

REPORT OF PROCEEDINGS BEFORE

JOINT STANDING COMMITTEE ON ROAD SAFETY

INQUIRY INTO NON-REGISTERED MOTORISED VEHICLES

At Sydney on Friday 28 June 2013

The Committee met at 9.40 a.m.

PRESENT

Mr G. J. Aplin (Chair)

Legislative Council

The Hon. R. H. Colless
The Hon. W. Secord

Legislative Assembly

Mr R. J. Park

CHAIR: I apologise for the delay in commencing today's proceedings. As you are aware, unfortunately, the road conditions delayed the arrival of one of our members. We will now start. Thank you for arranging for the second of the witnesses to take the floor first, and thank you, Mr Bagnat, for allowing that to happen. Good morning and 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 held today and last Monday are exploring 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 and the road rules, vehicle standards and requirements, the education of users, insurance implications, and initiatives to certify, register and regulate their use.

The hearings will be followed by a regional hearing and inspections of mobility devices at Port Macquarie in August, after which the Committee will prepare its report to Parliament. May I remind everyone to switch off mobile phones please as they can interfere with Hansard recording equipment, and if your phone is on silent please switch it off completely. I welcome now witnesses from the Commission for Children and Young People. Thank you for appearing before the Committee today.

KERRY ANNE BOLAND, New South Wales Children's Guardian, Acting Commissioner, NSW Commission for Children and Young People, and

GREGOR CRAIGIE MACFIE, Director, Policy and Research, NSW Commission for Children and Young People, affirmed and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege. 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. Time is limited at these hearings 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?

Ms BOLAND: Yes.

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

Ms BOLAND: Yes, I would, thank you. Thank you to the Committee for reorganising the time frame; it is much appreciated. The Commission for Children and Young People promotes and monitors the safety, welfare and wellbeing of children and young people from zero to 17 years. Children and young people are among the groups that have contributed to the increasing use of all types of non-registered vehicles, not only quad bikes and off-road motorbikes. Off-road motorbikes and quad bikes have been the focus of media attention and research as they account for the largest number of injuries. However, the commission welcomes the opportunity to highlight the risks associated with motorised foot scooters, miniature motorbikes, motorised skateboards and pedal cycles with engines under 200 watts. Although these types of vehicles result in significantly fewer injuries requiring hospitalisation, the safety issues associated with their use also warrants some attention.

The link between speed and the severity of injuries is well established. The fitting of motors to traditionally non-motorised vehicles that are widely used by children and young people for both recreation and transport allows increased speed and, consequently, increased risk of injury. The commission has a keen interest in the prevention of both childhood injury and child deaths. To inform our response to the inquiry we have drawn on the 2011 Child Death Review Team annual report, which you would understand is now administered by the NSW Ombudsman. I simply draw to the attention of the Committee that he may also hold some very important information that you may be interested in.

We have quoted from the report of the commission recently published with the Australian Institute of Health and Welfare: serious childhood community injury in New South Wales 2009-10, referred to as the surveillance report, and also provided detailed analysis of data from the New South Wales Admitted Patient dataset, which has already

been provided to the Committee. We have also looked at the work of other jurisdictions, where relevant.

Children and young people are injured as drivers, riders and passengers of a wide variety of off-road vehicles on both public and private land. However, it is not possible to generalise about the trends in injuries or causes across the diversity of non-registered vehicles and the wide range of children and young people who use them in a variety of settings. Each dataset permits a snapshot of the scope of the issues from a different angle. It is of great concern that, according to the 2011 Child Death Review Team annual report, in the 15 years 1997 to 2011, 33 children died in incidents involving off-road vehicles: 10 quad bikes, 21 motor or dirt bikes and two other off-road vehicles. Twenty-five of the children who died were 11 years or older and eight were under 11 years. The report indicates that deaths from quad bike crashes have increased substantially over the past decade.

In relation to injury, and drawing on our surveillance report 2009-10, the commission notes that 82 of the 3,419 transport-related injuries resulting in hospitalisation involved an off-road or all-terrain vehicle, with a significant proportion—28 per cent—occurring on farms. The report does not tell us whether those injured were drivers, riders or passengers; the majority of those injured, however, were male. Our more detailed analysis of hospital admissions data from the Admitted Patients data collection allows us to look at a wider range of vehicles. These include motor scooters, mopeds, motorised bicycles, bicycles primarily intended for off-road use and special all-terrain or other motor vehicle designated primarily for off-road use. It tells us that 2,036 were hospitalised in New South Wales over the five years from 2006-07 to 2010-11 as a result of riding, driving or being a passenger in a motorised vehicle. Most of these vehicles were intended for off-road use and many are likely to be unregistered.

Most injuries occur while riding an off-road motorcycle: 1,604; 351 while riding an all-terrain or motorised vehicle; and 81 while riding a moped, motor scooter or motorised bicycle. Regardless of the type of vehicle, the age group most likely to be injured was nine to 14 years old, 47 per cent; followed by 15 to 17 years old, 40 per cent; and zero to eight year olds, 13 per cent. Among the children under eight years, 92 were injured in all-terrain or other off-road vehicles; 20 were injured while riding a motor scooter, moped or motorised bicycle; and 156 while riding an off-road motorcycle.

All children and young people are vulnerable compared to adults simply by virtue of their size and because they are still developing physical and cognitive abilities, including the capacity to appreciate risks and to comply with societal rules and constraints. There is currently insufficient information about the minimum age at which children and young people have the physical and cognitive skills to safely ride a motorcycle off-road and the minimum power-to-weight ratio for safe manipulation of off-road motorcycles marketed for children. The factors involved in a given accident can vary considerably. There may be issues unique to each different vehicle type—a motorised scooter on a flat surface versus a quad bike over rough terrain—and the commission is definitely not an expert in road safety. However, the commission can point to factors likely to be common among unlicensed drivers or riders not yet old enough to be licensed: They may not wear appropriate safety devices such as helmets or seatbelts; they may use a vehicle which is not appropriate to

their age and size; they may have no educational training in handling these vehicles; they may also ride or drive the vehicle without adult supervision; they may be riding or driving vehicles designated to adult standards and specifications not appropriate to their age, weight and size; or there may be other issues with vehicle standards and design.

The commission would support a range of preventative measures targeting these types of factors. I would simply draw your attention to our submission where we refer to the Queensland Commission for Children and Young People and the Victorian Injuries Surveillance Unit where they surveyed these issues and made some recommendations. I would be happy to speak further on any of these issues with my colleague Mr Macfie.

CHAIR: The commission reports that in Victoria—you referred to this in your opening statement—the off-road motorcycling hospital admission rate for children increased by 98 per cent from 1996 to 2005. Research by the Victorian injuries surveillance unit has identified a number of risk factors for children riding motorcycles. As a result of their research, that unit made a number of recommendations, including the introduction of age restrictions for off-road motorcycling. Apart from the recreational vehicle area at Stockton Beach, children can legally ride motorcycles only on private property. Do you think age restrictions are able to be enforced?

Ms BOLAND: To underscore some of our comments, I will refer to some general principles about adult supervision, in line of sight with adult supervision. One of the difficulties with age-related restrictions is simply what we have already referred to as differential capacities of children at various ages. And that is not to dismiss that of course those age restrictions would be useful. In relation to that, I will ask Mr Macfie to refer to some of the information that we have done in our research section in relation to that.

CHAIR: Yes, I would be interested in that and particularly whether you would like to see the age raised because the recreational vehicle Act, as you are probably aware, allows children eight years and over to ride motor vehicles in a recreational vehicle area. Should that be raised?

Mr MACFIE: It is one of those in-principle questions that can be difficult to answer. I think some of the other recommendations from the Victorian report looked at the circumstances—I mean, if you looked at it altogether, they were looking at maybe restricting younger children to only riding in designated sports areas with sufficient supervision, other areas where there is adult support, training for novice drivers and a whole range of other issues. There did appear to be the need for some research on it. This is often what the case is. We do not want to prevent children recreating and learning these things but I am not sure that we have the information or the data available to say at what age we should be restricting it, and it does depend on the context.

CHAIR: So you would not be aware of any research that establishes a minimum age for children to have the physical and cognitive skills to safely ride a motorcycle off-road?

Mr MACFIE: We do not, other than, as the acting commissioner has referred to, we need to look at things like the rider vehicle weight ratios. We need to understand some of

those differing cognitive and physical abilities, but generally as children age their cognitive ability develops. We know that in terms of actual traffic and observations of traffic around 10 years of age is a common time when children are more capable of starting to do things like cross the road on their own, but that is in a very different context.

The Hon. RICK COLLESS: Another recommendation of the SIU is that motorcycle riding be restricted to approved trails or sports complexes. Would you support the creation of trails suitable for younger riders in national parks or State forests in the same way that some local governments have built skate parks in public spaces?

Ms BOLAND: That is a very good question. If it is okay, I would like to take that on notice. I think we need to have a better think about designated places. I just make the comment about some recreational facilities. You will know that many of the adventure parks and so forth have height and weight restrictions, and they also have little trial sections for children before they allow them to participate. As a general comment, I think we would support anything that looked to more regulate that kind of environment where they do look at the specifics of a child or young person and their capacity in relation to particular adventures, whether they be motorised or not. In relation to the national parks, I am sure my colleague from national parks will have more to say but we will take that on notice and get back to you.

The Hon. RICK COLLESS: Another thought I have had is that as somebody who was raised on a farm I learned to drive my father's tractor as soon as I could reach the pedals, and the same with the car, which was about six, seven or eight years old, or something like that—I cannot remember. I guess children who have the opportunity to have those sorts of experiences at a very young age generally have a lot less hassles learning how to drive and that sort of thing because they already know how to handle those vehicles. Do you see that it is important that younger people are exposed to those skills at a young age in order to give them a better understanding of, as you were saying before, the perceptions of movement and space and things like that.?

Ms BOLAND: Again, in relation to those adventure facilities, if I can refer to them like that, I think that has been a very positive intervention about giving children and young people exposure to the use of particular adventure equipment in a safe and regulated environment in order to test and to experience those kinds of challenges that come, increase their spatial and learn to manipulate their weight, et cetera, in relation to vehicles. In relation to that in well-regulated areas, I think that is a distinct advantage.

The Hon. RICK COLLESS: You would be aware of, I forget what they call them now, but in a number of parks around the city there are areas that have road signs, traffic lights and things like that for children on pushbikes. Do you think that those sort of facilities should be opened up to things like motorised skateboards—I guess they already are? Is there scope for some formal training for children with motorised equipment on those sort of facilities?

Ms BOLAND: I am aware of the facilities that offer road rule education. Anything that enhances that kind of experience in a safe environment we would think was a good thing.

The Hon. RICK COLLESS: On the information you gave us before on the statistics, the injuries that occurred from motorised skateboards, scooters and so on, have they mainly happened on the road or off the road?

Mr MACFIE: In terms of the statistics we have given you, they were not on the road; they were off-road. So when we look at the statistics in the admitted patient data collection, that is what we looked at. It is those injuries, so not on public roads but it could be on footpaths.

The Hon. RICK COLLESS: The reason I ask is that you see a lot of children riding not only motorised skateboards but ordinary skateboards down some streets in pretty dangerous situations. I was wondering if you had any statistics on those figures?

Mr MACFIE: Falls in general are the largest cause of hospitalisation in New South Wales by a long margin. That would include falls off things like skateboards. We can certainly go back and try to dig into that collection and see what we can find but once you start getting to smaller numbers the coding makes it difficult to know exactly the place where it occurred, and that is the issue. If you looking at just skateboards and then by place you are starting to get down to smaller numbers and it is not coded effectively.

The Hon. WALT SECORD: In New South Wales are there age limits on children using motorised equipment/vehicles on private property? Is there an age limit?

Mr MACFIE: I think in relation to some of the vehicles it is under eight years of age, but I would have to take that question on notice.

Ms BOLAND: Are you asking whether there is a legal requirement or whether there is a requirement by the manufacturer of particular vehicles?

The Hon. WALT SECORD: Is there an age limit in New South Wales on the use of motorised equipment on private property?

Ms BOLAND: I am not aware. I will take that on notice, but I am not aware of one.

Mr RYAN PARK: I am interested in training, which also came up at Tuesday's hearing. Do you think there is an opportunity to improve training at point of sale? What do you think should be done? I imagine that many of these children are going to ride these things anyway, and they are in fairly unregulated areas such as farms and rural properties. If enforcement is not an option, is training an option? If it is, given that you know the audience, how would you roll it out?

Mr MACFIE: We need to be clear about what kinds of vehicles we are talking about first. For example, the Victorian work around quad bikes is saying that children under 12 just should not be riding these things. But taking up some of the earlier points, in terms of the control of motorised vehicles it would seem that introducing some kind of training or novice instruction before people actual start out, or perhaps providing facilities where young

people can be trained over time in the use of things like motorised scooters or motorised skateboards and in understanding the difference between a motorised versus a self-propelled vehicle—I am aware of some programs around the world in terms of things like bicycle training where schools will run training about the safe use of bicycles. Perhaps there are ways in which that kind of program could be adapted for other sorts of vehicles. But where you access it is a key issue. Is it something you do through schools where most children are, or is it targeting particular groups of children who may live, for example, in rural areas and are using motorbikes at the age of nine or 10? Is there some other way through point of sale or through education for the parents or those who are caring for the kids about programs that might be there?

Ms BOLAND: Obviously, there are some issues with point of sale training. While there are operators who run various courses and training in the use of various motorised skateboards and other devices, one of the things that we have become aware of is the role of schools in training. We have talked about that with bicycles and so forth. It has come to our attention that a couple of schools have designated supervised areas for motorised skateboards and have got people in to train kids on those kinds of devices. That was an initiative of a school, but certainly in that environment that would be something also. One of the difficulties, obviously, in relation to children and young people is what would work and what would have an impact on them. We do have a youth advisory committee and it could be a question that we would ask them as to what would work in relation to training at the point of sale or consequently, if that would be of use to the Committee.

CHAIR: It would. We would want to pursue how you feel the information could be best provided. You have given the example of a couple of schools, but we would like to know if there is a broader way of approaching that issue. Any information you have would be well regarded. Thank you.

The Hon. WALT SECORD: You will probably need to take this question on notice. Could you give us a breakdown by gender and age groups of the child deaths in New South Wales since March 2011 that involved non-registered motorised vehicle accidents such as of all-terrain vehicles and motorised skateboards?

Ms BOLAND: We will take that on notice, but I will again just draw to your attention that the New South Wales Ombudsman manages the Child Death Review Team. He holds enormous volumes of information that may be of use to the Committee.

The Hon. WALT SECORD: But you would also have the data. Was your submission cleared or approved by the Office of Premier and Cabinet?

Ms BOLAND: Sorry?

The Hon. WALT SECORD: Do the materials that you sent to the Committee have the imprimatur of the Premier's department?

Ms BOLAND: The nature of the children's commissioner is an independent statutory authority, so the submissions were made directly to this Committee around the terms of

reference that we thought were relevant. We have addressed our jurisdiction, if you like, in relation to your terms of reference. It came straight to this Committee.

The Hon. WALT SECORD: It was not cleared by or sent to the Premier's department?

Ms BOLAND: That would not be the normal process.

CHAIR: Given your other commitments, Ms Boland, I recognise that you need to depart now. The Committee will submit any further questions to you in writing. I thank you for your willingness to respond to those questions. Thank you for your time today. I again apologise for the delay in commencing.

(The witnesses withdrew)

THOMAS JOHN BAGNAT, Acting Director, Coastal Branch, National Parks and Wildlife Service, sworn and examined:

CHAIR: Thank you for appearing before the Committee today. 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 your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Mr BAGNAT: Yes, that would be no problem.

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

Mr BAGNAT: No, I think the submissions speak for themselves.

CHAIR: You have addressed two major issues. I will start with one that is appropriate to the winter season we are currently experiencing. Your submission states that licences are issued to operators of oversnow vehicles on the condition that they have a valid driver licence and have demonstrated a need to possess a licence. Does the National Parks and Wildlife Service issue these licences?

Mr BAGNAT: No. That is Roads and Maritime Services.

CHAIR: Currently, licensed applicants do not have to demonstrate competency in order to acquire a licence and even a P-plater can obtain such a licence. Do you think testing skills should be required and, if so, would National Parks and Wildlife Service staff do the testing?

Mr BAGNAT: I think some demonstrated skill around the operation of these vehicles would be a useful thing, but I do not know that the parks service would be the appropriate body to do that sort of testing. We do not have those sorts of skills.

CHAIR: Any suggestions as to who would then provide that testing?

Mr BAGNAT: I think it is probably something that maybe advice from Roads and Maritime Services—

CHAIR: A more specialist service?

Mr BAGNAT: Yes.

CHAIR: According to your submission, the design capacity of some oversnow vehicles is not always clearly defined by the manufacturers, which can result in operators transporting multiple passengers on vehicles not designed to carry such a load. Are you aware of any accident that has occurred as a result of an oversnow vehicle being overloaded?

Mr BAGNAT: I will have to take that on notice and come back to the Committee.

CHAIR: If you would, we would be interested in any statistics in that area. Are there any Australian design rules covering oversnow vehicles, given that they are all imported?

Mr BAGNAT: I am not aware of any.

CHAIR: In order to obtain conditional registration, Snow Argoes and snow buses must display their seating capacity. This is not required for snow all-terrain vehicles or Ski-Doos. Should legislation make clear which vehicles should not carry passengers?

Mr BAGNAT: I think that would probably be a good decision.

Mr RYAN PARK: I am interested in the snowmobiles that you operate in and around the alpine areas. I have a couple of questions: Are there any speed limits on those vehicles? And the vehicles that are used, not so much by your officers but privately, has anyone over the course of the last five or ten years been picked up infringing? How is the enforcement of penalties managed, given that the snowfields are getting busier each year?

Mr BAGNAT: From the knowledge I have, it is very difficult to manage. The enforcement side of things on any speed limits, just the mechanics of trying to regulate it is quite difficult, because these vehicles are not necessarily on a particular path. They move across the snowfields, so it is quite difficult for the Police and ourselves to regulate it.

Mr RYAN PARK: Is it a concern to you?

Mr BAGNAT: The concern I would have is that these vehicles are capable of high speed.

Mr RYAN PARK: About 100, 110 kilometres an hour, I think, from the briefing.

Mr BAGNAT: Up to 100 or 150 kilometres, I am led to believe.

Mr RYAN PARK: Sorry, even more than that.

Mr BAGNAT: And the rider does not have to wear a helmet and that causes concerns safety-wise. But the legislation around the regulation is not as clear as it could be. On the leased snowfield sites, there is some grey area around that that makes the prosecution of things a little more difficult.

Mr RYAN PARK: Would you like to see them wear helmets?

Mr BAGNAT: All government-owned and operated vehicles, it is mandated as a standard.

Mr RYAN PARK: This is an area of interest, not just because I go to the snow but because we are seeing, if you have a look at the movement, people are starting to have snow holidays more frequently and there has been a push in the last few years for skiers and snowboarders to use helmets. These vehicles are moving around in a populated area. I did not know they could go so fast until I read the briefing. I would certainly be interested to see if, from a National Parks perspective, there is anything that your organisation thinks could be useful in the way of regulation, policy or legislation in order to manage these matters. This is a problem.

Mr BAGNAT: If that is a question the Committee would like a further response on, I can follow that up.

CHAIR: It will be useful because it ties in with the initial questions about accidents. As Mr Parks observes, even skiers are wearing helmets more these days but whether it is a regulatory matter—we would appreciate some information, thank you.

Mr BAGNAT: It is not a problem.

The Hon. WALT SECORD: Are there restrictions on operating these vehicles under the influence of alcohol? I do not know the answer to that question.

Mr BAGNAT: I believe that we require all these vehicles to have conditional registration and, from what I understand, that conditional registration turns off a lot of the Motor Vehicle Act, except the provisions around alcohol, so I think that is covered.

The Hon. WALT SECORD: Can I switch to altering vehicles, quad bikes and trail bikes? In how many national parks in New South Wales are you allowed to use these kinds of vehicles?

Mr BAGNAT: We are in a unique situation in that I think the only public recreational vehicle area in New South Wales on public land is the Stockton Bight one, on the Worrima conservation lands. All other reserves you can ride registered motorcycles on the designated public access roads but all-terrain vehicles [ATVs], we just do not have them anywhere else, apart from Stockton Bight and with the licenced stuff on the snowfields.

The Hon. WALT SECORD: Are there any other places under consideration at the moment to allow this type of activity to occur?

Mr BAGNAT: I am not aware of any.

The Hon. WALT SECORD: Would you object to an expansion to other national parks of this kind of activity?

Mr BAGNAT: I think it would probably be appropriate to explore private-public partnerships, to look at that. I am not sure on what the demand is and how you would manage that on the public lands. But certainly, private-public partnerships on that is probably worth exploring.

The Hon. WALT SECORD: Private-public partnerships. So, you mean a private company running these types of activities in designated national parks areas?

Mr BAGNAT: No, it does not necessarily have to be a national park to run these sorts of activities in. We have multiple users of national parks and, to set up areas specifically for quad bikes, it is quite problematic.

The Hon. WALT SECORD: What would be the problems?

Mr BAGNAT: Conflict with other users and the safety issues around it. In the submission referred to, some of the issues we are having on Stockton Bight between vehicles. If you want to throw walkers and horse riders and all that into that mix, you have to really consider hard how you would manage that, to ensure that people's safety and their enjoyment of the reserves is looked after.

The Hon. WALT SECORD: You use the word "conflict". Can you give examples of things that have occurred at Stockton that you are referring to?

Mr BAGNAT: Conflict between motor vehicle use and ATV or quad bike use, where these vehicles are quite often moving at high speed across the dune system and collisions have occurred, that I am aware of.

The Hon. WALT SECORD: Has anyone been killed?

Mr BAGNAT: I do not have specific details.

The Hon. WALT SECORD: Can you come back to us on that?

Mr BAGNAT: Yes.

The Hon. WALT SECORD: Have any National Parks and Wildlife Service officers been injured?

Mr BAGNAT: Yes, one of our rangers was run down by a quad bike.

The Hon. WALT SECORD: When was this?

Mr BAGNAT: Late last year some time.

The Hon. WALT SECORD: And where did this occur, at Stockton?

Mr BAGNAT: On Stockton Bight.

The Hon. WALT SECORD: Was he or she injured badly?

Mr BAGNAT: Not badly but certainly injured. I need to clarify whether that was a quad bike or a motorbike but certainly one of the rangers was injured.

The Hon. WALT SECORD: In your opinion, what causes more problems, all-terrain vehicles, quad bikes, trail bikes?

Mr BAGNAT: It is a really broad question. The illegal use of unregistered trail bikes has been a growing issue in the park reserve system. It tends to become less of an issue the further you are out from the metropolitan areas, has been my experience. But it has certainly been a growing issue. With quad bikes, by their nature there is only one area on reserve land. The figures for that are less than the illegal use of trail bikes across the reserve system.

The Hon. WALT SECORD: Is it staff intensive to monitor their activity on Stockton?

Mr BAGNAT: They spend about 60 per cent of their law enforcement time in monitoring quad bike use.

The Hon. WALT SECORD: Are there any problems with people under the age of 11? What is the age of the typical person using these types of vehicles at Stockton?

Mr BAGNAT: It varies. The history of Stockton goes back to the 1970s. Anecdotally, I think originally it was for dune buggies. With the changes in technology the quad bikes have become very popular and that is where they go to ride them. I do not have an age profile; we have not collected that sort of data.

The Hon. WALT SECORD: Do you think you have reached capacity of use at Stockton or could you take more people in that recreational area to engage in this kind of activity?

Mr BAGNAT: I do not have that sort of information. I do not think we have done any figures on the carrying capacity.

The Hon. WALT SECORD: But your officers must give you anecdotal evidence. They must say, "Listen, we've reached breaking point here. We need to expand to other areas."

Mr BAGNAT: Currently they are issuing over 400 permits annually for the recreational vehicle area and other beach permits. That is a significant amount of use of the area, but whether it is at capacity—there are days when it is really busy and there are days when it is not.

The Hon. WALT SECORD: How much would a typical permit cost?

Mr BAGNAT: I do not have that information but I will come back to you.

The Hon. WALT SECORD: What objection would there be to expanding the use of trail bikes into national parks?

Mr BAGNAT: Trail bikes can be used in national parks now. Any part of the trail network that is open to public vehicles is open to trail bikes. The rider has been that they have to be registered.

The Hon. WALT SECORD: Are there any parks where there is concern about abuse or misuse or damage to flora and fauna?

Mr BAGNAT: Where trail bikes are used illegally and forge new tracks that is always a concern. Soil erosion and the management of those trail networks is an issue of concern for us.

The Hon. WALT SECORD: Are there any places in the State where people are forging new trails?

Mr BAGNAT: Lots.

The Hon. WALT SECORD: Can you give some examples?

Mr BAGNAT: Watagans National Park is a good example of where people will forge new paths with either four-wheel drives or trail bikes.

The Hon. WALT SECORD: What do they do—smash through the forest and create a new trail?

Mr BAGNAT: They will push a new trail in or go around trails that are closed. Remember, the history of some of these reserves is that they are old logging reserves where there were multiple logging trails. To some extent they will create new trail networks but that is just part of the—

The Hon. WALT SECORD: Does it occupy a lot of your staff time in policing?

Mr BAGNAT: The policing that goes on is not insignificant. In Watagans the Parks Service has a memorandum of understanding with the police where there are joint law enforcement programs and the Parks Service provides the police with a trail bike to assist in law enforcement operations, as does State Forests.

The Hon. RICK COLLESS: Going back to the issue of snowmobiles, snow vehicles, are there many of these vehicles that are privately owned and operated in the mountains?

Mr BAGNAT: No, the plan of management for Kosciuszko fairly well mandates that the use of these vehicles has to be associated with legitimate business. We do not issue permits for people for recreational use of the vehicles in the ski fields.

The Hon. RICK COLLESS: The reason I ask is that I know the private snowmobile industry is a huge industry in the United States and Canada and there are a lot of deaths in those countries each year from accidents involving snowmobiles. With regard to the Worimi conservation lands, the website says that the rules that apply to using unregistered vehicles are that people are not allowed to sit on the back of the vehicles, they cannot tow passengers behind vehicles, they must give way to pedestrians at all times and there is no launching on dune slopes—those sorts of things. Are they legislated rules and are they enforceable? If the answer is yes, how difficult are they to enforce?

Mr BAGNAT: They are not legislated rules. One of the problems with the Recreation Vehicles Act is there are no regulations. That really constrains us in regulating that Act. There are our policy rules; it is like a code of conduct and when people apply for conditional registration through Roads and Maritime Services or they get a beach access permit from us they are given that information.

The Hon. RICK COLLESS: So if your rangers see somebody committing one of those offences, if I can use that term, what action do they take to prevent it happening again?

Mr BAGNAT: They can give direction. If there is a provision under the national parks regulations we can do some enforcement but it is generally difficult. I will attempt to clarify for you exactly what we can and cannot do, if that would help.

The Hon. RICK COLLESS: Can you withdraw their permit?

Mr BAGNAT: Yes, we always have that ability.

Mr RYAN PARK: It is interesting, isn't it, Rick?

The Hon. RICK COLLESS: It is, yes.

Mr RYAN PARK: This is what caught my eye in the submission—I know it is only a part of it, but it is a part of the environment that we tend to sometimes forget. I know we are thinking mainly about rural areas, but the snowfields can be very crowded at any point in time and these things seem to be, as the witness said, largely unregulated.

CHAIR: Mr Bagnat, you referred to this in response to Mr Park, and your submission says the same: The operation of the Recreation Vehicles Act turns off the majority of the provisions of the Motor Traffic Act with only the dangerous driving and the prescribed consumption of alcohol offences applying. What other offences do you think should apply under the Act?

Mr BAGNAT: I think the other offences around the prescribed speed limits, the wearing of appropriate safety equipment, and generally the negligent driving provisions. There has been a move or a trend for people to severely modify these types of vehicles. We are seeing them with turbochargers and superchargers, and they are capable of high speed. A number of people tend to want to use them in high-risk adventure activities, and that is not really what we are about. One thing that would probably help, the conditional

registration relies on an individual signing the declaration that their vehicle complies with road registry sort of standards. There is no independent assessment or inspection. It is up to an individual. You or I could say our vehicle complies, but there is no independence in that.

The Hon. WALT SECORD: You mentioned turbocharged vehicles. What examples are you seeing of people souping up their skidoos or snowmobiles?

Mr BAGNAT: This was in reference to the quads up at Stockton. I am informed by staff that they do see examples of that.

The Hon. WALT SECORD: Can you give us an example of how fast they could get up to with the quad?

Mr BAGNAT: I would not like to put a guess on it but 100 kilometres an hour would not be out of the question.

The Hon. WALT SECORD: On a quad?

Mr BAGNAT: Yes.

CHAIR: We would be interested in how difficult it was then to enforce any regulations along the lines you were suggesting. We will probably draw this hearing to a conclusion now and look for those responses to questions we will submit to you. We will submit those questions in writing.

(The witness withdrew)

RAPHAEL HILARY GRZEBIETA, Professor of Road Safety, Transport and Road Safety Research, University of New South Wales, and

SOUFIANE BOUFOUS, Research Fellow, Transport and Road Safety Research, University of New South Wales, affirmed and examined:

CHAIR: I draw attention to the fact that your evidence is given under parliamentary privilege. 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 Parliament and an offence under the Parliamentary Evidence Act 1901. Time is limited today 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?

Professor GRZEBIETA: Yes.

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

Professor GRZEBIETA: I might start. My area of focus is on all-terrain vehicles—quad bikes actually—and side-by-side vehicles. My colleague here will be talking about mobility scooters. You have before you our submission. I do not think I need to go through that. Let me just impress upon this Committee that the all-terrain vehicle problem is real and is affecting a lot of people. It is not only within your own area of concern here in New South Wales, with your Committee, it is also at a Federal level. It has been quite prominent in the news media. In particular I think Minister Shorten has shown some attention at the Federal level to this problem.

A number of solutions have been touted from a number of people around Australia as to how to protect people who have been injured with all-terrain vehicles. I would suggest to you that we need to be careful before we knee-jerk react and start doing certain things with all-terrain vehicles until we have all of the data. We have a major project—in fact, our funder is sitting in the audience behind me, Mr Tony Williams from NSW WorkCover. We impressed upon a number of WorkCover authorities and Safe Work Australia that you need to get the data first. You need to find out what is going on and then you need to find an amicable pathway between the manufacturers and those who are concerned about safety, because these vehicles, from my perspective, I believe—quad bikes—are defective vehicles. The industry has come back stating that you need to be better trained, you need to do active riding on these vehicles—these are the vehicles you straddle, not the side-by-side vehicles. As a result of that we have said what if it is an older farmer who was sitting on the bike and coming back from being out in the field for a long time, he is tired and he is not active riding, what do you do then?

We have looked at it from that perspective. A number of people have suggested rollover protective devices. We have said let us think about this a little more laterally. Let us

get the manufacturers, who have all of the resources, all of the capacity to be able to change these vehicles appropriately, focus on it. That is why we decided to go towards looking at and investigating a points award system, in other words, stars on quads, and let the manufacturers solve the problem. We are currently working through a major research program in collaboration with Crashlab, the Roads and Maritime Services test facility. We have completed our stability tests now so we have all of the stability ratings on about 18 vehicles in total. That includes one that is being used by our military forces as well. We are now embarking on the dynamic handling of these vehicles, so we will be assessing that.

Also, we have collected data from three States. We have 50 fatality cases from the past 10 years. There are about 137. In certain States we are having some problems getting the coronial data—Western Australia, in particular. The Northern Territory has finally come to the party and we have got its cases, but Western Australia has been a problem. That is another issue that I present to you: when we are involved in such instances where we have got fatalities and serious injuries, as researchers, we need the cooperation of all of these various coronial courts around the country. There is a problem in that we have gone through all of the ethics approvals, we have gone through all of the ethics applications, et cetera, yet we still come across a situation where we get to the door of the coroner's court and we are still refused access to the data. I find that a problem, so I would like to raise that issue, but it is a Federal issue, not a State issue.

CHAIR: Thank you for putting it on the record. Dr Boufous, do you have anything to add?

Dr BOUFOUS: I am happy to take the questions.

CHAIR: You have probably covered some of this in your opening submission without directly referring to it, but I want to look at your quad bike performance project that is funded by WorkCover being conducted by University New South Wales. Can you provide any more information about that, its preliminary findings or any progress?

Professor GRZEBIETA: The only thing is that the quad bikes that you straddle are certainly a lot less stable than the side-by-side vehicles. The side-by-side vehicles have a considerable amount of stability. We are finding the range of the quad bikes to be equivalent to a heavy vehicle. If you can imagine an overloaded heavy vehicle with a high centre of gravity as it is trying to turn a corner, it has to go at low speeds. We are talking 15, 20 kilometres per hour. It is about that range. That is what we are dealing with here. The side by side vehicles tend to be much more stable. That is about as much as I can reveal. We will be revealing the data shortly, depending upon WorkCover and the Minister. That should be any time now.

CHAIR: Your submission makes specific reference to the misleading use of the term "all-terrain vehicles". You have a strong opinion in that respect. You suggested that this terminology results in false assumptions about the terrain able to be safely traversed by quad bikes.

Professor GRZEBIETA: Yes it does.

CHAIR: Can you elaborate on your suggestions that the use of the term "all-terrain vehicles" misrepresents the way quad bikes are utilised?

Professor GRZEBIETA: The situation is that you have these quad bikes and they all seem to have roughly the same footprint in terms of their track widths and length. They have an inherent instability. What happens is that the farmer or the recreational rider travel on these quad bikes in terrain that is unstable. In other words it precipitates a role. You have got slopes, logs, rocks, tyre tracks. There was a case recently where we looked at a gentleman who was travelling on a quad bike and his front wheel just dipped into a tractor tyre hole. That tipped the vehicle. The next minute he woke up, this thing is on top of him, he was being asphyxiated. Had a colleague farmer not been coming past, surely he would have died. It is almost like an oxymoron, all-terrain vehicle, for that sort of terrain.

The Hon. RICK COLLESS: I am finding this very interesting. I know of quite a few people who have lost their lives on quad bikes on farms. It is certainly an issue that I would like to see addressed. Going back to your comments about side-by-side vehicles being more stable, have you been able to determine why that is?

Professor GRZEBIETA: Wider track widths, longer. We are talking about lateral stability, rearward pitch, forward pitch. It is a wider footprint. What is alarming—and we have only found this out from the United States, because I have been presenting our work to Commissioner Adler from the Consumer Product Safety Commission in Washington and we have been talking with them—their national parks have a maximum width criteria, which is bizarre, because then that limits the vehicles that go in to quad bikes with narrow track widths, and you cannot go in with a side by side. I find that extraordinary. I do not think we should go down that pathway.

The Hon. RICK COLLESS: In the research you have done have you found there is any relationship between track width and length in respect of the vehicle stability, or is it more to do with the track width?

Professor GRZEBIETA: It depends which way you are tipping, but, yes, track width is really one of the main issues, and centre of gravity height, because the static stability factor is dependent upon how high your centre of gravity is relative to the track width.

The Hon. RICK COLLESS: In terms of quad bikes and three-wheel bikes—there is probably not a lot of the three-wheel bikes on the market.

Professor GRZEBIETA: They were banned.

The Hon. RICK COLLESS: They have been banned, have they? I was not aware of that.

Professor GRZEBIETA: They were banned. I thought they were banned.

The Hon. RICK COLLESS: I have heard people say that the trikes were actually safer to ride than the quad bikes. Have you got any data on that?

Professor GRZEBIETA: No, I do not have data on it, but certainly the Consumer Safety Product Commission in the United States, as well as the various Australian researchers have—I think they found some time ago it was not an issue. We have not focused on it because we do not find it is a problem. I have not seen any fatality data with a three-wheeler anywhere. You might want to ask New South Wales WorkCover that question. I am not familiar with that. We did not consider that.

The Hon. RICK COLLESS: I have a question that relates to statistics. Is there any difference in the statistics regarding four-wheel drive or two-wheel drive vehicles?

Professor GRZEBIETA: That is a very good question. What we are finding is that with the fatalities and injuries relating to off-ride motorcycles, there are a lot more of them, because there are a lot more motorcycles, obviously. If you compare quad bike and fatalities and injuries related to side-by-side vehicles, they are on par or even less than they are on the road, if we look at the road statistics. There are a lot of emotive comments being made in Australia concerning the safety of these vehicles, but when you look at it from a risk perspective, it is probably a lesser risk than if you hop in your car and go driving.

The Hon. WALT SECORD: On Monday we heard evidence from people who suggested putting up a pole or a cage or tethering someone. What is your response to those recommendations? Would they in fact help or hinder?

Professor GRZEBIETA: I am not sure. I think I did put in my submission that I and a colleague of mine who is helping me project manage the project, Dr George Rechnitzer, did some work for Graham Johnson, the Victorian coroner, on quad bikes. He collated seven such injuries and we were involved in that. It became a battle between the coroner and the experts working in safety who were trying to get a roll-over protective device together with seatbelts on these vehicles and the industry with their five barristers, three lawyers behind them, millions of dollars to stop this happening. Having experienced that, after three years we had had enough and we recommended this is not the way to go. We had similar experiences in vehicles, and safety of vehicles, crash worthiness of vehicles. We found in 1990 that the better way to go was to put stars on cars, let the manufacturers compete with each other. We have gone down this pathway with quad bikes and all-terrain vehicles: let the manufacturers compete with each other over safety and then the consumer benefits from that. When you look at trying to put a quad bar or one of these roll-over devices—you will notice that the Federal Chamber of Automotive Industries quote myself and Dr Rechnitzer on their website, saying you should not travel with vehicles with these devices without a seatbelt attached.

However, our position is, "Well, if you have a roll bar, it minimises the harm." How much it minimises we do not know. New Zealand had a requirement for putting on a rollover protective device of some sort or a bar at the back. We legislated in Australia for tractors to have these roll bars. They have been successful for the tractors. I am not sure about New Zealand. You could probably discuss that with associate professor Tony Lower from Sydney university, who has had some discussions with the New Zealanders. We have not yet seen the data. I suspect it might minimise it because we have found that rollovers

tend to happen at low speeds, roughly somewhere between 10 and 15 kilometres per hour. That means that if you are flipping over and there is something that stops the vehicle from rolling on top of you, it may assist. But we did not want to get into that argument. We preferred to work with the industry rather than be at loggerheads because that did not work.

The Hon. WALT SECORD: Does this star system exist?

Professor GRZEBIETA: We are developing it right now.

The Hon. WALT SECORD: When do you think it will be out?

Professor GRZEBIETA: Hopefully at the end of this year.

Mr RYAN PARK: What funding is allocated to the research program?

Professor GRZEBIETA: Because it also includes the ACCC, it is somewhere in the order of about \$1.2 million.

Mr RYAN PARK: In answer to a question from the Chair about preliminary results you mentioned that side-by-side vehicles were indicating to be safer.

Professor GRZEBIETA: No, not necessarily safer.

Mr RYAN PARK: Sorry, more stable?

Professor GRZEBIETA: More stable.

Mr RYAN PARK: Would we not have known that already?

Professor GRZEBIETA: No. Actually, no-one has done this work before. The only work that has been done is by the Consumer Safety Product Commission, which has done work on a number of side-by-side vehicles in the United States. We have not had any tests done on all-terrain vehicles. The transport research labs in the UK did a bit of work in this area, but no-one looked at the stability and rated them according to their stability.

Mr RYAN PARK: I assume that beforehand you would have hypothesized roughly what you expected to see. Does the information about the stability of the two vehicles follow that same path?

Professor GRZEBIETA: It makes sense, though the thing is that you do not know where the centre of gravity is. You do not know the suspension components. The suspension will make a difference. We are currently talking to a gentleman by the name of Dr David Renfro from the Engineering Institute in the US. He is developing a quad bike that has the same footprint as most other quad bikes but will be more stable and handles better. It is not necessarily the case just by measuring the width of the wheels to determine whether it is stable, no.

Mr RYAN PARK: How will this project be evaluated?

Professor GRZEBIETA: Hopefully we will have a star system and we will be able to rate the quad bikes according to our developed—

Mr RYAN PARK: Methodology?

Professor GRZEBIETA: Methodology. In fact, we have what is called a project reference group. It has some 30 members, which include the Farmers' Federation, all the WorkCover authority, Safe Work and people from the Australian Army—the Defence Force. We have a representative from the Consumer Safety Product Commission from the United States. We now have some university researchers joining us from Sweden looking at it as well. We have a broad range of people on that committee. We are presenting to them our work and methodology and they are critically reviewing that and saying, "Yes this will work" or "You might want to rethink that one" and offering us ways in which we can improve the methodology. The manufacturers have been working with us, which is a good sign. I think you will find that they will probably welcome the star rating.

Mr RYAN PARK: Apart from the star rating, is that the main component of this project that will help inform consumers?

Professor GRZEBIETA: Correct.

Mr RYAN PARK: In addition to the star rating on quad bikes, what are the two or three other things you hope this research will conclude?

Professor GRZEBIETA: I am hoping it will reduce fatalities and serious injuries substantially, significantly.

Mr RYAN PARK: Mainly through the stars because people will purchase a safer quad?

Professor GRZEBIETA: That is correct. That is exactly what happened with cars. We are hoping the same will work with quads, and I think it will. It is a risk. I agree it is a risk, but you have got to do something and the other way has not worked. The other way where we have headbutted with the manufacturer has not worked.

Mr RYAN PARK: Have you done anything regarding helmet use as part of this project? Can you take me through a little of that?

Professor GRZEBIETA: We strongly support that anyone wanting to purchase a quad should be trained, and trained properly. The whole research team went to Honda training. Likewise, there should be a helmet, but I think the helmet needs to be developed. We need an ATV helmet or a quad bike helmet. I think putting a full motorcycle helmet on can be obtrusive. I think that with two-wheeled motor bikes full helmets are being worn, but we need to think a little more about this so as to provide comfort. For example, if you are in a hot environment out there farming et cetera, you want some aeration. It is difficult. We

need to think that through. We have world-leading helmet people here in this State who are capable of doing that and could easily do that. We have a full facility out at crash lab where they can test these helmets. They are the two things. Helmets and rider training are really important. In fact, after our course, which we did at the Honda training centre out at western Sydney the manufacturers said, "Well, if all the farmers who'd bought a quad trained and worked out how these quads work and did the active riding, they probably would rethink their purchase and probably purchase a side-by-side." It is important.

Mr RYAN PARK: New South Wales and the Australian Capital Territory have different standards for helmets. If someone who purchases and wears a helmet in the Australian Capital Territory rides in New South Wales, are they technically in breach of the standards law here?

Professor GRZEBIETA: When you say the standards law—

Mr RYAN PARK: Are they wearing a non-compliant helmet?

Professor GRZEBIETA: If you are talking about a helmet that complies with the Australian Standard, firstly, it needs to be legislated. It needs to be in the legislation. The Standard is the same: it governs all helmets. If you have a compliant with Australian Standards sticker on the helmet, then it complies with that test procedure and it has gone through batch testing and has been approved. What legislation demands in each State is separate. That is for the States to establish, if they demand a particular type of helmet, which I do not think they do; I am not aware of that. You have to remember, an Australian Standard really is just a consensus amongst experts and industry. It does not become law unless it is introduced into legislation in the Act called on.

CHAIR: I want to move now to mobility scooters, or MMS—motorised mobility scooters—as your submission states. Your submission referred to the lack of reliable information about their use due to the absence of registration and licensing requirements. Would you favour registering and licensing mobility scooters?

Professor GRZEBIETA: I think if anything goes on our roads it needs to be licensed.

CHAIR: That is an assumption that they are being driven on roads.

Professor GRZEBIETA: My opinion is that even bicycles should. I have heard things for and against licensing. People have discussed whether ATVs should be licensed. There are problems on both sides of the equation. If the vehicle is travelling on a public road who will bear the liability if someone is injured? Licensing is one means of ensuring some coverage somewhere.

CHAIR: Indeed, that is one of the reasons for this inquiry. How could such a licensing and registration system work?

Professor GRZEBIETA: I have not given that much thought.

Dr BOUFOUS: Before talking about registration of mobility scooters we need to get a handle on where they are used. That is still unknown. The road rules talk about mobility scooters as pedestrians, so the rules apply to them in that context. They can ridden on a path if they do not travel at more than 10 kilometres an hour and they have to weigh less than 110 kilograms. I am sure members have seen mobility scooters on the road. There is also anecdotal evidence suggesting that some scooters on the market can travel at more than 10 kilometres an hour. I have seen them on cycle paths and on roads. We need to get a handle on how they are used before we talk about regulations. At the moment they are treated as pedestrians and they are used only on footpaths. However, I suspect that the reality is different and that is what we need to understand.

CHAIR: You have raised a range of issues. I draw your attention to the Sport Rider, which is clearly designed for the ex-motorcycle rider who must now use a mobility scooter. Clearly it is designed for a predominantly male market. The Sport Rider's maximum speed is 15 kilometres an hour. Of course, it is sold with a maximum speed of 10 kilometres an hour, but it can be dialled up for home use, perhaps in a farming area. More importantly, the total weight with a battery unladen is 188.5 kilograms. That is clearly in excess of the 110-kilogram limit. Evidence to date suggests that we should be considering raising the weight limit, perhaps to 150 kilograms, which is the limit in Queensland, or more given that some people are required to carry medical equipment. I have seen people loading these devices with trailers in addition to panniers. What is your view about the future given that we will see more of these devices on footpaths and on the side of the road and possible increases in speed and weight? The European speed limit is 12 kilometres an hour. Do you have any views?

Dr BOUFOUS: That is a difficult question and I do not have an answer. They are on the increase and everybody is talking about them. Again, we do not have exact numbers; we do not know how many there are or the rate at which their use is increasing. One of the reasons for that is the lack of registration. As I stated in the submission, 12,000 were sold in 2008 alone. They are on the increase. If we allow them to travel at, for example, 15 kilometres or 20 kilometres an hour laden, we will have to look at different ways they can share the road. I do not think it is practical for them to be used on the footpath. If they are, they must be separated from pedestrians. I know that cyclists do not used footpaths here in New South Wales, but they do in other jurisdictions. If that is the case, we need to do some serious work about where they will fit into the road system. I cannot see them travelling on a footpath at 20 kilometres an hour and weighing 180 kilograms.

Professor GRZEBIETA: We are also submitting a project grant application to the National Health and Medical Research Council. We are still seeking partners—it is a problem getting partners to come in with their cash component. We are looking at collecting that information and also at what we have done with quad bikes and assessing their stability. Mr Chairman, you showed us a picture of a three-wheeler. I would be cautious about that, mainly because it could become unstable if you handle it in a particular way. It is speed dependent and turn radius dependant. I think some work also needs to be done on that. We are well prepared to do that, but someone needs to rate them.

CHAIR: Do you have a view about personal mobility devices? You would be aware of the trial being conducted at Macquarie University involving personal mobility devices and the possibility of introducing them for short trips to commuting points. Do you see that as the way of the future and do you have any experience from overseas?

Professor GRZEBIETA: I have an experience from here on the Iron Cove Bridge. I was involved in an unfortunate situation where a lady was struck by a cyclist and thrown backwards. She had a massive head injury and has been debilitated for life. The steps come up and there is a big pillar. That has now been fixed and cyclists can see better. It gave us a flavour of what is coming. If you increase speeds on footpaths then you will have interactions between pedestrians and whatever the device may be—bicycles, scooters, mobility scooters and so on. You have to be careful about when there is an impact. We found that any speed above 10 kilometres an hour becomes a problem. We did some engineering analysis on that and found that at 10 kilometres an hour you will be thrown roughly one metre, which is equivalent to tripping and falling. We know people die from tripping and falling. It is about the same risk. I am suggesting it should be 10 kilometres an hour. The Austroads guideline for shared pathways for bicycles is 15 kilometres an hour. I think that is a bit high.

The Hon. RICK COLLESS: I refer to quad bike stability. You mentioned that vehicles are being developed with improved stability characteristics. I think you said that it is now just about track width. What are the other contributing factors with regard to stability? You said that suspension has an impact.

Professor GRZEBIETA: Yes, and also whether they have a fixed rear axle and whether they have a differential that allows for different tracking. Obviously wheels move differently according to the radius and that has an effect. We are talking about dynamic handling effects, so we will be rating them as well. Whether it understeers or oversteers is an issue. It is important.

The Hon. RICK COLLESS: Is that work being done as part of your program or the crash lab work?

Professor GRZEBIETA: It is underway at Eastern Creek. They started the first trials yesterday and they are getting the instrumentation working. We have three tests. With the circle test we go up to a particular speed and see whether the vehicle tips. Then we have a lane change and see how the vehicle tips and then we observe oversteer and understeer. We will be rating those vehicles.

The Hon. RICK COLLESS: Are manufacturers showing an interest in this work?

Professor GRZEBIETA: Yes. They are on board and we are keeping them informed. They have been offering us comments and we have been talking with them. The Consumer Product Safety Commission in the United States has done similar tests on side-by-side vehicles. It is according to world standards and best practice.

The Hon. RICK COLLESS: Is that program also looking at side-by-side vehicles?

Professor GRZEBIETA: Yes, we will be comparing all of them—the quads and the side-by-sides. We will then star rate them.

The Hon. RICK COLLESS: I am not sure whether there is a minimum track width for motor vehicles. Are you aware of that?

Professor GRZEBIETA: I am not aware of that.

The Hon. RICK COLLESS: I mean for road registered.

Professor GRZEBIETA: I think there is but I am not aware of the number.

The Hon. RICK COLLESS: Will we come to a time when there will be a minimum track width requirement for some of these off-road vehicles?

Professor GRZEBIETA: I am loath to introduce such stringent requirements. As you can see with the star rating, I prefer to let the manufacturers deal with the problem. They are very smart people and have huge amounts of money. They can invest in a safe vehicle that has a narrow track width or has a large track width. I do not know if we should be restricting in that context. We have done it for cars mainly so that we can have heavy trucks moving alongside smaller vehicles. There are design guidelines for lane widths but I do not think we have introduced any requirements for vehicle width per se.

CHAIR: The Committee has further questions relating to electric bicycles and such like. We will submit them in writing to you because time unfortunately has brought us to an end.

(The witnesses withdrew)

MARGARET PRENDERGAST, General Manager, Centre for Road Safety, Transport for NSW, and

EVAN WALKER, Principal Manager, Safer Systems at the Centre for Road Safety, Transport for NSW, affirmed and examined:

ANDREW PHILLIP NICHOLLS, General Manager, Motor Accidents Authority of NSW,

ANTHONY WING, General Manager, Efficiency and Effectiveness, Policy and Regulation Division, Transport for NSW,

JOHN HARTLEY, Assistant Commissioner, Commander, Traffic and Highway Patrol, NSW Police Force, and

ANTHONY JOHN WILLIAMS, Assistant Director of Operations, WorkCover Authority of NSW, 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 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 somewhat limited today, and the Committee may wish to send you additional questions in writing, the replies to which would form part of your evidence and be made public. Are you happy to provide written replies to any further questions?

Mr WILLIAMS: Yes.

Mr HARTLEY: Yes.

Ms PRENDERGAST: Yes.

Mr WALKER: Yes.

Mr WING: Yes.

Mr NICHOLLS: Yes.

CHAIR: Ms Prendergast, do you want to make a brief opening statement? The Committee is happy to hear from the others they wish to make an opening statement?

Ms PRENDERGAST: Transport for NSW really welcomes this inquiry into non-registrable motorised vehicles. We acknowledge the complexity and the broad-ranging nature of the topic, and we actually recommend that different mobility devices are considered individually due to the different characteristics, purposes and issues associated with each. There is no one-size-fits-all measure to address the potential safety risks posed

by different mobility devices. Whilst the level of death and injury stemming from these motorised devices is very low, relative to other road user groups and vehicles, the proliferation of these devices is an emerging road safety issue.

Our main concern relates to the size, weight and speed of these vehicles and the potential of impact with pedestrians, and potential harm for the actual device users themselves. The ageing population will greatly increase the demand for these type of devices. However, it is really important to note that alternative mobility options for the elderly and for people with disabilities is crucial, and cannot be overlooked as we actually analyse each and every device. The importation and standards that relate to these devices rests with the Commonwealth, and therefore any discussion will need to be had at the national level.

Last, but not least, potential measures and solutions need careful consideration. This topic area is really difficult and seemingly simple solutions could actually impose significant costs without actually achieving the intended outcomes of improved safety.

CHAIR: Does any other witness wish to contribute prior to questions?

Mr WILLIAMS: No.

Mr HARTLEY: No.

Mr WALKER: No.

Mr WING: No.

Mr NICHOLLS: No.

CHAIR: The Road Transport (Vehicle Registration) Regulation 2007 and the Road Rules stipulated that motorised wheelchairs or mobility scooters should not be capable of travelling more than 10 kilometres per hour. The Government's submission says that some mobility scooters available on the market now have a capacity to travel up to 17 kilometres per hour. How might the 10 kilometres per hour speed limit be enforced at point of sale? I do not think you were here, Ms Prendergast, when I showed the previous witness this particular vehicle, which is called the Sport Rider and clearly is marketed at the male who may have ridden a motorcycle in younger years. The point of this is that the maximum speed is up to 15 kilometres per hour and its weight with the battery is 188.5 kilos. With that in mind, could you comment on the speed limit and the weight as well?

Ms PRENDERGAST: Within the Road Rules it is really quite a simple division. Under 10 kilometres travel speed is a pedestrian; that is what it is deemed as. Over 10 kilometres it is deemed as a vehicle. We know that product regulation needs closer attention. The ACCC has been doing a lot of work in terms of better product regulation for alternative mobility devices and Austroads now are taking that on board actually to look at some recommendations for standardising those product regulations.

We have been involved in the trial of personal mobility devices at Macquarie University and we can tell you that when we went out looking at the devices there are a range of devices available in Rockdale and in Hornsby and they go 20 kilometres and 15 kilometres; you can stand up and ride them or you can sit down. The variation is absolutely outstanding. We believe that we need strong product regulation.

CHAIR: You are aware of them being sold. Do you actually have evidence of them being used on public roads?

Ms PRENDERGAST: We do not have the evidence but every time we do find out about a particular device that does not meet the standard we report back to the Department of Infrastructure and Transport in the Federal Government.

CHAIR: What are the difficulties in policing those particular types of devices?

Mr HARTLEY: It is extremely difficult because how do you judge the speed? We can use a LIDAR device and every day police will be out there putting LIDARs on to elderly people in these sorts of cycles but I think the important part is that we have one prosecution in the Blue Mountains where a lady had about seven warnings for driving on the road and off the road doing about 14 kilometres an hour and was taken to court. She was given a section 10 but only because police had no other option but to do that because she would not accept the warning not to ride the vehicle. It was unsafe for her and more importantly was unsafe for the pedestrians.

The Hon. RICK COLLESS: So she was on the road?

Mr HARTLEY: Yes, on the road and the footpath, but mainly it was her riding on roads that were not made for much use. That was the problem. That went before a court and a section 10 was issued but she is still riding the scooter and I still see her on a scooter so I do not know what the solution there is.

The Hon. WALT SECORD: What do you advise your officers to do when they encounter senior citizens on mobility scooters using public roads because we were told that particularly Warringah Council and Sydney City Council have parts where the sidewalk is uneven and unsafe, and they are forced to use public roads. What do you tell your officers when they encounter senior citizens using their scooters on public roads?

Mr HARTLEY: I actually do not tell them anything. I expect common sense to be used and the fact is that there are thousands on the roads now and being used on footpaths crossing roads and to cross at crossings. We use our common sense. We do not have much interaction at the moment, which is great, but I can see from this Committee's inquiry that it will expand over the years and we need to make sure we get a handle on what is going to happen.

The Hon. WALT SECORD: We have been told of cases of people actually using motorised wheelchairs under the influence of alcohol. On Monday we were given examples

of that. Would you arrest or charge someone who was using a motorised wheelchair under the influence of alcohol?

Mr HARTLEY: Not if they are pedestrians, no, and the classification is under 10 kilometres. They would be a pedestrian not a driver or a rider.

CHAIR: It is a complicating factor?

Mr HARTLEY: It is very complicated, yes.

The Hon. WALT SECORD: So you could use a wheelchair under the influence of alcohol if you stayed under 10 kilometres an hour?

Mr HARTLEY: Yes.

CHAIR: On the footpath.

The Hon. WALT SECORD: On the footpath?

Mr HARTLEY: Yes.

CHAIR: The Government submission—and you referred to the Austroads input in your opening remarks—said that the Austroads input has recommended that the speed limit on mobility scooters be reduced to six kilometres per hour for personal and public safety reasons. Does New South Wales support that recommendation?

Ms PRENDERGAST: We strongly believe that it has to be 10 or under. We are waiting for the finalisation of the Austroads work, but really with the fact of the growth of the mobility scooters that we expect, the fact that there is an ageing population and we have more elderly pedestrians as well, the dangers in the future could be such that we do look at lower speed limits.

CHAIR: It was presented to us earlier in the week the consideration of three types speed limits—one for indoor use, one for external road-footpath use and one for active use, such as on farms or playing sport and that the potential be there to dial up those different speeds. Can you comment on that?

Ms PRENDERGAST: Presenting options like that for people who are using them who potentially have cognitive decline is probably not a sound solution. We acknowledge that there are different purposes but in terms of public roads where they are using them on a footpath, having to cross a public road, it has to be 10 kilometres or under.

CHAIR: Can you clarify for the Committee whether under current New South Wales legislation motorised wheelchairs and mobility scooters should be used solely for the conveyance of a person with a disability that substantially impairs the person's mobility rather than as an alternative form of transport for the able bodied?

Ms PRENDERGAST: That is correct. We assume that people using mobility devices—and we use motorised wheelchairs and mobility scooters under that definition of a motorised device—is someone who actually cannot walk. What we are finding in practice is that the majority are people where walking is no longer an option due to frailty or other conditions. In fact, what we found is that somewhere close to 50 per cent of people on mobility scooters are actually under 60 years old, which means they have a disability.

CHAIR: So there will be a clear distinction between that type of rider of a mobility scooter and the rider of the personal mobility devices which are currently under trial and to which you referred and there could be serious conflicts on footpaths?

Ms PRENDERGAST: Very different purposes. A motorised wheelchair or mobility scooter is a mobility device to help someone who is infirm or cannot walk as they used to. Personal mobility devices are being looked at as smaller lightweight options that you could actually take on public transport to fill in what they call the missing mile where it could be a trip that is over two kilometres to get to your bus stop or your train station. We do not want people getting in their car for that. That is where that particular personal mobility device may fit into the future transport equation.

CHAIR: We will explore that a little further.

Mr RYAN PARK: This question is open to any of the witnesses. In your submission, which was very thorough, EnableNSW said that they have received requests to provide mobility devices to people who are legally blind who plan to use them on public roads as transport replacement. As I understand it, there is currently no impediment for that to happen—correct me if I am wrong. Is there any concern with that?

Ms PRENDERGAST: This is not really our area but EnableNSW at least provides a gateway; it provides a point where people go to. They assist them with their mobility options and they actually provide that skill set and assess their competence to use it. So it least while EnableNSW is involved and allocating it we know there is a level of control. If they do not go through that avenue and they are doing it independently, there is no level of control.

Mr RYAN PARK: So a legally blind person could purchase one of these devices and use it?

Ms PRENDERGAST: Potentially yes.

Mr RYAN PARK: EnableNSW has also said—and I have had this in my electorate office and it was raised earlier in the week in the previous hearing—that there have been requests to increase speed because of the terrain where I assume some people are taking these devices, uphill and probably in parts of Sydney and beyond, beyond the 10 and probably towards the 15 to 17 kilometres. Do we have a view on that?

Ms PRENDERGAST: We do have a view. We have a view that they must be under 10 kilometres and in fact with the personal mobility device trial we insisted on speed limiters so

that those devices could not physically go over 10 kilometres an hour, and that option is available for mobility scooters or mobility devices and we believe that it has to be capped at 10 and that there has to be some sort of speed limiting device on them in future, particularly with demand for faster speeds.

Mr RYAN PARK: This has come up with me locally and people in my electorate have actually done this and checked if it is okay. They have had their licence disqualified. They have bought a moped or whatever the lingo they use for these things and they ride those around. I am not having a shot at these people but they have lost their licence as a result of DUI but as I understand it—and your submission clarified it but if I have it wrong, please tell me—it is difficult for police to secure a conviction with these people because you cannot force them to have a breath test on the side of the road. So if Ryan Park has got one of these things, comes home from the pub drunk riding on a footpath around other people, et cetera, is it true, John, that they cannot be subject to a breath test?

Mr HARTLEY: I do not believe so, but, again, it is the definition of what they are riding—police need to be able to prove that it is over that 200 or 250 watts to be a motor vehicle. Unless they can prove that on the side of the road—which they cannot—they then could not subject you to a breath test. If they can prove it is over that wattage it then becomes a motor vehicle, so a breath test is quite right, but if it is not, if they cannot prove that, they cannot breath test them. There are a lot of problems in Newcastle as well.

Mr RYAN PARK: I was about to say this may not be so much a problem in city electorates but it is a problem in regional New South Wales, and it is a problem where I live and come from because the proximity from the large entertainment precincts are very close to bike tracks, which means these people—and they have come to my electorate and told me they are doing it and this is why this concerned me—are getting on these bikes, and I know they go more than 10 kilometres an hour, that is a definite factor, and they are getting home. I know anecdotally there are people who certainly appear from their behaviour to have been under the influence. I just wonder should we as a committee be looking at this, John, a little bit. I am just worried someone is going to get hit from one of these things.

When we are encouraging people to walk and to use an alternative means of getting home, some of these idiots are out there who have already lost their licence. The ones I have come across are the ones who have been done for DUI; it might be that they have been done for other things, but the ones I have seen have been done for DUI. Then they are using these bikes that go 20, 25 or 30 kilometres an hour, according to them—I do not know how they know that—and they are getting home and they are intoxicated.

CHAIR: Along those lines can I just add before you answer, Assistant Commissioner: I did some research into what was happening, say, in the UK, and found that the Royal Society for the Prevention of Accidents made a submission on this type of inquiry concerning mobility scooters to the House of Commons in January 2010. To their submission they appended an appendix—and this is relevant to Mr Park's query—with a couple of headlines from newspapers. This one is particularly pertinent: "Mobility scooter driver convicted of eight miles per hour drink driving"—I think the speed limit was four miles per

hour. A second one: "Grandad four times the limit on a mobility scooter". So the issue is real.

Mr RYAN PARK: It is not made up. John knows that in various areas and it is not just Newcastle/Hunter but it is where you have got to travel sometimes a decent distance to get home.

Mr HARTLEY: We saw a shop crop up there selling those devices, in Newcastle particularly, over the wattage. But, again, it is very hard for police to prove.

Mr RYAN PARK: The Segways—this got brought up in an earlier discussion this week—I understand the Centre for Road Safety has received some requests about Segways and the use of them as a mobility device. You do not agree with that?

Ms PRENDERGAST: We do not support Segway use. It does occur in New South Wales but it occurs in off-road areas under a tour guide in certain locations. We are very apprehensive about the potential to let a Segway onto a public road or a footpath. They are 54 kilos in weight and can travel 20 kilometres. If they encounter a pedestrian the outcomes will not be good. They are also very difficult to manoeuvre and balance; they need very strong physical prowess to be able to control them. We acknowledge that Canberra has limited use, Tasmania is looking for tour and Queensland is obviously looking at it. Our preference is to monitor the safety very closely before even having the discussion again here in New South Wales.

Mr WALKER: A key point on that is that mobility scooters are for people with mobility impairment; those people would struggle to use a Segway.

Mr RYAN PARK: Are you talking because of the movement left and right?

Mr WALKER: Because of balance and movement. If you have got difficulties walking there is mobility impairment and it is going to be hard to balance on a two-wheel Segway.

CHAIR: There is no doubt about that. One only has to look at the YouTube examples to realise that able-bodied people have great difficulty in manoeuvring them.

Mr RYAN PARK: Ian Healy.

The Hon. WALT SECORD: Assistant Commissioner Hartley, what do your officers tell you involving non-registered motorised vehicles like Segways, motorised scooters and adapted bicycles with electrical motors? Does it come up on your radar, so to speak?

Mr HARTLEY: It does. The Segways have not at all, but certainly the motorised pushbikes, the Pedelecs, those type—the ones that are converted with a petrol motor—they come up quite often. Again, as Mr Park says, that clientele, I suppose, who are mainly getting around the law. So it is not kids doing it at the moment, it is more of an older person.

The Hon. WALT SECORD: So it is part of a plan: people are using it to get around the law?

Mr HARTLEY: It is an alternative, yes. It is a big issue and we have had inquiries before about the cycles and the weight ratios and the speeds. When you are travelling on something at 15, 20 kilometres an hour—they weigh at least 90 kilos, plus the person on top—it is dangerous for pedestrians, a young kid, anybody. So I think we are concerned about it, officers are concerned about the usage, and not being able to prove the wattage on the vehicle.

Ms PRENDERGAST: The other thing I would just like to add to that is we are all quite used to dealing with modified vehicles, but people are modifying these alternative mobility devices—they are putting things in to increase their speed; they are retrofitting bicycles with little petrol engines that are not under the definition of a power-assisted pedal cycle. So there a lot of hybrids out there, and I think as the number of devices promulgate so too will that modification and that post fix-up.

CHAIR: If I could just add to that: I noticed in the area I live in, which is Albury, a lady who probably was in some way legitimately riding as a disabled citizen a mobility scooter. She had attached to that a trailer and she had in that trailer long lengths of timber—I would say over two metres in length—as well as several other heavy objects she had purchased from the hardware store and she was riding along the footpath. The potential for an accident was clearly evident, yet she was doing the right thing in riding on the footpath. But, again, modification. This is how you see it progressing as people take more and more liberties as they become used to that form of transport and then try to add value to it?

Ms PRENDERGAST: We are just trying to control the actual devices themselves. What I suppose I was trying to alert you to was that there is this other whole market which is adding other things onto these devices that makes them potentially even more dangerous.

The Hon. WALT SECORD: Back to Assistant Commissioner Hartley. Are there any recommendations that you could provide to us or suggestions that would help us with our deliberations that would improve or assist your officers?

Mr HARTLEY: We certainly need a standard identification on the device themselves—an engineer certificate or some device that says "This is less than 200 watts", and that would be quite simple for us. If it had no certificate then we could prima facie put them before a court and let the court decide. It simplifies it for us. It lets people know that if they try and implement a bigger instrument or bike they can be caught for it. I think that is one way we can clear it up. We use that for exhaust pipes where you have an Australian standard on the pipe and that is prima facie to comply with standards.

The Hon. RICK COLLESS: Assistant Commissioner Hartley, you mentioned the figure of 200 and 250 watts this morning. What is the figure that needs to be registered? Is it over 200 or over 250?

Mr HARTLEY: It depends on the definition, and Evan might clarify it, but 200 is the normal standard and a Pedelec, which is a different classification of a motorised bike, is 250 watts

The Hon. RICK COLLESS: Can you just remind me what a Pedelec is? It is an electric-powered pedal cycle, is it?

Mr HARTLEY: It is a certain brand of one.

Mr WALKER: It is a certain brand that is imported from Europe. It has got other safeguards in it; for example, the motor will cut out over 25 kilometres an hour and it requires the rider to be pedalling. So there are a couple of safeguards in a Pedelec and it definitely fits in the space of power-assisted pedal cycles. It should not have the problems that John is talking about, about being over-powered and those kinds of things.

The Hon. RICK COLLESS: Pushbikes, pedal cycles without any power assistance, they are not allowed to be ridden on footpaths, is that correct?

Mr HARTLEY: It depends on the circumstances. If you are an adult with children under 12 years old you can all ride on the footpath, otherwise you cannot.

Ms PRENDERGAST: Or limited exemptions, for people with disabilities largely.

The Hon. RICK COLLESS: Another question relates to speeding offences on pushbikes. This came to mind the other day because a friend of mine rode his bicycle around Mount Panorama. He said that, while he struggled going up the hill, he was about to hit about 75 kilometres an hour coming down the hill. I told him he was lucky he did not get booked because the police often have their LIDAR devices there. What are the rules regarding speeding on non-motorised vehicles?

Mr HARTLEY: It is a very grey area. There is furious and reckless riding, I suppose is what we go on. If it was dangerous and you hit somebody or if it was dangerous activity, you could be fined for furious and reckless riding. Again, that is about the only offence I am aware of that we could proceed on. There will be some criminal neglect obviously if there was the death of someone or major injuries, but again that is outside the motor traffic sphere and into a criminal charge.

Ms PRENDERGAST: We are looking at the whole shared path space as we speak. We have engaged the University of New South Wales to a major research piece of what we are doing to improve safety on shared paths around the world. One of the options being put up is some selective application of advisory speed limits of 10 kilometres an hour. We are well in touch with the view of, say, the Pedestrian Council. We have taken a LIDAR out there and clocked bikes on Anzac Bridge travelling at 47 kilometres an hour. When you think of an aging population coming up, and even mums with kids, that is really scary. So we need to know that when they are in pedestrianised areas and where there are pedestrians around, there needs to be some recognition that you need to modify your speed. Then that is a piece of work that, once we get an understanding of the issue we are doing some

observation studies, we will be able to put together a coms pack and look at what we do in that space.

The Hon. RICK COLLESS: On the issue of these motorised pedal cycles, there were quite a few of them imported as ebikes that created a few problems for both riders and police not so long ago.

Mr HARTLEY: Yes.

The Hon. RICK COLLESS: If those bikes had their pedals disconnected then they are certainly not regarded as a pedal cycle, is that correct?

Mr HARTLEY: That is right.

The Hon. RICK COLLESS: What is the situation with that particular brand of ebike? I think the problem arose because they looked more like a motorbike than they did like a bicycle.

Mr HARTLEY: They do and the pedals were not for getting motion on the bike. Some pedals were at the back where you could not even put your feet on them. It was designed as an electric bike. The thing is we could never prove their output. If you look at this website and they are saying up to 400 watts and they will go 25 kilometres and they weigh 70 to 90 kilograms. That has settled down. There are many more imports coming through that we just do not know of, and I think that is the hard part.

CHAIR: There is general agreement in most of the submissions we have had that current mobility vehicle standards are insufficient. Are there uniform standards for mobility scooters across Australian jurisdictions? As we have heard, all mobility scooters are imported. So are we in a position to impose standards that differ to Europe or the United Kingdom?

Ms PRENDERGAST: The work has been done nationally and that is where ACCC came in to look at the whole space of product regulation, what label should be on some of these devices. Austroads are taking that further now on behalf of all the States and the Commonwealth to look at what sort of uniform scheme we could do to control nationally particularly the importation and obviously the deployment of these devices on roads.

CHAIR: Do you have any views on any safety features that they should be fitted with?

Ms PRENDERGAST: Absolutely. We strongly recommend visibility improvements such as flags, et cetera. There is such a wide range of devices. For example, Segways do not have lights. People are not required to wear helmets. Each device has to be looked at in relation to the suite of measures that apply to that device.

CHAIR: In that case should those safety measures be compulsory?

Ms PRENDERGAST: On certain devices there should be compulsory measures.

Mr WALKER: I guess it is related to the purpose of the different devices. A mobility scooter which would be used on the footpath has a set of things which should be attached to it versus something that will be used on the road like a power-assisted bike. For a mobility scooter the biggest issue, as has been discussed already, is weight and speed. But on top of that is visibility. Because they are a lot shorter than a pedestrian there can be issues when they go to cross the road. So anything to improve their visibility is important as well.

The Hon. WALT SECORD: Has the State Government or your department done any work involving insurance issues, CTP involving motorised wheelchairs hitting pedestrians or implications on footpaths, crossing into traffic, using roads, that kind of stuff?

Mr WILLIAMS: I can only speak on behalf of WorkCover and the answer is no, we have not.

The Hon. WALT SECORD: Is there anyone here who can assist me with that inquiry?

Mr NICHOLLS: It is probably a question for the Motor Accidents Authority. There have not been detailed studies into that. Fortunately, we are not talking about a large number of injuries. Out of the 12,000 claims that come into the CTP system every year only a very small number of injuries relate to people who are on mobility devices. In general the way the green slip system works in New South Wales is that it is a fault-based system. So when somebody is injured by another vehicle the person who is on that mobility device is covered whether or not the device is legal and they are able to bring a claim for those injuries within the CTP system. The area is less clear in relation to when that vehicle is at fault, so the vehicle is actually causing the accident. If you look at something like a mobility device, under the motor accidents legislation if the mobility device is exempt from registration, which is the case if they are below 10 kilometres and the weight limit. Then the person that they injure will be covered provided that injury has occurred in a road or road-related area. We are dealing very much at the margins. A very small number of injuries are occurring where a vehicle might be operating illegally on the road network and therefore would not be covered if they have injured somebody else. But it is a small issue. We have not done any specific studies.

The Hon. WALT SECORD: So if a registration system was set up by the O'Farrell Government could you then put in CTP coverage for motorised wheelchairs, because there are parts of the North Coast where they are using public roads—the Blue Mountains, Warringah?

Mr NICHOLLS: Correct. The way the motor accidents legislation works is that any vehicle that the Minister for Roads and Ports determines under the roads legislation is a vehicle requiring registration or is exempt from registration automatically comes under the green slip CTP system. So the mechanism for us is that if there is a new class of vehicle that gets created through that process automatically there is a requirement for that person to obtain a green slip to operate that vehicle.

The Hon. WALT SECORD: But you have had cases or incidents where people have been injured involving motorised wheelchairs? Pedestrians or—

Mr NICHOLLS: Yes, we have. I am aware of several claims that have been made where the motorised vehicle was exempt from registration and they are currently going through the insurance system at the moment so I probably should not comment about the outcome of it because it is still subject to a process. But in those instances the insurer involved has accepted the liability and is processing those claims.

The Hon. WALT SECORD: So it was the person driving the chair that had injured—

Mr NICHOLLS: That was the person driving the chair, that is correct.

Ms PRENDERGAST: But there have been injuries where the chair has encountered another road user and we have had a death of a motorcyclist, a pedal cyclist and a number of pedestrians from encounters with mobility scooters.

The Hon. WALT SECORD: How many in fact?

Ms PRENDERGAST: We have had one motorcyclist—this is in the last 13 years. We have had one motorcycle rider, one pedal cycle rider and eight pedestrians.

The Hon. WALT SECORD: Eight pedestrians on sidewalks killed by people in motorised wheelchairs?

Ms PRENDERGAST: Or crossing a road potentially. It may not all be on a footpath.

The Hon. WALT SECORD: So 13 in—what was the period again?

Ms PRENDERGAST: It is over 13 years. From 2000 to 2012—sorry, I take that back. It has only been the motorised wheelchair drivers who have been killed. All the others sustained injuries.

The Hon. WALT SECORD: So how many motorised wheelchair operators have been killed?

Ms PRENDERGAST: I will just take five years. There have been seven since 2008.

The Hon. WALT SECORD: Seven people?

Ms PRENDERGAST: Seven motorised wheelchair drivers killed.

The Hon. RICK COLLESS: Were they at fault or was the other vehicle at fault?

Ms PRENDERGAST: You would have to dissect each case.

The Hon. WALT SECORD: Could I ask you to provide that information on notice, a bit of a breakdown? I was unaware that the numbers were that large.

Ms PRENDERGAST: Yes. When we look at injuries in that same five years, in 2008, 28 injured—this is motorised wheelchair drivers—30 injured, 22 injured, 22 injured, 15 injured. The injuries were quite substantial in number.

The Hon. WALT SECORD: I was unaware of those figures.

Ms PRENDERGAST: They were in the submission but I can give you a further breakdown.

The Hon. WALT SECORD: We would appreciate that.

Ms PRENDERGAST: The problem with giving more and more detail is that the numbers are so small it actually becomes identifiable. We will give you whatever we can within the privacy realm.

The Hon. WALT SECORD: I understand the privacy issues. Are these people actually killed on the vehicles? They do not die of natural causes?

Ms PRENDERGAST: That is right. If it is a natural cause they would be excluded from our figures.

CHAIR: I gather from the submissions that one of the problems is identifying the exact cause, particularly for pedestrians, and these people are often classified as pedestrians. They could have a fall from the vehicle and not in fact be involved in an accident; it could be subsequent to a heart attack.

Ms PRENDERGAST: But then they will be excluded because we exclude any deliberate acts, anything not on a road reserve or anything with natural causes that are proven to be natural causes. The issue we have really in terms of the number of injuries and even the number of deaths is that we must appreciate that those using these devices tend to more frail. When an incident occurs the outcomes will be more severe because of their frailty.

The Hon. WALT SECORD: We heard a suggestion that when someone reaches the age of 80 they be encouraged but not forced to consider mobility scooters as an option if they are doing small journeys such as 200 metres, because a taxi will not take a person 200 metres. What do you think of the proposal to encourage people who are over the age of 80 to consider mobility scooters rather than driving?

Mr HARTLEY: That is a pretty broad question.

The Hon. WALT SECORD: I am just asking for your opinion. You are an expert in this field.

Mr HARTLEY: In road safety certainly; I am not an expert in disability or the elderly needing mobility. But I think if people have got disabilities they should be able to use that sort of device. I think that is where we are going. They are getting much cheaper to buy. Before no-one could afford them but now they are very cheap.

Mr RYAN PARK: A process was suggested for when notices go out for residents to conduct their licence test or renew their licence. I think the gentleman said that in Queensland or Victoria some information is put in the mail-out to gently say, "Have you looked at another option called a mobility scooter?" My colleague is right that a lot of these people do things out of peak hours and the length of their trip is often minimal, but they are frequent enough to make taxis very expensive or the trip is too short for a taxi to take them. Those of us who have been around transport know of that problem. This is a sort of middle ground. We were just looking to see if that was something that the Roads and Maritime Service might look at?

Ms PRENDERGAST: Transport has actually been looking at this. We do support that. We think that as we are looking at that transition phase post-75 from your licence we need to provide more options. We need to provide more options about what alternative mobility options exist. We even need to get down to the basics and at a local level explain what alternative transport options exist in that community. You almost need to go bottom up with that training. We do advocate for training, particularly for mobility scooter use.

I am not sure that something mandatory is the way we go, but the Monash University Accident Research Centre [MUARC] study we quoted in our submission looked at, potentially, the production of a kit at the point of sale such as a DVD or something. We really want to explore that in the coming year to look at what can we do to improve the information not only about all of the range of skills and competency issues they need to tackle, but also tips about road rules and interacting with other road users, et cetera, and having a very non-confrontational DVD that they can watch at home. What we do know from the older driver licensing space is that you need to engage with the elderly in a sensitive manner. You need to do it in an effective manner, not in a confronting manner. Therefore something they could have at the point of sale that they could absorb at home or a locally based workshop that they will come to and have a cup of tea is really the way to go in this space.

CHAIR: We raised the issue of insurance and we have been talking about injuries. Mr Nicholls, are you able to compare the effectiveness of the insurance regime in New South Wales applying to people injured in a motorised wheelchair accident to the compulsory third party [CTP] schemes operating in Queensland and South Australia?

Mr NICHOLLS: The outcomes in all three States are largely the same, although we have different mechanisms for how it operates. All three States have the same arrangements in relation to the speed of the vehicle and the weight of the vehicle that will be covered by the schemes. The Queensland Government requires registration and insurance, but the insurance is made zero. In South Australia there is automatic insurance for anybody who is covered by or has a vehicle that fits within that definition. In the case of

New South Wales, as I was explaining a moment ago in answer to the previous question, we work on the basis of a nominal defendant scheme.

Our nominal defendant scheme covers anybody who is injured in a road crash where the vehicle that has injured them does not have insurance, is not required to have insurance or, indeed, where there is a hit and run. In those circumstances the injured person brings a claim nominally against the Motor Accidents Authority but in practice we allocate those on a market share basis to the seven licensed insurers that operate in our system. Somebody who has been injured by a vehicle that is exempt from registration is entitled to bring a claim under the nominal defendant scheme. The mobility devices that fit within that definition of exemption therefore get picked up.

In effect, all three States are operating an indemnity insurance arrangement. It is not covering the individuals themselves; it is indemnifying them against any costs that arise from the operation of the vehicle. Where a challenge arises for all jurisdictions that are operating insurance systems—and we all have slightly different insurance systems—is that we are dealing, as you pointed out earlier, with vehicles that are not fitting within that definition. They have got higher speeds and so on. It becomes a challenge and an issue for the insurer to determine whether or not the vehicle was operating illegally or whether it was operating exempt from registration. That creates uncertainty for an insurer in terms of how they manage the claim.

CHAIR: We may submit this question in writing because it gets a little complicated, but earlier this week the Bar Association said that there is a gap between public liability and motor vehicle insurance. Indeed, an accident could arise from the use or operation of a motor vehicle that fell outside the statutory definition in motor accident legislation but was still excluded from public liability. The risk there is for the injured person who is reliant on the wrongdoer's capacity to pay compensation and the risk that the wrongdoer could potentially lose their home if uninsured or accidentally causing serious injury. They recommend an exclusion clause under the public liability policy to exclude statutory liability under a relevant compulsory third party scheme, and public education to raise awareness of the need for appropriate insurance. Do you have any comment along those lines?

Mr NICHOLLS: My opening comment is to say that I am not the regulator of public liability insurance and so the comments that I make about it are coming from the perspective of the regulator of the Motor Accident Scheme. The issue is that the Motor Accident Scheme, like all insurance systems, has boundaries. There are rules and systems in place about what vehicles in what circumstances and what particular types of injury are going to be covered by the scheme. Boundaries are a normal part of insurance. Both public liability insurance policies that are issued by private companies and CTP insurance issued under statutory provisions by licensed insurers in New South Wales all have boundaries.

The issue that has been raised that you are referring to is that in some cases, as I understand it, public liability insurance often has exclusions placed in their provisions dealing with motorised accidents or injuries arising from motorised accidents because of an assumption, perhaps wrongly, by the insurer that those injuries will be picked up by the relevant CTP scheme. The issue, in my view, is mainly an issue to do with public liability

insurance rather than the CTP scheme having inadequate coverage, but it does highlight an issue that is of concern.

The issue is that small businesses are taking out liability insurance and taking out their green slip insurance and then thinking that they are covered and actually discovering that there is a gap sitting there that was not perhaps properly explained to them. In a lot of cases they obtain their insurance through brokers. Brokers are meant to provide advice to those small businesses to make sure that their coverage is adequate, but there do appear to be a small number of incidents—fortunately I can say I am only aware of a small number of instances—where there seems to be some gaps. Inevitably, where there are boundaries drawn there are going to be these sorts of grey areas and gaps that emerge.

CHAIR: In your submission there is a proposal to provide a new class of compulsory third party [CTP] insurance to recreational riders. The Government's submission says that a reduced premium for such a scheme could require a significant subsidisation by other road users. I imagine that that is very much the case in Queensland, where there is no cost for registration which brings CTP. Could you comment on that?

Mr NICHOLLS: There are two parts to that question. The first is in relation to the recreational registration proposal, which is a proposal that has been developed by an interdepartmental committee chaired by the Department of Premier and Cabinet. The Motor Accidents Authority has had some involvement in that committee but we were not the chair of that committee. That committee has looked at a range of options to bring in a form of recreational registration for motor bikes. These are motor bikes that are outside the registration system. At the moment they are not exempt; they are illegal. They cannot ride on the roads legally, therefore, if they do not require registration they also do not require CTP insurance.

In other States such as Victoria, there are recreational registration systems in place for such motor bikes but they are heavily subsidised by the local jurisdiction, in order to keep the prices low. The concern that the Motor Accidents Authority raised through that committee process is that, at the end of the day, somebody has to fund the cost of such a scheme and it is either the riders themselves have to pay the full cost or it is a cross-subsidy that has to be paid for by the rest of the community. The costs are the costs. It is an issue that is still alive in terms of the Government continuing to have a look at what those options are and our role is simply to give advice on different ways of configuring such a scheme, this would have implications in terms of the price.

CHAIR: I drew the parallel, I confused the two in the question, the parallel being that, as to recreational licensing, as opposed to mobility scooters, could you comment on that?

Mr NICHOLLS: That is the second part that I was going to come to. Mobility scooters are in the same category. At the moment, although there are very few claims brought, under the Nominal Defendant arrangements, the way the Nominal Defendant arrangement works is that the cost of the scheme is borne by the rest of the vehicle owners who are paying their green slip. Any expansion of coverage that does not come along with a

requirement for that user to pay for insurance, means effectively the rest of the community has to pay more.

CHAIR: As one of our witnesses said, they would be very happy for something free like that but we know that somebody else is paying for it.

Mr NICHOLLS: Yes, there is no magic pudding, I am afraid.

CHAIR: Many of the submissions the Committee has received have called for the registration of mobility scooters and we know that in Queensland motorised wheelchairs can only be used on footpaths and other road-related areas, if they are registered. Users must provide evidence from a medical practitioner or other health professionals confirming that they have a severe mobility impairment and they must agree to abide by the road rules. What is your opinion of that particular operation and what would be the drawbacks of having a registration scheme in New South Wales?

Mr WING: There are certainly a couple of things raised there, which might be desirable but we should probably remember that the full road registration and licensing scheme is designed to achieve a lot more things to deal with, for example, much heavier vehicles than mobility scooters, moving at higher speeds. There are a lot of extra costs involved in having the full scheme imposed. There will be the registration costs required, licensing and testing, there would be all those costs. There would be the cost of requiring some kind of identification plates, retrofitting mobility scooters so they could do all that. That would be a significant cost to impose on people, particularly those who are using these, to try and remain included within the community, just so we could achieve a couple of the elements of that scheme.

I would suggest that the better thing would be to work out exactly what is required, whether it is insurance or some kind of driver training or rider training and design something which is a bit more fit for purpose than imposing the full costs of bringing people within the vehicle registration scheme.

CHAIR: The collection of data is all-important and a benefit from such a scheme is what we should be aiming at, rather than the imposition of any scheme for its own sake. Submissions have called for the testing of physical or mental capacity to use mobility scooters. Is there any evidence that this might be necessary and, if so, how would it be applied?

Mr WING: As to the question of whether it is necessary, we would need to look at that further. It has been discussed earlier, the question of whether at certain points people need more training in how to use a mobility scooter and how that might be delivered. There would be a couple of ways of doing it. One, of course, would be to make it compulsory but another might be to provide training, to perhaps offer it when people come in with their license at a certain age or for local councils to provide it. There are a lot of different ways this could be provided.

Ms PRENDERGAST: We have been rolling out a pedestrian safety workshop for elderly people, which has a first part about interacting with a busy road environment, selecting gaps and things like that, in a soft and gentle way. The second part is discussing mobility scooter use and particularly training. We have also supported innovative operations such as Holroyd Council who have put on some skills-based competency type workshops. No-one fails but they get the skills and advice about how to ride safely and that is what I was getting at before when we alluded to, at the point of sale there needs to be something on offer to help these people. If we mandate some form of competency, just knowing the experience I have from the older driver licensing, it will be very confronting and we might form an underground of people who just do not present somewhere. I believe the elderly deserve more respect.

CHAIR: We have heard from other witnesses about the differences in delivery of training. Some do it exceptionally well and others, you can go as far as importing your own mobility scooter and have no training at all.

Ms PRENDERGAST: We would like to advocate and what we have been looking at is, not only something at the point of sale but also working with our road safety officers in local councils. There are some such as Shellharbour and Holroyd and a few others that are delivering exceptional programs for the elderly in mobility scooter use and safety. We would want to see that promulgated maybe with a standard curriculum and spiel that they deliver to the elderly.

CHAIR: I am glad that you raised councils because they are concerned at the increasing number of mobility scooters on their footpaths and in their vicinity and these will have implications for local planning and infrastructure and clearly, they will demand wider footpaths and the possibility of areas on roads, parking requirements, access to buildings, designated routes. How do you think councils could best respond to the demand for these kinds of improvements?

Ms PRENDERGAST: The only general comment I have is, obviously councils have to plan for their future demographic and we have certain councils, particularly on the north coast and south coast that we know have a very strong elderly demographic. All their infrastructure planning has to cater for that and the demand that is being presented.

CHAIR: In that respect, the Committee is undertaking a visit to Port Macquarie to examine that particular aspect on the ground, as it were. Do you think there could be increasing demand for a larger share of road or road-related areas as the population ages and the ownership of mobility devices increases and if personal mobility devices were legalised?

Ms PRENDERGAST: I believe that the largest danger we face is when mobility scooters come out on the road. The fatalities we have seen, albeit some have been people on a mobility scooter crossing at a pedestrian crossing and not being seen by a driver, but there are others where they have been riding along in the breakdown lane and the like. That is where they will encounter a heavy truck or a larger vehicle. It is this mix of vehicles into the future, these larger, heavier trucks and lighter greener vehicles, more two-wheelers,

more personal mobility devices—there needs to be separation. The people who are using mobility scooters have cognitive and physical issues. It is safer for them to be riding on the footpath than in a road environment.

CHAIR: This gets us on to that question, and you referred to it, about delivery of awareness information. How difficult is it to ensure an understanding of the road rules for people using non-registered motorised vehicles? Should road rules and pedestrian awareness be a compulsory component of the school syllabus? That, of course, addresses the younger group with personal mobility devices but, of course, we do have the problem as you pointed out, that the people using mobility scooters are generally the older age group, so we are not going to reach them through the school syllabus.

Ms PRENDERGAST: We deliver those sorts of elements in the school syllabus, about the road rules. We are doing things like Road Rules Awareness Week and refreshers and we are trying to get the road rules message out there far more. You are right. The people using these are people with disabilities or the elderly, but we believe tapping into those groups is far simpler than tapping into young groups. You can attract the elderly with a cup of tea and a function in a local area whereas it is really hard to reach young people. We believe there is a role for locally based education.

The Hon. RICK COLLESS: I understand the Minister for Transport and Main Roads in Queensland has announced they will allow the use of Segways on footpaths from later this year. Macquarie University and the City of Ryde are currently carrying out a trial of some personal mobility devices. If this New South Wales trial is successful and if the new Queensland regime is trouble free, what is the likelihood of New South Wales considering allowing personal mobility devices in public areas?

Ms PRENDERGAST: I will start with the personal mobility device trial at Macquarie University because we have been heavily involved in it together with the university and the City of Ryde. We have put some safety limitations up front. They were not to travel at more than 10 kilometres per hour and they were not to weigh more than 12 kilos because it is the speed and the weight when they encounter a pedestrian that we were worried about. This first trial at Macquarie University is within the grounds of the university. It is very much about testing the logistics and the interactions of these devices. It is testing the human factors—how they interact with pedestrians. It is getting a look-see at what happens in that interaction.

To be quite honest, we allowed them to import the vehicles through the Federal Government and we gave them an exemption to use the road-related area. Before that moved out into the public area as a trial, because there was a stage 2 planned, we had to test the safety of the interactions, and that is what they are doing in this phase. The next phase may be to put it out into a more real-world environment between the university and, say, another business in the area to look at the interaction in a real world. This is a research project; we are a long way from making a call and there have been a couple of incidents in this trial.

We will learn from this. They are all being filmed; we have video, we have speed limitation and it is very strictly controlled. Segways are a totally different animal. Segways were not permitted in this trial because they are 54 kilos and they can travel at 20 kilometres an hour. They are very difficult to manoeuvre—we have already been through that today. They are a very different beast; however we are interested to look at what happens in Queensland. I really think you need a couple of years to observe before we should even consider it, and we are apprehensive.

The Hon. RICK COLLESS: The speed limit of 10 kilometres an hour is approximately twice the normal walking speed. Is that too high? Somebody coming through a pedestrian area doing 10 kilometres an hour is travelling a lot faster than the pedestrians in that area.

Ms PRENDERGAST: The pedestrian walking speed can be up to 10 kilometres an hour. I would never make that personally! Ten kilometres an hour seems to be low enough for people to be fully in control so that you could take evasive action if you suddenly came up to a pedestrian. Obviously the other dimension with mobility devices is whether the people will have the cognitive ability to react in that time, which may beg the question you asked previously, along with the Austroads work, of looking at some potentially lower speeds. It is difficult when we get to cycling because we are trying to encourage cyclists for the commute. But we want absolute care to be taken when they are in pedestrian zones or on a share path with pedestrians. That is why we think there is another level of advisory speed limit that is required, at certain risk locations.

Mr WALKER: The other thing I would add is weight. It is not quite as important as speed but it is certainly a big issue. The heavier these things are the greater the potential for impact and the greater the severity. Ten kilometres an hour as a maximum is critical but also the weight—how big these things are, how many people sit on them and all those kinds of things that can impact on the outcome of any crash.

The Hon. RICK COLLESS: The enforcement of safe riding has been raised as an issue in some submissions. How difficult a problem for police is the driving behaviour of some mobility scooters? For example, using excessive speed and endangering pedestrians, and I think Mr Park also raised the issue of driving under the influence of alcohol.

Mr HARTLEY: I gave the example of a mobility scooter in the Blue Mountains. That was a problem and a danger more to the rider of the scooter than the car drivers, but if a car swerves to miss that and crosses to the other side of the road and has a head-on collision it could be fatal for a number of people. It is not a big problem at the moment but more and more of these vehicles are being rolled out. We want to make sure that whatever is recommended is enforceable, if it needs to be enforced, and is very simple. If we can keep things as simple as possible—a speed limit of 10 kilometres per hour and a stamp on the device saying that it complies with the standards. That is what we would need to be able to say, "Yes, you can do it. You can ride it and as long as you do it safely that is fine."

Ms PRENDERGAST: When we talk about education we are obviously talking about skills, competency, basic road rules and how they can interact et cetera, but there is a behavioural attitude element here. There are anecdotal cases, and you see it in shopping

centres, that some people who ride mobility scooters can be particularly bolshie and just push through and think everyone will get out of their way. So there is a bit of attitudinal conditioning when we get into this local education that is required.

CHAIR: We have explored a little about how that education can be delivered and I would be interested to hear more if you want to add to that. We have seen motorcycle safety campaigns in the past. The Australian Competition and Consumer Commission and NRMA report found that mobility scooter users believed that increased awareness by other road users would increase safety and reduce injuries. Is there a need for a focus campaign to raise awareness of motor vehicle drivers about mobility scooters and other mobility devices?

Ms PRENDERGAST: Yes. We totally agree and we are progressing a "Share the Road" campaign to highlight the interactions between all road user groups. Vehicles and cyclists are the classic example, cyclists and pedestrians are another classic, and vehicles and mobility devices. There does need to be communication and awareness because all of these road user groups are growing and we need to accommodate them in our road network, and we need people to share the road.

CHAIR: Indeed. I think that is the common theme. Thank you all for appearing before the Committee today. We will submit any further questions, and I am sure there will be some, in writing. Would you like to make any closing remarks?

Ms PRENDERGAST: I will submit some additional data to clarify my comments when I slightly mixed up injury and death. I also have some new data that we have run since our submission, particularly about motorised bicycles and the level of injury experienced on those. I preface that by saying it could be a legal, pedal-assisted bicycle or an illegal one with a petrol tank fitted after the event.

CHAIR: Thank you.

(The witnesses withdrew)

The Committee adjourned at 12.17 p.m.