who are the major importers and manufacturers of this equipment—some of them are multinationals—and the feedback we got in the electric wheelchair sphere is that close to 50 per cent or more of the devices, once they are fitted out with sealed-gel batteries, will weigh well over the 110 kilograms and many will weigh more than 150 kilograms. The devices have changed dramatically since the Australian Road Rules were first drafted. Back in the old days you basically got a folding wheelchair, put a couple of motors on it and a small battery pack and said, "Off you go".

Nowadays these devices are very sophisticated. They offer a great deal of flexibility for people with severe disabilities, tremendous programming options where in order to drive one, all you have to be able to do is nod your head and they can get an interface that will work with you. At the same time, with all the features and all the complexity, the weights have risen, so at the moment you have someone in Queensland, for instance, where 150 kilograms is the legitimate weight, if they cross the Tweed they are technically breaking the law acting as a pedestrian in New South Wales if their chair is more than 110 kilograms.

CHAIR: I drew this particular Sportsrider non-registered vehicle to people's attention earlier today because I was intrigued to see how the designs are adapting to current needs and no doubt there will be a great variety ahead of us. This particular one, which clearly appeals to the man who possibly has ridden a motorcycle in his younger days, has a maximum speed of up to 15 kilometres an hour although, as you say, it would be speed limited to 10 upon sale unless that person was using it in a private capacity away from any public road. It intrigues me that the weight of this one with the battery is 188.5 kilograms. From what you say that would be technically illegal to ride in New South Wales.

Mr SPARKS: They would not be considered as a pedestrian—

CHAIR: Exactly.

Mr SPARKS: —which creates all sorts of insurance issues for the intended user as well as clearly for any company that is supplying a device like that. My concern more is for the wheelchair

users with high needs and complex needs. You take a spastic quadriplegic, for example, who may rely on a ventilator. By the time you add the tilt and space and other mechanisms that they require and the appropriately sized battery pack, you could be looking at a wheelchair well in excess of 180 kilograms. Technically that person is not allowed outside their home in New South Wales and I think that is abominable.

CHAIR: Can you see any flow-on results of that in terms of insurance cover for someone who clearly, in the situation you have described, has no opportunity other than to carry those additional devices upon the non-registered vehicle, therefore putting it above the accepted weight limit? What are the insurance implications?

Mr SPARKS: I am no lawyer so I honestly cannot comment.

CHAIR: No, from practical experience though?

Mr SPARKS: I could envisage a situation where someone is injured as result of using that device quite inadvertently. People stumble every day. In my wheelchair I will take a tumble once a month when I judge a step poorly or corner at the wrong speed. There is always the chance of some sort of accident or injury. To me, if someone is using a device that is not compliant in a public place, then that really puts them at risk of being sued because their device is not legitimately being used as a pedestrian.

CHAIR: I take that on board.

The Hon. WALT SECORD: You mentioned earlier that you had concern about the Road Rules. Can you explain how current Road Rules in New South Wales fail or inhibit people with disabilities involving motorised wheelchairs?

Mr SPARKS: It purely relates to that 110 kilogram weight limit that the devices are subjected to. With such a massive proportion of them now being well in excess of that, you have basically got the vast majority of Australians who rely on electric wheelchairs technically breaking the law.

The Hon. WALT SECORD: Can you estimate how many in New South Wales would be in that category?

Mr SPARKS: Thousands. I do not know that there would be 10,000.

The Hon. WALT SECORD: That number would be growing over time with our ageing population?

Mr SPARKS: Yes.

The Hon. WALT SECORD: Have you had discussions with the State Government or the Minister for Roads about this issue?

Mr SPARKS: No, we have not.

The Hon. WALT SECORD: Have you approached him?

Mr SPARKS: No, we have not.

The Hon. WALT SECORD: You mentioned earlier that Australia is a very small global market. Because we have such a small market are there products not coming into Australia either because of restrictions or because of our small market that you would like to see here but because of current rules are not getting into Australia?

Mr SPARKS: There are definitely some products that are not coming in because of restrictions, in particular there are some specialist manufacturers who design devices which will be used on someone's private property for outdoor use, for example, my lifestyle. I live on a 12-acre block on the South Coast of New South Wales. There are some devices that would be ideal for me to use in and around my property but they are currently not available in Australia because the companies are concerned that they contravene some of these regulations.

The Hon. WALT SECORD: Are they all-terrain wheelchair kind of things?

Mr SPARKS: Yes, very much so. In fact, one of the most popular all-terrain devices is manufactured in Melbourne and is very successfully exported to the United States but just recently I have become aware of a couple of modifications to the Segway-type device that would dramatically change my lifestyle.

The Hon. WALT SECORD: So it would help country people?

Mr SPARKS: Tremendously, and also younger individuals. These devices open up opportunities for bushwalking, for accessing the beach in a way that has never been available by wheelchair users.

CHAIR: Can you describe some of these because this is of interest?

The Hon. WALT SECORD: I was going to say: if you could suggest to us devices or things that you would like us to recommend to the Minister to improve access for people with disabilities in country areas involving mobility, it would be very worthwhile.

Mr SPARKS: It would probably be best if I came back to you with a list of some devices.

CHAIR: If you could take that question on notice, it would be really interesting. I have noted overseas skiing devices, which would fall into the same category, for active outdoor use. It would be interesting to know what you would recommend here because I think we will be seeing additional devices in the future and we need to be aware of what they might be.

Mr SPARKS: Particularly the crossover where a device that is designed for generic abled bodied use and somebody sees the intersection, it often results in a very cost-effective solution for the person with the disability.

CHAIR: Do they come under the broad category of personal mobility devices?

Mr SPARKS: Yes.

CHAIR: One of the submissions did refer to those but unfortunately failed to tell us exactly what they were. I think they identified only mobility scooters, which we already know about, and Segways.

Mr JOHN WILLIAMS: Which is a stand-up device with two wheels?

CHAIR: Yes, but there would be additional ones.

The Hon. WALT SECORD: You mentioned earlier a Melbourne company that exports internationally but does not send to New South Wales?

Mr SPARKS: Yes they do. Their products comply but they are a four-wheel drive, all-terrain wheelchair.

The Hon. WALT SECORD: Four-wheel drive, all-terrain wheelchair.

Mr SPARKS: Yes, four independent motors. It is quite a bit of kit.

The Hon. WALT SECORD: We would be very interested in that.

Mr JOHN WILLIAMS: At this stage within your organisation the concerns are that the devices that you need to provide for permanently disabled people, we need to raise the limit on the weight category?

Mr SPARKS: Yes.

Mr JOHN WILLIAMS: Can we do this and virtually exclude all others or would you like all devices included?

Mr SPARKS: I am sorry, what do you mean by all devices?

Mr JOHN WILLIAMS: Some people suffer from purely a lack of mobility in regard to their ability to walk a distance so they get a motorised scooter.

Mr SPARKS: Yes.

Mr JOHN WILLIAMS: But for some of the people you represent they do not have a choice. If they want to be mobile they need a device because physically they are not even able to consider walking any distance as a consequence of that. Obviously for me there is a concern that a disabled person is exposed to liability through no fault of their own. The equipment that they need to mobilise themselves must be built to a certain category and consequently the weight exceeds the limit. So we as legislators have to consider making one non-compliant and one compliant. Would that be where you are heading?

Mr SPARKS: I think certainly at the Australian road rules level there needs to be a serious look at what is available and what are the risks. There are a couple of issues here. The equipment that is excessively heavy can be a risk to infrastructure, particularly public transport. At the moment there is a team working on the new public transport disability standards. We are contributing to that debate. There is concern that if you get a very large person and a very large wheelchair and they are trying to get on a bus with a wheelchair access ramp, it could damage the ramp. That is being looked at as a separate item.

Purely in the context of the road rules on safety, I fail to understand where the great concern is on products that would weigh, for example, 200 kilograms. They can all be programmed to be extremely gentle in their acceleration, they all have highly sophisticated braking systems, and the top speeds can be limited. So I do not see how that poses a safety risk. Yet here in New South Wales

we are stuck down at this 110 kilograms mode. Clearly from a business point of view, my concern is that our membership are stuck between a rock and a hard place. They are providing the products that have been recommended for their clients, generally by occupational therapists and other allied health professionals, yet technically they are in breach of the law in New South Wales.

The Hon. WALT SECORD: Do you know when the 110 kilograms limit was introduced?

Mr SPARKS: No I do not but it has been there for a very long time. Queensland did have the 110 and they just pushed up to 150, but again they are quite unclear on what that 150 is. It is almost as if there has been some back pedalling because they have realised that it was not enough. So they are saying, "No, that does not include the batteries." That to me is nonsensical. A pair of batteries can weigh 40 kilograms.

The Hon. WALT SECORD: Does anyone every get prosecuted for driving a vehicle over 110? Is it ever enforced?

Mr STUART AYRES: It is not the prosecution that is the problem. It is the litigious nature. If a person on a mobility scooter that is above the weight range is involved in an accident, they fall outside CTP and they fall into public liability and whether they have public liability then becomes a question.

Mr SPARKS: The other issue that is very real and becoming more of a problem for people with disabilities is that funding organisations such as Enable NSW in New South Wales have taken a long, hard look at Australian standards, therapeutic goods compliance, et cetera and they are saying that if your products do not comply with the rules and regulations that govern them, we will not fund them. I have had discussions with the people at Enable NSW on this in the New South Wales context because technically at the moment they are funding a whole stack of electric wheelchairs that do not comply with your road rules.

The Hon. WALT SECORD: What happens to someone who is in an accident then? Does it fall back onto you for selling it to them?

Mr SPARKS: To date we have no experience of it happening. It is an interesting thing, the relationship between the supplier of a complex mobility device and the client is often a strong one because there is a lot of understanding of needs and there is a lot of ongoing support that can be offered. We have never seen any evidence of it.

The Hon. WALT SECORD: With one of your vehicles, how long would it be with a particular person? Is there a high turnover rate? Is there a second-hand market?

Mr SPARKS: There are two very different marketplaces. There is the disability marketplace and the aged care marketplace. The aged care marketplace is predominantly a scooter-based area and mobility scooters turn over with some regularity. There is a definite second-hand market, which is both private and through resellers. In the disability market generally the device stays with the person unless they die or their condition gets significantly worse for its useful life. Depending on how you treat your wheelchair that can be anything from a very aggressive user who travels a lot internationally, et cetera; they might struggle to get more than three or four years out of a chair. Someone who lives quite a sedentary lifestyle could expect eight or nine years out of a wheelchair easily.

Mr STUART AYRES: It seems to me that the primary focus of your recommendation is essentially identifying that the New South Wales weight limitation is out of date and needs to be upgraded and probably upgraded significantly. You touched on Queensland before, which was essentially where my mind was sticking to around whether you have a base load weight and then attach or allow for other things to go on it. I think the battery is not one I would be thinking about. Basically, a chair without batteries is not really a chair at all—at least not one that moves. You have indicated 250 kilograms in your submission. Do you think that covers the broad range or is that you thinking that that is future proofing the weight recommendation?

Mr SPARKS: The feedback I get from our membership is that the sort of individual who would require that weight of chair is likely to be extremely obese and have a lot of other complicating factors, so there are a lot of technological add-ons that contribute to the weight of the wheelchair. It would be a very extraordinary device that would be more than 250 kilograms. It would generally be something for private use on a property. There are some very large all-terrain wheelchairs available in the US that look more like small military vehicles, but that is very exceptional.

Mr STUART AYRES: From a registration perspective, I am not sure how familiar you are with the situation in the United Kingdom where they have essentially a series of vehicles that are non-registered and once you tick over a weight and speed range you then go into a non-cost registry environment. Is that something you could see some benefit for us from a data collection point of view also being able to support local governments in making sure they have a clear idea of who is living in their areas?

Mr SPARKS: I certainly think there is some value from the data collection perspective. It was interesting, though, I participated in a recent workshop in Queensland run by Austroads looking at the Australian road rules and specifically the issue of motorised mobility devices. They had representatives from New South Wales, Queensland, some motor vehicle safety experts, occupation therapists—it was quite a broad group of experts. It was interesting to me because Queensland is the one State where you register your electric wheelchair or scooter. It is no cost. They will not register it if there is anything on the marketing information that says it is more than 150 kilograms, so that is a kind of strike out there.

But the fellow from the Queensland Department of Road Safety was quite adamant that if he had his way he would get rid of the registration scheme because he felt it added no value; it just added cost to both government and the user in terms of inconvenience. The thing is that, as a result, they have third party insurance in Queensland, which I would have thought would be a good thing. One of my friends has experience of a staff member who was knocked over in a shopping centre by someone on a mobility scooter and suffered a broken hip and had no real recourse.

Mr STUART AYRES: That appears to be one of the benefits that exists around walking down a possible registration path outside the obvious data collection, which I suppose over the longer term becomes questionable in its own right. One of the benefits to the user would be the fact that they could be included in a broader CTP scheme.

Mr SPARKS: The gentleman from Queensland made the point that there is no compliance checking on this. With your motor vehicle you have a registration plate. The police nowadays have all the automatic software that identifies registrations and grabs you if your vehicle is unregistered, et cetera. There is no compliance checking in Queensland. Basically, once you have your device registered, it is registered. You can on-sell it to whomever your choose, if it is a wholly owned private device, and that is where it sort of falls off the visibility if you will.

The Hon. WALT SECORD: On balance, do you support or object to a registration system?

Mr SPARKS: Our association does not have a view on that. If there was a registration scheme that is required, as it is in Queensland, we are very happy to comply with that. We do not see it as particularly burdensome.

The Hon. WALT SECORD: So you do not have strong views on that?

Mr SPARKS: No.

Mr DARREN WEBBER: Do you consider the 10 kilometre speed limit appropriate, taking into consideration the 12 kilometres in the United Kingdom?

Mr SPARKS: That is an interesting question. I believe that one of the Queensland Ministers has just agreed that untrained able-bodied individuals can use Segways up to 12 kilometres an hour in tourist areas, yet some poor sod in a power wheelchair cannot do more than 10 or he is in trouble. There is no safe speed. If someone doing three kilometres an hour in a mobility scooter bumps into a six-month-old baby on the ground there will be problems; there will be negative outcomes. Likewise, I routinely as a younger and somewhat fitter man would zip around in my manual wheelchair at speeds of 12 to 15 kilometres an hour quite safely. I do not do that now. It would not be that safe.

The road safety experts we have spoken to argue that the greatest risk is posed where there is an inconsistency in speeds. So if you have a scooter user or electric wheelchair user using a bike path, their slower speed is actually a bad thing in that context. Likewise, the tendency that we see of some scooter users driving at inappropriate speeds in crowded areas is a major problem. So I do not necessarily know that 10 or 12 is a magic number that would deliver significantly worse safety outcomes. If it was, I think there would be a lot of pressure in the United Kingdom to have it reduced.

The Hon. WALT SECORD: So would you say that in fact uneven, split pavements, bad road surfaces, bad sidewalks are a greater risk than speed?

Mr SPARKS: In my experience as a person with a disability, absolutely. I got dropped off in my cab out the back of Parliament House today and rolled around. You have to be very aware of the paving in the city of Sydney and these gutter ramps and the like. That poses my greatest risk.

Mr DARREN WEBBER: So the units, in particular the chair presented before, has a capacity for a higher speed limit than what is in New South Wales with a 10 kilometre speed limit. Can you describe how the inhibitors placed presumably by the manufacturer or the supplier works and if it can be tampered with?

Mr SPARKS: It would be nigh on impossible for anybody to tamper with it unless they had an electronic device. Basically, it is a hand-held programmer. It is not a cheap device. It is the sort of device that any reputable supplier of complex mobility equipment would have. When they go and sit with their client it is not just a matter of, "Here you go, Mr Smith, here's your scooter" or your electric wheelchair. It is sitting down and if you look at the experience of electric wheelchairs for complex needs, you might sit down with a young person and say, "Okay, we're going to give you a wheelchair with three different programs. Your indoor program will be limited to four kilometres and it will accelerate really gently and turn very gently so that you do not bump into the kitchen

cupboards or run over mum's toes. When you are out and about in the community we will give you up to 10 kilometres per hour. Again, the acceleration will be fairly gentle because it is easier and safer to control that way. However, because you play wheelchair soccer on the weekend you will have the radical sports program and when you are in that your chair will behave like a bucking bronco".

That is what a reputable supplier will do: they will sit down and they will program all of those parameters to suit the individual. Someone who has got Parkinson's disease and has a lot of shudder, they can program the joystick to ignore that degree of movement. That is where the final programming is done. So yes, a disreputable supplier could overrule a speed limitation, but it would be certainly not in their best interests.

Mr DARREN WEBBER: So a potential option for users to have multiple speed settings that they could then dictate what is applicable no matter where they are?

Mr SPARKS: It is more than just speed; it is performance settings. It really is the way the wheelchair performs.

CHAIR: You detail some of those aspects in your submission, for which we thank you. That takes us to the idea of, as you said, reputable suppliers and the education. Clearly, if one purchases from a reputable supplier the opportunity for education is enhanced compared to the importation of a mobility scooter through the internet where there is no possible opportunity. Retail outlets then have been cited as a useful avenue for consumer information and education. Would most retail outlets provide point-of-sale information on mobility scooter safety and do they also provide information about servicing requirements, because you referred to that earlier?

Mr SPARKS: At the moment there is no accreditation for suppliers of assisted technology. Our organisation received a grant under the National Disability Insurance Practical Design Fund to develop an options paper for the accreditation of suppliers. We have a view that, particularly where government money is involved, just as you get your pharmaceuticals through a chemist and that has some qualification and accreditation, similarly, particularly at the complex end of the mobility assistive technology triangle, there should be some degree of accreditation.

So there is a mixed bag, and if you look at where you can purchase scooters in Australia today it is not uncommon—I get it across my desk every three or four months—where there will be a local flyer from the chainsaw and mower shop and he has got his latest chainsaws, a couple of good lawnmowers, a chipper shredder and three or four mobility scooters because he had some spare room in his container when he brought it out from China. That is not an uncommon occurrence. Odds-on they are not listed at the Therapeutic Goods Administration and they should not be sold as mobility scooters in this country, but it is difficult. We play a role informing the Therapeutic Goods Administration when we see instances like this.

The quality suppliers—and I am quite proud of the membership we have got because it costs to be a member of an industry association—put their hand in their pocket because they want to build a better industry. They would typically have developed their own safety guides; their staff would be trained in teaching, particularly elderly people, safe use; they encourage people to work with occupational therapists to get an independent opinion of the best device for them. We advocate very heavily the use of the ACCC publication on safe scooter use. We are currently talking to the Department of Infrastructure to try and get some pre-sales information on public transport requirements so that if a person has a need to use public transport they should be able to know that

their device is compliant with the spaces made available. But there is a great cross-section of the types of suppliers and the ethics that they would have.

Mr STUART AYRES: To have a motorised vehicle imported, a mobility scooter, it does not have to a TGA-accredited number, does it? It is supposed to but it does not?

Mr SPARKS: No. There is quite a loophole in the Therapeutic Goods Administration Act in that if I bring in a mobility scooter and do not market it as a product for use by a person with a disability for mobility, then I do not have to abide by the Therapeutic Goods Administration. So if I bring in a product and market it as a golf buggy or something similar—something to help you get around your property—I can sidestep the Therapeutic Goods Administration process.

Mr STUART AYRES: Except in those circumstances you should have to pay GST on it.

Mr SPARKS: You should.

Mr STUART AYRES: We touched on this point earlier, the possibility of lining up the TGA number associated with an item to claim the GST which ensures that it is used for therapeutic goods rather than something else might also provide an opportunity for you to be able to register that vehicle as well?

Mr SPARKS: Yes.

CHAIR: Thank you very much. I am sure we will have a couple of questions to forward to you and we look forward to your response in due course. Thank you for appearing before the Committee, Mr Sparks.

(The witness withdrew)

LINDA JESSIE ELLIOTT, Deputy Chair, NSW Council of Occupational Therapy Australia, Unit 20, 8 The Avenue of Americas, Newington, sworn and examined:

LINDA FORD, Executive Director, Occupational Therapy Australia, NSW, Unit 20, 8 The Avenue of Americas, Newington, affirmed and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the Committee may constitute contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. As time is limited, the Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mrs ELLIOTT: Yes.

Ms FORD: Yes.

CHAIR: Before we proceed, would either of you like to make an opening statement?

Mrs ELLIOTT: On behalf of the members of the NSW Division of Occupational Therapy Australia I would like to thank the Staysafe Committee for the opportunity to present the views of our members at this hearing. Occupational Therapy Australia is the professional association representing occupational therapists employed both in the public and private sector. Occupational therapists are registered health practitioners under the Australian Health Practitioner Regulation Agency. Occupational therapists are often the health professional that is involved in the assessment and prescription of powered mobility devices, including mobility scooters and power wheelchairs, for people with restricted mobility that is due to disability or chronic health care conditions.

While there is a public perception that mobility scooters are generally used by people over the age of 60, scooters can be used at any age, and this is supported by the results of the mobility scooter usage and safety survey that was undertaken by the ACCC last year. That showed that just over 50 per cent of current users are under the age of 60 and scooters also were viewed as a replacement for walking, not cars, which is quite different to the community perception that seems to be out there. At the same time our members report that their clients might use mobility scooters on roads due to the lack of continuous access to footpaths on the required route of travel and that other clients also sometimes travel much greater distances than they would walk as they are unable to use public transport with or without a scooter. They also report that they receive referrals to assess somebody who has perhaps recently lost their drivers licence or who are no longer able to afford to run a car and want to use a scooter as an alternative to their car.

Some of the submissions that you have received encourage consideration of mobility scooters as an alternative means of transport and others encourage consideration of licensing or other regulation in order to reduce the risk of injury to other people who use the shared pathways with people with mobility scooters. Our members report anecdotally injuries to either scooter users or to other members of the public. But as the other submissions have highlighted, the statistics relating to injuries are not well classified and are not well collated, so we really do not know; it is the kind of information that we all hear.

Our members recognise that the role of the Staysafe Committee is a difficult one in relation to mobility scooters. On the one hand, the impact of the increased use of mobility scooters as an alternative transport option on other people who use the shared pathways with people who might have impaired mobility and need to use a walking frame, perhaps people with poor cognition or young children or people with impaired vision—is something that needs to be considered. At the same time, the impact of the introduction of any regulation on people with disability needs to be considered, and our members would strongly ask you to consider that any of those regulations may have an impact on limiting people with disability to access their local community, social activities and other services and, in particular, it can limit independence.

Our members will read with interest the recommendations that will come out of this hearing because we believe it is a very important issue. We know it is hard and we can see both sides of the arguments that will be presented to you.

CHAIR: Thank you for your submission. I note that you also made recommendations. We will take those on board as part of this inquiry. Your submission stated that people wishing to use a mobility scooter seek an assessment by an occupational therapist when they are submitting a funding request or when it is a requirement of the residential facility where they live. If residential facilities require proof that a person has the capacity to safely operate a mobility scooter do you think that proof of capacity should be a compulsory requirement for all users of mobility scooters?

Mrs ELLIOTT: I think that is one that our members find a very difficult one because I guess there are two issues. One is what is the universal description of what is a safe capacity? How do you actually assess safe capacity? I guess that is the same issue we have with drivers licences as well. It is really how somebody performs on a particular day in a particular place. There are always going to be limitations on capacity. As members who do assess people's capacity to safely use a scooter, that is an issue that they do raise and a survey has been done of occupational therapists assessing people over the age of 60 who use scooters and that was the big issue they struggled with.

On day and place they felt they could assess whether somebody was safe but it was that ongoing capacity, particularly for someone with a deteriorating condition, that they were unclear about and there are no standardised assessments to know what is needed; there is no evidence around how much visual capacity you need. It could be quite different to that for driving a car because you are slower, it is in a different space and the mobility device you are using is more around your personal space rather than the bigger device of a car.

It is quite fraught. The other issue is that, if there is a requirement that someone has an assessment, whether that is with an occupational therapist or another health professional, will you limit access to people using those devices because, to access a health professional, there may be waiting times in the public health system that will limit their access but there also can be financial limitations in that they may need to pay for an assessment. We already know that, for occupational therapists who assess people with a disability for their driver's licence, that is already limiting people to access driving a car, because they cannot afford to pay the assessment fees.

CHAIR: In making that assessment, do you identify the best suited type of mobility scooter for the individual? In that sense I show you one that I noted which is obviously geared towards men who have ridden motorcycles or who consider that they fall in that category, this is called a Sport Rider. When identifying the most suitable type of vehicle for one of your clients, do you go along that path?

Mrs ELLIOTT: Absolutely. For occupational therapists sometimes you have people who will come to you for an assessment and they have very clearly in their mind that they would like a mobility scooter. Others will come and say, "I have a difficulty with my mobility and I need some assistance around that". That is probably the preferred option, as an occupational therapist, for someone who comes with an open mind. Part of that process will look more broadly at the person's need for mobility. So it will take into account: Do they need to catch a bus? Where are they going? Is a mobility scooter the most appropriate option or would it be better to look at a powered wheelchair that permits greater access to public transport—something that might be able to go into your car? They might refer someone to Community Transport as an option and look at something completely different. So occupational therapists would be very involved in looking at what the needs of the consumer are, their environment of use and where they need to go.

Mr DARREN WEBBER: Your submission suggested that there should be a competency component in any educational training for operation of a mobility scooter. Who do you think is best placed to administer that?

Mrs ELLIOTT: I think that is always tricky. As we said before, obviously occupational therapists do have skills in looking at people's competency but, if it is a requirement for a health professional to assess everyone who would be using a mobility scooter, you can actually reduce people's access to that. So it is something that our members do not have an answer to. It is one of those things we struggle with, around how you increase people's access to improved mobility and independence and, at the same time, look at whether somebody is safe, either for themselves or other users on the footpaths.

Mr DARREN WEBBER: If we were to find a model that worked and was all-inclusive and, as we have just discussed, judging ongoing capacity as people age and deteriorate, how often would somebody need to be retested to judge their capacity in a scenario where they were originally tested at the point of sale?

Mrs ELLIOTT: It really depends on what their ability is.

Ms FORD: Yes, the rate of deterioration can vary from person to person. If you look at drivers these days, we rely on their doctors to make a decision as to when they need to be assessed. It could be the same. Some might not need reassessment for 12 months; some might need it six-monthly or three-monthly.

Mr DARREN WEBBER: So as Governments prepare to legislate on these issues there is no one-size-fits-all, it will be a difficult area to legislate.

Ms FORD: Yes, there is not.

Mrs ELLIOTT: Yes and some people who are using mobility scooters can be very stable in their physical capacity in all ways and may not need reassessment any more than you or I would for a driver's licence, our glasses or anything else. So it is variable and I am sorry, there is no answer to that one. .

Mr RYAN PARK: With the Occupational Therapists Association, obviously you represent part of the purchasing community that engages in the purchase of a device. What sort of proportion do you represent in the total number? I know it is difficult but there is a suggestion that there are about 12,000 of these motorised scooters sold per annum. How many of those would result in you making a decision about the person's ability to operate that device?

Mrs ELLIOTT: That is not the kind of data that we are able to provide. We would not have that kind of data, around how often an occupational therapist is involved in the purchase of a device. If somebody is seeking funding, through either government funding or perhaps through a retirement fund or a charity, there is usually a therapist involved in that assessment process. But a number of people do self-purchase. Families will buy mum or dad a mobility scooter and people certainly purchase them themselves. So we would not be able to comment on that.

Mr RYAN PARK: Obviously your organisation is best equipped to make the assessment of the capability of the operator of the device. Could you see a broader role for the occupational therapist in regard to first having a referral from a doctor to assess the person's ability to drive a mobility scooter?

Mrs ELLIOTT: Certainly occupational therapists would have the skills to assess somebody. Any of those considerations need to take into consideration workforce issues and that can be varied. So, while we do not have data as an organisation on what the waiting times would be, our members report that waiting times in the public health system can vary from four to six weeks for an assessment in the community to well over 12 months. For people who would be accessing private therapists, the cost of that would also be prohibitive. We would suggest any of those recommendations consider access for the person with the disability to the health professional who would be able to do the assessment and whether that would limit them.

Mr RYAN PARK: So you believe a doctor could write out a certificate to provide to a supplier to suggest the person should have this mobile scooter and is capable of operating it?

Mrs ELLIOTT: No. I think the experience is for occupational therapists we would say that looking at whether a mobility scooter is the best option for somebody involves quite a bit of an assessment that looks at their environment of use and the physical skills. Somebody's cognitive and visual skills might be sufficient to use the mobility scooter but practically, they might have difficulty getting on and off the scooter and that can be a falls risk. You need to be able to hold on to the handlebars with two hands and you need to be able to steer. So there are some physical components around that. So a practical assessment of somebody's use of a mobility scooter is an important part of that assessment and we would suggest that that is something that a GP would not have the ability to do, just because of the nature of their practice, that they do not actually get the opportunity to take someone home and go around their normal shopping centre at the time and actually assess that skill.

The Hon. WALT SECORD: In your area of work, how do you feel about the 10 kilometre an hour speed limit?

Mrs ELLIOTT: We understand the issues around the importation and speeds and things like that. Some of our members have noted that some of the scooters that are now available also go up to something like 17 kilometres, so they are really quite fast. There are a number of issues about that. Because you have got a shared pathway, some of our clients will be using motorised scooters or manual wheelchairs or powered wheelchairs. However, if we just think about mobility scooters, they are going to be sharing the pathway with other clients of ours who perhaps have impaired hearing or vision. Those people cannot actually judge that somebody is coming up or they might not hear the motor of a scooter coming. We also work with young children who can be at risk on those pathways but also other people with impaired mobility who might be walking with a walking frame or they might be an amputee with a prosthetic limb, whose balance may not be as great as

somebody else's. So the dilemma is that, as the speed goes up, what affect does that have on other people who are using those footpaths?

Ms FORD: That is why we support a 10 kilometre restriction.

The Hon. WALT SECORD: So you are supporting it?

Mrs ELLIOTT: We support it, yes.

The Hon. WALT SECORD: There have also been reports from occupational therapists of bullying or threatening behaviour when they do not recommend scooter use for people, particularly in cases involving a history of loss of a drivers licence, dementia, or alcohol or drug use. Would you care to comment on that in relation to your members?

Ms FORD: There certainly are instances. That occurs in any part of our working life, whether it is to do with prescription of scooters, notification under the Department of Community Services [DOCS] of children at risk, all those sorts of things. That level of conflict or aggression is not something that any health professional wants to encounter. It is up to us to learn how to manage it and if we are unable to manage it, to seek assistance of others, whether it is police or not.

The Hon. WALT SECORD: So you have had reports of this from your membership?

Ms FORD: Yes but you will have that in any part of Health these days.

The Hon. WALT SECORD: In what circumstances would you have someone who has lost their driver's licence and wants to use a scooter? How would that come about?

Ms FORD: What, that we get—

The Hon. WALT SECORD: That you get someone like that. Is that someone who is gaming the system or is it someone who is genuine?

Ms FORD: No, not necessarily.

The Hon. WALT SECORD: Could you explain that to me? I am a bit confused.

Mrs ELLIOTT: I will give you an example of that. In preparing this submission we asked members for feedback. One member told us of a situation where a gentleman is living in a retirement village. It is a hostel accommodation and for him to be able to use a scooter on the grounds of that facility requires an occupational therapy assessment. He has lost his licence on numerous occasions, due to driving under the influence. He has a longstanding alcohol and drug abuse record. His goal is to be able to use a scooter to come back from the pub, because he cannot afford the taxi fare to do that. This gentleman is aging, so he legitimately has some impaired mobility issues. The distance to walk to his local shops and his doctor and everything else is also where he has limitations. The referral she had was to see whether this person was safe using a scooter.

The Hon. WALT SECORD: What happened?

Mrs ELLIOTT: She declined to say. As part of her assessment she got some background information and some medical information before she decided to take him out on a scooter, so she declined to continue with the assessment because she believed that she could not say that he would

be safe. He may have been safe within his village but she had greater concerns about the fact that he would be using the device under the effects of alcohol.

Mr JOHN WILLIAMS: Do you have any views about the weight of motorised mobility scooters et cetera? We have heard a little about weight today.

Mrs ELLIOTT: We understand the issue around that and for members we are prescribing items that we know are above the weight, but there are practical issues around that, that that is what is available. It is something we believe needs to be referred back to the Therapeutic Goods Administration [TGA] and Australian Standards, to look at that as a bigger issue. It is not something that we are able to affect but we are aware of the issue.

Mr JOHN WILLIAMS: Should we allow anything to be sold that is not approved by the TGA?

Mrs ELLIOTT: It is a tricky question because not everything that is going to be useful for people with a disability is necessarily going to be covered by the Therapeutic Goods Administration because it is really around medical devices and that is where it becomes difficult with some of the powered mobility devices. Are they a medical device or are they a mobility item that is beneficial for people with limited mobility to use? That is, where do mobility scooters fit? Are they different to a golf buggy or not? It is not something our association would have a definitive answer around. We believe it is an issue that needs to be discussed.

Ms FORD: We are aware that additional devices that some people will require may place it over 110 kilograms.

Mrs ELLIOTT: We also recognise that many of our clients are well over 110 kilograms. We do see clients who are over 250 kilograms and more.

Mr DARREN WEBBER: We have heard before of additional items being added that increase the weight. Could you give some examples of what kit has been included to a mobility device that adds significant weight other than additional abilities to control the unit?

Mrs ELLIOTT: There are mobility scooters and power wheelchairs. They are quite different devices. They may be used interchangeably by some people but they are quite different. On mobility scooters, it would not be unusual that people would add oxygen tanks. If they have difficulties with respiration and they need to go out, they could have one or two oxygen cylinders attached. They are quite heavy. People also take their shopping. They will add their walking frame. They may have a communication device on there as well if they have a voice output device. They are not normally super heavy but everything does add weight to that. On a power wheelchair you will also get somebody who may have continuous ventilation so they could have a ventilator on there, and they could have a suction machine, perhaps a device to help with enteral feeding. They could have environmental controls, a laptop with a communication device. A number of those features could be added on to the device and perhaps additional batteries to then run those devices as well. So it all adds up, plus the weight of the individual.

CHAIR: We will put additional questions on notice, but I have one more question I would like to ask you. The interaction with public transport; you referred in passing to the folding up a wheelchair and placing it on public transport. In your submission you drew attention to the difficulty for occupational therapists wanting to provide advice about taking mobility scooters—I think was the term used—on public transport and taxis. Can you define what kind of mobility scooters or wheelchairs can be taken on public transport? Obviously some of the larger ones would pose great

difficulty, but can you give me some advice as to what the current system allows and what advice you give to clients and what you see needs to be addressed by, say, Transport for NSW?

Mrs ELLIOTT: It depends on the device, where you happen to live and what access you have. These days, a number of the accessible buses have increased the access of people using power wheelchairs and manual wheelchairs to access public transport. There are still limitations around that but a number of people are able to use buses. Scooters do not fit on a bus. You just cannot fit them on. They are quite big. That is difficult. A number of our members do try, when they are looking at prescribing a powered mobility device for somebody who was going to be using public transport. They will try to look at it with them but that can be quite difficult. The item you might be trying might not be the exact configuration of the wheelchair that that person would have at that time, and being able to get on a bus and try it out and do all of those things and then not hold up the bus route can sometimes be a bit of a challenge, but people do it.

Power wheelchairs can go into mobility taxis but as the previous witness said in evidence, there are difficulties around that in that sometimes the dimensions of the power wheelchair and the taxi are two different things. Scooters tend to get taken on trains but our members have expressed concerns that on some trains, depending on which train line you are on, the scooter might be quite difficult to manoeuvre on the platform. If you have to get to where the lift is on the platform you are going quite close to the edge of the platform and you have to get on to the train. If you are on a train with a big vestibule, you are okay but if you are on one of the interurban trains, the scooter almost blocks the entry for anyone else getting in and out or you have blocked the stairs for people coming down the stairs. There are a number of issues around that. Our members would welcome any guide that Transport for NSW might provide around what can and cannot go on public transport.

(The witnesses withdrew)

LEONARD PAUL THOMAS WOODMAN, Road Safety Officer, City of Sydney, 456 Kent Street, Sydney, sworn and examined:

BENOIT BOST, Transport Planner, City of Sydney, 456 Kent Street, Sydney, affirmed and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. Any deliberate misleading of the Committee may constitute a contempt of Parliament and an offence under the Parliamentary Evidence Act 1901. The time at these hearings is always limited and the Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr WOODMAN: Yes.

CHAIR: Before we proceed with questioning, would you like to make a brief opening statement?

Mr WOODMAN: Usually mine are very long, but I promise I will keep it brief. Terry Lee-Williams, executive manager of transport and access of the City of Sydney apologises. He has had double pneumonia and this morning had an intravenous injection of antibiotics. He was not really able to attend. His words were to just confirm the main position that the City of Sydney has is that mobility scooters are likely to increase in their use. Our main issue as a transport authority is that they take up a lot of room, yet we have to find and accommodate room for mobility scooters and also personal mobility devices. The personal mobility devices, the Segways and such, present a real problem in regulation. Once they have been around and there are masses of them I am sure the whole populace will get used to them being around. The issue is we want to make sure that we do not have collisions between them and more vulnerable road users. The problem is we cannot separate everything, there is just not enough room. That is the basis of our submission.

CHAIR: I noted that you stated that wider footpaths are a key element in implementing the City of Sydney's Liveable Green Network Strategy, and this will better accommodate that expected increase to which you refer. Can you tell the Committee how the council plans to implement its footpath widening program?

Mr WOODMAN: Part of the City of Sydney's overall vision, Sydney 2030, is to basically look at the areas where we can increase the footpaths. We obviously have so many other issues that come up, parking and things like that, accommodating bicycles and cycleways, and so on. But it is part of our ongoing program to prioritise and look to where we have opportunities to improve the footpath amenity and width.

CHAIR: This goes on to the next point. The submission referred to the introduction of shared pedestrian and cycle paths and the phase-in period requiring significant levels of oversight and intervention. The suggestion was that if personal mobility devices were allowed on bike paths, a similar phase-in period would be required. Do you get any complaints about the use of non-registered motorised vehicles on roads or road-related paths?

Mr WOODMAN: Very few. Sometimes we will get complaints coming in from cyclists because people with motorised wheelchairs or scooters are on cycleways. They are legally able to use those cycleways, so we have to provide that information to the person making the complaint.

We also have the toy vehicles on footpaths, skateboards and skates. They have more of an impact and more issue than we do with non-registered vehicles on our separated cycleways or on shared paths.

CHAIR: Did you say you get more complaints about those?

Mr WOODMAN: We get more complaints about skateboards on footpaths.

CHAIR: Do you have any motorised skateboards yet?

Mr WOODMAN: We do see them around. I would get virtually all the issues coming to me to prepare letters either directly from me out to our customers or through the Lord Mayor's office or the chief executive officer's office. I cannot recall motorised skateboards. I have seen some around. There are certainly very few. The same with personal mobility devices, there are very few of those around. So basically in the 18 years and two weeks I have been at the City of Sydney, I cannot recall any.

CHAIR: I have seen them. I was just wondering whether they were prevalent, and I have only seen one. I have seen the same person a couple of times. He moves reasonably quickly on the footpath.

Mr WOODMAN: There are couple of locations I could take you to where there is a regular using them. There are occasionally pulled up by the police. But it is not a major issue. The other element of non-registered motorised vehicles, that being power-assisted bicycles, they fit in with our cycleways.

CHAIR: You mentioned personal mobility devices. Can you expand on those? Are you referring only to mobility scooters or is there a range of other devices?

Mr WOODMAN: I refer to personal mobility devices as those devices that are not required by someone who has a disability. For example, the Segway is an alternative to someone walking or riding a bicycle not because they have a disability. As you will see from our submission, we would not want to do anything that gets in the way of improving someone's mobility. We have to accommodate and encourage anyone with a disability who can move around because they have a motorised scooter or motorised wheelchair. Where someone is perfectly able but is using a personal mobility device that does not supplement the use of public transport or walking or riding it is a different issue. That is the difference between the two.

The Hon. WALT SECORD: I stand to be corrected but people with motorised wheelchairs and vehicles are allowed to use bike paths in Sydney.

Mr WOODMAN: Yes.

The Hon. WALT SECORD: Do you have any objection to an increase in the 10 kilometres an hour speed limit on motorised wheelchairs?

Mr WOODMAN: The only thing that we are concerned about is when those wheelchairs mix with more vulnerable people such as pedestrians. I heard the previous witness speaking to you. There are people with other levels of disability and quite a large minority of people have some form of disability. If I do not have my glasses on I have vision impairment. When those vehicles are in the

proximity of other more vulnerable road users we desire that people be driving and riding at a low speed so as to reduce the potential for any conflict.

The Hon. WALT SECORD: Are there speed limits on bike paths?

Mr WOODMAN: The speed limits on bike paths are generally the same speed limits as the road adjacent to them.

The Hon. WALT SECORD: So, 50 kilometres an hour?

Mr WOODMAN: Fifty or 40 if it is a school zone or whatever. That is the only speed limit currently. We believe the Centre for Road Safety may be looking at that area in the future.

The Hon. WALT SECORD: Do you guys ever enforce that speed limit?

Mr WOODMAN: The speed limit is not generally enforced for a number of reasons. One is there is no legal requirement to have a speedometer on a bicycle, although I cannot see any reason why people cannot get one; I have one on my bike. The police will stop someone for riding recklessly or furiously—someone who is riding at a speed that they can be seen to be not in control, that is, they are going so fast it can be deemed that they could not stop in time to avoid, say, a pedestrian stepping off the footpath.

The Hon. WALT SECORD: What would happen to them? Would they be charged?

Mr WOODMAN: There is a standard one-time ticket, which is a \$68 fine. If they go to court I believe it can be considerably more than that if they are found guilty.

The Hon. WALT SECORD: We heard earlier today about two local councils. One witness referred to Warringah and another to City of Sydney Council in regard to their sidewalks not being friendly to people in wheelchairs. What do you say to that? They talked about uneven surfaces and lack of ramps. They said Warringah was the worst and they also cited Sydney city council.

Mr WOODMAN: We are endeavouring through the Liberal Green Network program to ensure we have the best facilities available. We are quite aware of the Disability Discrimination Act 1992 and we seek to enable people with disabilities to move around with ease just the same as anybody else. If we know of an area where there is a problem we will act on that and prioritise it. There are some areas within the City of Sydney, if we look at it as a whole, where because of the dated road system and old footpaths there is no way that people with a mobility scooter or motorised wheelchair can get through. A tree is too close or a lamp-post is too close or the roads are just too narrow.

The Hon. WALT SECORD: Can you give an example of that or an intersection?

Mr WOODMAN: In some of the little alleyways around Sydney people would have to ride on the road. Sometimes we get high levels of pedestrian congestion. Right outside Town Hall House, right across the road, we have quite narrow footpaths which can just about accommodate two or three people in wheelchairs. If there are a lot of pedestrians that can be a problem. If we look at where the mobility scooters tend to be used at the moment more than in the city, such as Glebe—it may well be people are not coming into the city because of that issue—I was working with three ladies who were all using mobility scooters on an electronic information system to find the best

routes for people. There were some areas in Glebe they showed me where there is no ramp and they have to go on the road.

The Hon. WALT SECORD: Where is that?

Mr WOODMAN: They showed me one or two little side streets around Glebe I cannot name off the top of my head but we reported back and prioritised getting work done.

The Hon. WALT SECORD: When you say prioritised—

Mr WOODMAN: We have to look at each situation and work out what we can do within budget.

The Hon. WALT SECORD: Is Hospital Road behind this building a City of Sydney Council road?

Mr WOODMAN: It is right on the edge with the Botanic Gardens Trust.

The Hon. WALT SECORD: Whose responsibility is it?

Mr WOODMAN: I believe they might be responsible. I would have to get back to you on that.

The Hon. WALT SECORD: I am curious because someone previously expressed concern that they could have toppled over.

Mr WOODMAN: That can sometimes be a problem with some of the short wheelbase mobility scooters if they take the wrong angle at some of the kerb ramps.

The Hon. WALT SECORD: Do you get many written or verbal complaints about mobility or wheelchair problems?

Mr WOODMAN: No.

The Hon. WALT SECORD: Can you get back to us with the number you have received?

Mr WOODMAN: Yes. I can confirm that with our risk manager who gets all the information that comes in.

The Hon. WALT SECORD: Just to inform our deliberations, the number of complaints you received last year involving people with mobile device or wheelchair disability.

Mr JOHN WILLIAMS: I make the observation that generally you would think the residents of Sydney were fairly mobile so there would be less usage of these devices. Is there any evidence of that?

Mr WOODMAN: If you take our whole local government area and do not just think of the city it would probably be no different from any other local government area. If you looked at the demographics and people's ages and the people living in high-rise buildings there may be a variation. Again, I could come back to you with some estimations on that. We have a very good research department for statistics and demographics of Sydney.

Mr JOHN WILLIAMS: By design the City of Sydney Council is fairly well resourced financially so as part of your planning you would probably look at other jurisdictions around the world to get best practice design. Are you currently looking at that in regard to these motorised devices?

Mr WOODMAN: We are constantly looking at how we can accommodate various forms of transport within our system. Part of the Liberal Green Network program is to accommodate all forms of movement.

CHAIR: Mr Bost do you have overseas experience in that regard?

Mr BOST: A while ago I did a small benchmark about how personal mobility devices are used overseas and it appears they are mostly used for tourist agencies. For example, in Paris they use it for tourists to ride around the city on a wider footpath where there is no high pedestrian density. They use it in the parks as well or off road on private roads. Most cities do not allow it on the footpath from what I know.

Mr JOHN WILLIAMS: I have not been able to gauge whether there is an objection to using cycleways. I guess you encourage shared use of cycleways for people in these devices and cyclists.

Mr WOODMAN: In the submission, under the education side of things, I mentioned the city was proposing to do some programs for our over 55s group of people. Since I put in the submission I have done two and both went down very well. We used the Roads and Maritime Services presentation. The first one we did included one of the importers of mobility scooters who attended to demonstrate. This was done at Sydney Park where we have a cycling training centre so there is plenty of room for people to manoeuvre around in safety to try out the mobility scooters.

One of the elements of that was to inform people using mobility scooters that they are entitled to use the separated cycleways, not for example where there is a bicycle lane. There are three specific areas: a bicycle lane, a separated cycleway, which is the safest system of separating bicycles and other wheeled vehicles apart from toy vehicles, and shared paths, where it is a footpath that allows predominantly bicycle use but also allows motorised wheelchairs and mobility scooters. They are the three clearly defined areas that people can travel on.

Mr BOST: I would like to make an amendment to what I said before. When I said they were not allowed on the footpath I was talking about personal mobility devices such as Segways, but mobility scooters and wheelchairs are allowed.

Mr STUART AYRES: Would the City of Sydney benefit from some form of registration for motorised scooters and mobility scooters and the existing non-registered vehicles we are discussing?

Mr WOODMAN: I do not know whether there would be any plus or minus for us. One of the things in our submission is that we can only see a major change happening as the controls change. Recently the Federal Government passed legislation saying there can be an increase in the use of power on motorised bicycles. If legislation is brought in in relation to mobility scooters I do not know that it will greatly affect us. If personal mobility devices were registered and that meant there was an influx and an increase in the number currently being used—they are very expensive and I think that is one reason we do not see many—we may see an increase and that may give us issues with those vehicles on footpaths where there is not enough room.

Most of the manufacturers of personal mobility devices say their desire is that people use a Segway or personal mobility device instead of a car and if that happened we would have plenty of

road space for them to use. We would not have a problem because they would not be on the footpaths and there would not be a problem parking them because there would be plenty of space. If we get to the utopia that the manufacturers suggest where they replace cars, fine. The other area where we would see them being an advantage is where someone drives from home in the suburbs to work in the city because they have difficulty getting to their local station. If they had a personal mobility device and could get to the station and park and then take public transport to the city that would obviously be an advantage. I cannot see that happening en masse. I could not say at this stage what the city's stand would be on licensing and controls.

Mr STUART AYRES: The legal weight at present is 100 kilograms. Should that be increased?

Mr WOODMAN: I cannot see how that would affect us. They would still be pretty light on our roads. One of the things we would look at in regard to weight is damage to our footpaths and things like that. Again, I would have to see whether the people who design and build our footpaths would have an issue with that and come back to you. If the weight and the power are such that they increase the potential for serious injury, or any injury, to pedestrians or other people that is an issue.

Mr DARREN WEBBER: One of the concerns raised today was potential damage to infrastructure resulting from weight increasing. My question was going to be whether there is a threshold of weight in your footpath infrastructure. Could you get back to us on that?

Mr WOODMAN: I will, because that is not an area of road safety that I am involved in.

Mr DARREN WEBBER: Your submission describes proposed motorised scooter workshops, which will include some practical elements provided by the Roads and Maritime Service [RMS] and approved industry specialists. Could you talk us through that?

Mr WOODMAN: Yes. The RMS in the Sydney region has provided us with a standardised presentation. We also have an organisation that works with us that supplies mobility scooters. They are the ones that we worked with only a couple of weeks ago at Sydney Park. I gave a presentation on safe pedestrian activity and they came in and showed the mobility scooters and how to use them safely.

The second one I did was to the Chinese community with a translator, because that is another area that we have. We have possibly people whose first language is not English who may have been here for quite some time as older people but who have not actually been involved in driving motor vehicles. They choose to use mobility scooters to increase and improve their ability to move around. It is quite important that we can provide that sort of education program for them through the City of Sydney through our over-55s programs.

Mr DARREN WEBBER: That will continue?

Mr WOODMAN: Yes. It went down so well that we have been asked to do several more.

Mr DARREN WEBBER: Is there an executive summary or a cheat sheet that you could forward to us?

Mr WOODMAN: Yes, I can add that to the list of the things I will send to you. I cannot see any reason why the RMS would stop me from sending that in to you. I can send you the Chinese presentation as well, which my colleague dropped in to me the other day.

The Hon. WALT SECORD: We actually would like that.

Mr WOODMAN: Okay, because she dropped in the presentation. I had to talk in English and the slides were not necessarily in the same order, but I was grateful for a Mandarin interpreter.

CHAIR: Mr Woodman, in your submission you referred to smart phone applications and their link to possible road safety outcomes. I would like to hear a little bit more about that in your capacity as road safety officer. I also would like to hear whether you believe road safety officers employed by councils such as those in your position have a role to play in shopping centres where they make mobility scooters available for the use of clients around the information and the safety of those within that precinct. Extending that further, I would like also to hear whether you believe road safety officers have a role either individually or in conjunction with RMS in educating people about the safe use of mobility scooters, motorised wheelchairs and other non-registered vehicles on the public road system. It is essentially a road safety education role.

Mr WOODMAN: I think the real part of our role is to work with the community and to react to community demand. Particularly if we have got new or changed shopping centres and so on, plans and development applications have to go through. I would like to see some responsibility put on the owners of those shopping centres to provide information. Whether it means getting that information from local government road safety officers, I think, yes, that is an area that we should be involved in.

My management take it so seriously that in the last year I was sent off to do a certificate IV in access consultancy. If we do have any issues anywhere I can go out and look at it from the point of view of people with disabilities and proper access. Linked to that, if we are giving them a way of moving around, it should be a way of moving around safely. I think that we play a role to educate the community. If it is a private area, such as Westfield shopping centres as an example, if they request assistance from us I believe we should give it. If we understand from our customers, our residents, that there is an issue there, I believe that we should assist those residents in coming to a solution.

CHAIR: How do you see the smart phone applications being utilised?

Mr WOODMAN: That is something that we piloted last year. That is really to basically find out two things. One is a positive side, to get feedback from people who are moving around the city as to the best routes that they choose. If they are going from Glebe to Central we build up a picture by using these apps of how people travel with mobility scooters predominantly, and there may be people who are ambulant with walking sticks and so on, so we can find out what routes they choose. On the other side it is to find out where there are issues that we need to deal with.

CHAIR: Thank you. We will send you any further questions in writing. We thank you for your time before the Committee this afternoon.

(The witnesses withdrew.)

(Short adjournment)

PAUL VERSTEEGE, Policy Coordinator, Combined Pensioners and Superannuants Association of NSW Inc., affirmed and examined:

CHAIR: Thank you for attending this public hearing of the Joint Standing Committee on Road Safety on its inquiry into non-registered motorised vehicles. I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I point out also that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Time is always limited for these hearings and the Committee may wish to send you some additional questions in writing, the replies to which will form part of the evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr VERSTEEGE: Yes.

CHAIR: Before we proceed to questions, would you like to make a brief opening statement?

Mr VERSTEEGE: I will briefly set the context of our submission, which is that mobility scooters are a great thing for older people. We should regard that as an opportunity, certainly in the face of a bulging ageing proportion in our population, to improve things for older people. We certainly should not try to impose any heavy-handed regulation. I have heard already, while sitting here for about 10 minutes, questions about permits and registration. We should be really careful about introducing regulation, certainly of mobility scooters, which are our focus. Anything we do—anything policymakers and the Parliament does—should be based on evidence. The main reason I make that point, which is self-evident, is that older people—older drivers in particular—are adversely affected by policy that is current, which subjects them to health and on-road testing at certain ages in the absence of any evidence that would produce good results. In fact, the evidence is quite to the contrary. That is why I make the point about evidence-based policy development. That is probably it for my opening statement.

CHAIR: Thank you. No doubt we will develop other themes that arise from your submission. Under current New South Wales legislation, as you are well aware, motorised wheelchairs and mobility scooters should be used solely for the conveyance of a person with a disability that substantially impairs their mobility, rather than as an alternative form of transport. Do you think the current rules for the operation and use of motorised wheelchairs and mobility scooters are too restrictive?

Mr VERSTEEGE: From the growing use certainly of mobility scooters, I would say that the regulation is not having an adverse effect. Of course, the problem with that regulation is the definition of "disability". What is a disability and at what point can you actually use those aids? I do not think it really enters the mind of a lot of people whether they actually qualify under the regulation. They simply see it as a good solution for a mobility problem or issue they might have. The regulation is not strictly policed, I do not think. We would make the point that it should not be.

CHAIR: Queensland requires motorised wheelchairs and mobility scooters to be registered if used on footpaths. There are no fees for registration, but the applicant must provide a certificate or statement from a medical practitioner, occupational therapist or physiotherapist confirming that their mobility is impaired severely. Free third party insurance is provided on registration. What is your view of that scheme?

Mr VERSTEEGE: If it comes with benefits to the user, there is no problem with it. Obviously, there is always a risk that people using these devices have an accident and hit pedestrians, although I think their use is now so widespread and the accident rate I think very low. I do not think official records are kept yet, but you would hear about it in the media if it was a problem. I do not think the risks are all that great. Third party insurance as a bonus to registration makes sense, but I think the question that needs to be asked is, What is the real risk of these devices being on footpaths?

CHAIR: Of course, the growth in the number of mobility scooters is set to expand exponentially as the population ages. Therefore, I think we will see more in the future. We heard from the Bar Association about CTP, personal liability and public liability insurance. Clearly, a concern one would have to express is that if there is no cost to CTP someone else actually is picking up the cost at some point. What is your view on insurance generally regarding the rider of these particular devices? Do you feel they are exposed in some way and their lifestyle might be impaired if they were involved in an accident and held responsible?

Mr VERSTEEGE: Third party insurance and public liability insurance is a good idea whether you ride a mobility device or you simply are out and about. You can always cause an accident and be liable for damages. Again, I think we need to look at a current risk of these devices using footpaths. You mentioned the probable or likely exponential growth of users. If that happens, a footpath will not be enough. Special arrangements will have to be made for these people to get around on mobility scooters if every person or even if every four or five persons has one of them. You will have competition with the motor car.

Mr DARREN WEBBER: Should safety items applicable to cycles, and most certainly motor cars—for example, lights, reflectors, flags—be applicable for mobility scooters?

Mr VERSTEEGE: You are asking me a road safety question. I am not a road safety expert.

Mr DARREN WEBBER: Also for cycleways and shared pathways?

Mr VERSTEEGE: It has always surprised me. I am not a native of this country; I am from Holland where particularly lights on bicycles, which are used there widely, are compulsory. You get fined if you do not have them. I think they are a good idea. Obviously, any road safety measures in the way of lighting, flags and bright colours are a good idea. Should it be mandatory? I do not know. How well can they be policed, is my question. How necessary are they, given that certainly the older users of these devices are not likely to use them much at night in the dark. These are the considerations I would offer. I have no answer to your question.

Mr STUART AYRES: Do you think we should register these motorised mobility scooters et cetera? Should we put in place some regulatory framework that allows us to track their usage and who utilises them?

Mr VERSTEEGE: I think from our submission you would probably guess my answer. I would say probably no, they should not be—certainly not at this stage where their use is fairly limited. I think the NRMA report extrapolated that there would be 250,000 Australia-wide. That is not all that many. So why would you register them, that is really the question. What risk are you trying to manage by registering these things? I do not think at this point that there is a requirement for it.

Mr STUART AYRES: Do you think your association's members have a clear idea of their exposure from an insurance perspective—public liability versus CTP—whilst driving one of these mobility scooters?

Mr VERSTEEGE: My guess would be no, they do not.

The Hon. WALT SECORD: What would you say if the O'Farrell Government went ahead with a registration system or program and then provided free third party insurance for people over the age of 65 using mobility scooters—a very small group, not hundreds of people?

Mr VERSTEEGE: Anything for free is welcome. That would not expose them to any cost unless, of course, there was a registration fee to go with it as well.

The Hon. WALT SECORD: How would your members react to a registration fee?

Mr VERSTEEGE: I do not think they would respond kindly to new fees. I probably would point to the fact that their car registrations are free. So they would have an expectation, I would imagine, that riding on these mobility scooters was not going to cost them money beyond repairs and power.

The Hon. WALT SECORD: Does this issue come up from your members?

Mr VERSTEEGE: It does. It probably does not come up as much as you would expect because CPSA is an organisation the members of which are very much in the lower income bracket. A lot of them simply cannot afford to buy these scooters. They are lucky to keep their car on the road. It also explains our activism when it comes to older driver testing, of course.

The Hon. WALT SECORD: If they are not getting mobility scooters, what are they doing to get around?

Mr VERSTEEGE: They use their cars. We do have the younger older members, if you like, who do get around on mobility scooters, but when I speak to people in other seniors organisations my impression is that the use by our members is not as intensive as it is in other places.

Mr JOHN WILLIAMS: You have 29,000 members. How do people join your organisation? What is the process?

Mr VERSTEEGE: We will be happy to send you an application form. You become a member if you want to. The organisation is quite old. It was created in 1931. A lot of the membership has come from unions. Certainly, a lot of public service union members went on to become members of CPSA. Currently we get most of our new members from people who are actually interested in ageing policy. We have quite a few followers on twitter, friends on Facebook and what have you and also people who subscribe to the hard copy of our monthly newsletter, the Voice.

Mr JOHN WILLIAMS: In saying that do you feel that the organisation is reactive or proactive? Have you sought the views of members in relation to motorised devices?

Mr VERSTEEGE: Yes, we have.

Mr JOHN WILLIAMS: Generally are there a lot of people within your membership taking up the opportunity to use these?

Mr VERSTEEGE: Not that many. As I explained a lot of people simply cannot afford them. A lot of our members are also too old to probably even drive them. We have talked to the people that

do have these things and are interested in the policy aspects of having them around on the road and the footpaths.

Mr JOHN WILLIAMS: Do they see any risks in their operation of these motorised devices?

Mr VERSTEEGE: Probably the trend that I detected was that people in urban areas, properly urban areas, drive on the footpath and are horrified at the fact that when they go and visit friends and relatives in regional Australia or even the Central Coast or south coast footpaths quite often do not exist and we have these little scooters on the road. It is why I mention in the submission that this is also an opportunity to look at our built-up environment. We need to look at whether footpaths in the city are going to be big enough to accommodate the growing use of these scooters and whether it is time for towns in regional Australia to make provisions for something approaching a proper footpath.

The Hon. WALT SECORD: You are the third person today to actually make reference to uneven footpaths or the lack of footpaths impacts people who use mobility scooters?

Mr VERSTEEGE: Absolutely, it is a big issue. I do not know if you have ever come across an older person scooting onto the road because there is uneven or no footpaths at all.

Mr JOHN WILLIAMS: Are they concerned about being seen by traffic if they are on the road? At the moment they usually have a flag at a certain height. It is interesting that some of these golf buggies that need to be registered to travel on the road have to have a flashing orange light which is clearly identifiable. Have they seen that as a problem?

Mr VERSTEEGE: To have them installed?

Mr JOHN WILLIAMS: Yes?

Mr VERSTEEGE: I have not asked that question. It seems a bit dramatic to have people driving around with flashing lights. It is almost like when the motor car was introduced you had to have a person with a flag walking in front of it. I am sure that would make it a lot safer but it is impossible.

Mr JOHN WILLIAMS: At this stage their primary concern is obviously protecting themselves from additional expense of ownership?

Mr VERSTEEGE: I would not even call it a concern. I do not think there is awareness among people that use these things at the moment that there is going to be an exponential growth and as one person put it to me, "Once that growth really takes off I probably will not be around."

Mr JOHN WILLIAMS: It is a day by day situation?

Mr VERSTEEGE: It is very much a situation of, "Why don't you go and get yourself a mobility scooter?" That is it. It is like buying a radio or a television. It is not an issue like buying a motorcar where you make a conscious decision as to how you are going to participate in traffic, how you are going to keep your licence and all of those things. If you can afford one of those things you buy it and drive it wherever.

CHAIR: In your submission you referred to an Australian Competition and Consumer Commission report, "Mobility scooter usage and safety survey report". I note that some local

governments provide education programs on mobility scooter use, however only 9 per cent of respondents to that mobility scooter usage and safety survey report said that this was how they received their training. Most people received their training from occupational therapists or retailers. How do you think education and training in mobility scooter use should be provided, what is the optimum?

Mr VERSTEEGE: I would expect the retailers of these scooters to offer some basic training. I think if I were a retailer that would make me sleep easier and more comfortably at night. A lot of these scooters, especially as their use increases and the numbers increase, will be sold on eBay and there will not be any training. I think it is very important at this stage rather than having compulsory training to simply make people aware of the fact that it might be a good idea to get some training on how to operate these things safely. Particularly with men I think the risk is that they will assume that they know what they are doing when they get on to one of these things. I know that some of these scooters are three-wheeled; they have two wheels at the back and one at the front. Particularly if you are running on the footpath and one of the wheels goes off the footpath you are literally projected into the road.

CHAIR: You referred to it a little earlier and I suspect I know what your answer will be: Is testing for competency something that you believe is necessary? Obviously some of the advice that is given from other witnesses comes from retailers and occupational therapists but there is no uniform requirement for competency training and that issue can easily result in an accident. How do you think that could be best addressed?

Mr VERSTEEGE: I do not think we can pre-empt everything that happens with scooters and you cannot prevent all the accidents. People have to take responsibility for what they do and that includes making sure that they are safe on these mobility scooters. I think licencing of drivers as it applies to motor vehicles only took off when motor vehicles became more of an issue in terms of numbers and road traffic really increased. At this point I do not think we are at a point where we should be testing people. Maybe it is a thing for the future, I do not know.

You have to look at that issue in the context of how you are going to allow these people to get around. If it really takes off footpaths are not going to be enough. Are there going to be special lanes? Are they going to be segregated from faster moving traffic? All those questions need to be answered before you decide to put a compulsory testing regime in place. I put it on record in my submission that we are very suspicious of the road regulator here in New South Wales who, in the face of a lack of evidence, persists in testing older people as to whether they are fit to drive a car.

CHAIR: I do refer to that particular view that you did express quite clearly in your submission. You also stated it would be completely premature to attempt to regulate mobility scooter design, performance and issue. Yet it is regulated already in terms of speed and weight and as we have heard legal opinions that state there are issues that do arise with liability. Would you like to comment on how you see that developing? There are views as to the restriction on speed and weight being too great at the moment and that the speed should be allowed to be flexible in the upward direction to match European standards. Further, that the weight is not compatible with current growth in terms of the items carried on the mobility scooter or the weight of the individuals that it carries. Liability has been touched on previously. Would you like to talk about where this is heading. It is one of the Committee's jobs to look at the risks and current regulations to see if they need to be altered in any manner.

Mr VERSTEEGE: I do not really have a view on what further regulations should be introduced. I have stated in my submission that evidence needs to be gathered. I think one of the

best things this Committee could do is to lend its weight in that regard and get Roads and Maritime Services to start gathering evidence in a systematic way so it can inform policy development, including the aspects you mentioned.

CHAIR: Thank you very much. If Committee members have further questions we will send them to you in writing. Thank you for appearing before the Committee today.

(The witness withdrew)

JACK HALEY, Senior Policy Adviser, NRMA Motoring and Services, affirmed and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Time is always limited at these hearings and the Committee may wish to send you additional questions in writing the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr HALEY: Certainly.

CHAIR: Before we proceed with any questions would you like to make a brief opening statement?

Mr HALEY: The main point of our submission is that in regard to mobility scooters particularly the number of users is likely to increase greatly in future years given the aging population and the loss of leg function, which some of the older members of society experience. This is an issue already and it will be a more important issue as we go forward.

CHAIR: The upper speed limit for mobility scooters is 10 kilometres an hour. The NRMA's submission recommends research into applying the same speed limit to any non-registered motorised vehicle using a pathway. Are you satisfied that 10 kilometres an hour is low enough to ensure the safety of pedestrians?

Mr HALEY: It probably needs some review. Given that a typical walking pace for even an older person is five kilometres an hour that speed differential is not too great. We have to take into account that this age group are not as nimble as they used to be and may not be able to get out of the way of an unregistered vehicle. I guess we would suggest that at least some review be done of that but prima facie it appears to be a reasonable speed.

CHAIR: Some of the submissions have suggested that we consider recommending an increase in the speed to the European 12 kilometres an hour yet other people have talked about differentials whereby you might have an indoor-outdoor and indeed a sporting application. Do you have any comments on those particular options?

Mr HALEY: Well, I think, given the options you have raised, it emphasises the need for a review of the whole situation to find out perhaps what are reasonable speed limits for the various areas you have suggested.

CHAIR: The NRMA submission recommends that effective brakes should be required for non-registered motorised vehicles such as Segways and motorised skateboards, not that we see many around and certainly not on public footpaths regularly, although we talked a little bit earlier this afternoon about motorised skateboards being seen occasionally in the CBD. Can you provide the Committee with more information about their braking systems and why you consider them to be inadequate?

Mr HALEY: I do not have any performance information for motorised skateboards but from my observation they do not have a formal braking system. The braking system is the rider. Segways have a braking system that works by reversing the direction of the drive to the wheels and appears

to be effective but given that there is a whole class of vehicles out there, some of which we may not even have seen yet which may be motorised, then I think it bears a review to see what they can be equipped with and whether it is adequate for sharing a pathway with pedestrians.

The Hon. WALT SECORD: What do you think about the proposal to bring in a registration system for motorised scooters?

Mr HALEY: I think we would be cautious about introducing registration for a non-road vehicle but if there is a case made, I guess we would look at it. I guess it is to some extent similar to registration for bicycles, that there is no way of identifying what the vehicle is without some sort of registration but equally it may limit the ability of people to get around after they are not capable of doing it by using their legs.

The Hon. WALT SECORD: Do you ever get correspondence or inquiries about people concerned about insurance implications with their motorised wheelchairs, for example, someone smashing into someone on a street—CTP issues? Do you get those kinds of issues?

Mr HALEY: It is not something we have come across before. We could look at our query line reports but I am not aware of it being an issue. If the Committee wants me to follow up, I can see if there is any of that data, but to my knowledge there is none at the moment.

Mr JOHN WILLIAMS: The Queensland transport Minister announced in April this year that Segways would be allowed on road-related areas. Do you have any comment on this development?

Mr HALEY: I think it would be undesirable given that Segways do not have the usual indicators, brake lights and other features that enable other motorists to see them and know what they are doing. I think as an initial position we would resist that move and we have already. Segways raised their own issues when used on footpaths, which is why we are suggesting that a speed limit needs to be considered for all of these types of vehicles.

Mr JOHN WILLIAMS: One would think that it is probably not very different to a pushbike?

Mr HALEY: Well pushbikes are required to have lights, certainly if they are riding at night and from my own experience pushbikes that do not have lights are very hard to see, so I think the same issue would arise with Segways if they do not at least have the basic set of lights for use at night.

Mr STUART AYRES: The language in the first point of the NRMA submission is interesting—"pedestrians should have right of way over non-registered motorised vehicles". Earlier in the day there was some discussion around whether there needs to be, for want of a better term, a third classification; that we have motor vehicles and pedestrians. At the moment users or drivers of non-registered motorised vehicles like scooters or Segways are classified as pedestrians. What do you think about the prospect of us starting to consider a third classification that includes Segways, mobile scooters, et cetera, because that point there creates a distinction between two people who are currently considered pedestrians?

Mr HALEY: Yes, true. I think we would be sympathetic to that. I think that is probably worth some discussion.

CHAIR: Should safety items like lights, pennants and reflectors be compulsory for mobility scooters?

Mr HALEY: Well, they are not supposed to be used on the road.

CHAIR: Yet they are?

Mr HALEY: They are. I guess it is a chicken and egg thing. If they do have lights, indicators and so on, there would be more rationale for using them on the road and we know that in some areas there aren't footpaths and users have to use them on the road or they cannot use them at all. Again you are looking at whatever sort of cost increase you get from requiring those sorts of additions and what these standards should be and whether they then should comply with the Australian Design Rules and it escalates into a major change to the design of the vehicle.

CHAIR: You have probably heard and may have seen in other submissions recommendations that the speed be increased and indeed the weight be increased. What is your view of the future and therefore the ramifications of such measures if the speed was to be altered and the weight increased? How would the NRMA react to that?

Mr HALEY: I think it comes down to whether we are going to agree with them being used on roads. If the speed and the weight increase, then they become unsuitable to use on shared footpaths with pedestrians. Whether they then are suitable to use on public roads I think would be a subject for more debate.

CHAIR: That takes us to the aspect of education. Clearly one of the optimum dispensers of education is the retailer. We also know that some of these are through occupational therapist, instruction and recommendation. The fact that they can be imported through the Internet is an issue. How would you see education best being delivered to all users?

Mr HALEY: In these days of the Internet I guess the online system would be best. It would appear that it is the retailer's responsibility; they are the ones that are in the business and they are the ones making a living out of it. The NRMA is always happy to assist with these sorts of things but we would not see it as a responsibility of our whole membership to support a program for that specific group but we would certainly be happy to do our part with any education campaign.

CHAIR: In the future if there is a growth in these non-registered motorised vehicles will there be an NRMA service option?

Mr HALEY: Surprisingly enough there already is one for wheelchairs but I do not see why that would not be considered as a business opportunity.

Mr JOHN WILLIAMS: Just as an add-on to that, is the NRMA planning to provide insurance products for users of these motorised scooters?

Mr HALEY: You are talking to the wrong person. I am the Motoring and Services NRMA, not the Insurance NRMA. You would need to talk to the insurance company.

CHAIR: You referred to the need for more information about the underreporting of minor incidents.

Mr HALEY: Yes.

CHAIR: And you made the point very clearly that these are regarded as pedestrians and they share footpaths. We will come to the need for improved pathways and perhaps you might like to

comment on that. In terms of incidents, what is the anecdotal evidence of the type of incident that is not being reported and how would that benefit us as a Committee and you as a motoring organisation in responding to the issues?

Mr HALEY: Unfortunately my colleague Ms Vlahomitros was going to cover that area and she is ill, as I have informed the Committee. We can certainly get back to you with that detail if you wish.

CHAIR: Thank you, we would be interested. We have endeavoured to invite councils, both urban and regional, to present information to us because it is very clear that a great deal of responsibility lies with the councils' provision of adequate pathways.

Mr HALEY: Yes.

CHAIR: We would be interested in following up road safety aspects in their full complexion.

Mr HALEY: Yes, we can do that.

CHAIR: The mobility scooter usage and safety survey, which was a 2012 project in which the NRMA collaborated, found that many scooter users live in rural areas which affected training, safety and servicing and some of us indeed represent regional and rural areas. Are the safety issues primarily to do with lack of appropriate footpath infrastructure and how difficult is it for people in those areas to get their mobility scooters serviced?

Mr HALEY: Well again sorry, that was Ms Vlahomitros' project and I am not fully familiar with the details but again we can get back to you with that.

CHAIR: We will send you that question in writing. We would be interested in following that up.

Mr HALEY: We will send those answers through.

CHAIR: We might ask you if there is anything else that you would like to add because we will send through some questions that relate directly to her submission. We are obviously interested in the other aspects, the other arm as it were, of the NRMA from the insurance point of view. We would be interested in following those up with the Motor Accidents Authority and we will do that on Friday at our next hearing.

Mr HALEY: Okay.

CHAIR: We thank you for appearing before the Committee today. We will send you any further questions for answer in due course.

Mr HALEY: Thank you, and if you could send the other proposed lines of inquiry that you are going to have into these sorts of vehicles; it would be useful to have that included.

(The witness withdrew)

(The Committee adjourned at 3.56 p.m.)