

**REPORT ON PROCEEDINGS BEFORE**

**SELECT COMMITTEE ON THE IMPACT OF  
TECHNOLOGICAL AND OTHER CHANGE ON THE  
FUTURE OF WORK AND WORKERS IN NEW SOUTH  
WALES**

**CORRECTED**

**At Macquarie Room, Parliament House, Sydney on Monday 19 April 2021**

**The Committee met at 9:45.**

**PRESENT**

The Hon. Daniel Mookey (Chair)

The Hon. Mark Banasiak (Deputy Chair)

The Hon. Greg Donnelly

The Hon. Wes Fang

The Hon. Courtney Houssos

The Hon. Adam Searle

**PRESENT VIA VIDEOCONFERENCE**

Ms Abigail Boyd

The Hon. Shayne Mallard



**The CHAIR:** Welcome to the fifth hearing of the Select Committee on the impact of technological and other change on the future of work and workers in New South Wales. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past, present and emerging of the Eora Nation and extend that respect to other Aboriginals present. Today we will begin by hearing evidence from the Woolworths Group; the Shop, Distributive and Allied Employees Association; NSW Farmers; and Uber. Later in the afternoon we will hear representatives of the University of Sydney, Australian Women's Working Futures and the Queensland University of Technology's Centre for Decent Work & Industry.

Before we commence I would like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days of the receipt of the transcript. If witnesses wish to hand up documents, they should do so through the Committee staff. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into their microphone. For those with hearing difficulties who are present in the room today, please note that the room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. Finally, I ask that everyone please turn their mobile phone to silent for the duration of the hearing.

**CARMEL PELUNSKY**, Director, Talent and Future of Work, Woolworths Group, affirmed and examined  
**JESSICA DIGBY**, Workplace Relations Partner, Woolworths Group, affirmed and examined  
**RACHEL ELLIOTT**, Head of Government Relations – Retail, Woolworths Group, affirmed and examined  
**TOM WINDEYER**, General Manager, Last Mile, WooliesX, affirmed and examined  
**CRAIG ADAMS**, General Manager, National Operations, Woolworths Group, affirmed and examined

**The CHAIR:** I welcome our first witnesses, from the Woolworths Group. Firstly, I acknowledge that many people have travelled from Melbourne and we very much appreciate the time you have taken. I invite a representative of the panel to make an opening statement, if they so choose.

**Ms PELUNSKY:** Thank you, Mr Chair. The Woolworths Group does welcome the opportunity to participate in the hearing today. I am Carmel Pelunsky, Director, Talent and Future of Work for the Woolworths Group. Joining me is Tom Windeyer, General Manager, Last Mile with WooliesX; Craig Adams, General Manager, National Operations, Ops Ex and Customer Experience for Primary Connect, our recently rebranded supply chain business; Jessica Digby, Workplace Relations Partner; and Rachel Elliott, Head of Government Relations for retail. If I may, I will start with some background on the Woolworths Group. Woolworths was founded in December 1924, and after 96 years of operation the group is Australia's largest private sector employer, with over 200,000 team members working across more than 3,700 stores and representing our four major retail brands—Woolworths supermarkets and Metro stores, Dan Murphy's and BWS liquor outlets, and Big W. The group's annual wage bill in Australia is close to \$8 billion. Last year, Woolworths paid \$688 million tax, equivalent to an effective annual tax rate of 30 per cent.

We are proud of the role we play as a large employer, particularly for younger people who often start their working life within one of our stores. We also recognise that our size and scale as an employer comes with responsibilities and obligations on issues such as the future of work. Our team members are critical to our success and we strive to create an inclusive culture that supports, values and develops them. New South Wales is our home State, where we opened our very first store in 1924 in the Pitt Street arcade. Today in New South Wales we have more than 800 retail sites, five distribution centres and employee more than 60,000 team members, supporting more than \$2 billion in wages. Woolworths has more than \$3.7 billion property development investment over the next five years and New South Wales represents the largest area of investment, with more than \$2.3 billion in projects scheduled creating 7,500 ongoing jobs.

Around the globe, with Australia being no exception, retail is changing at the fastest pace we have seen in many decades. What our people do in 10 years' time will almost certainly be different from now. COVID has not created this trend, but it has most certainly accelerated what was already underway. Technological advances in automation, artificial intelligence [AI] and digital are transforming core retail processes, driving our industry forward and helping us to do a better job of meeting the changing needs of our customers. They also change the fundamental nature of the day-to-day work many of our team do, and over time we know that our team members will do fewer manual and repetitive tasks and more work that requires judgement, creativity and interpersonal skill.

That is an exciting prospect on many levels, but we appreciate that it also creates uncertainty. In wanting to lead on this transition to a new way of working, we equally want to ensure that no team member is left behind by the wave of change that we are all inevitably riding. That is why, at the beginning of February this year, Woolworths announced plans to invest \$50 million over the next three years to help equip our team with new skills and capabilities for the retail industry of the future. The Future of Work Fund will help us upskill, reskill and redeploy team members impacted by industry disruption and technological change. It will also underpin the launch of an online learning platform to offer team members easily accessible training, apprenticeship and mentoring support across Australia. We estimate it will fund access to training and reskilling for around 60,000 team members over three years.

The spectre of technological change is often met with pessimism. The advent of self-service check-outs is a good example. When we first introduced them, many predicted it would lead to a major decline in employment in our stores—but that has not happened. When we completed the self-service in 2009 we employed 113,000 people in our Australian supermarkets. Today, we employ 140,000 and continue to grow. Indeed, the fastest-growing role in our business is that of the online personal shopper. At Christmas we had 25,000 of them hand-picking for our customers. Sometimes we forget that countries with the most automation—like Japan, for example—can enjoy some of the lowest rates of unemployment.

Since we opened our first store in Sydney in 1924 Woolworths has offered employment opportunities to more than a million Australians. While much has changed in our business since the 1920s—indeed, throughout our 96-year history—we have provided rich work and career opportunities through countless waves of technological change. However, one thing has remained constant: People will be at the heart of our endeavour throughout. As we approach our centenary, the Future of Work Fund will help in setting us on the path to employ a million more Australians in the many years to come.

Woolworths Group appreciates the opportunity to contribute to the Committee's work. We very much intend to play a constructive role in future deliberations designed to strengthen the policy architecture around this topic, starting with the actions we ourselves can take. At the outset, I note that we have attempted to bring a representative group before the Committee today and we will attempt to answer questions where we can. Should the questions extend beyond our domain expertise, we will be happy to take questions on notice and come back to the Committee with further information.

**The CHAIR:** Thank you very much, Ms Pelunsky, for your opening statement. I might just ask a few preliminary questions before we kick off with Committee members. Can we first establish a couple of baseline explanations about some of the functions you talk about in your submission? Firstly, can we get an explanation of what is WooliesX?

**Mr WINDEYER:** Thank you for the question, Chair. WooliesX is our business that includes the online business—the ecommerce business. It includes our rewards business. It includes our customer hub, and it represents and works and enables our digital capabilities for the Woolworths supermarket group.

**The CHAIR:** As part of that function, it encompasses the sort of partnerships that you were talking about with platforms or elsewhere?

**Mr WINDEYER:** Yes, it does. From a supermarket perspective, it does represent and work through the partnerships with different providers.

**The CHAIR:** Which providers are they?

**Mr WINDEYER:** We work with a number of providers across different areas of the business. If we are talking about the ecommerce business, we work with partners from a technological front end perspective right through to the delivery side of the business and so there are many, many partners we work with across the WooliesX group. In terms of the ecommerce business and the delivery side, we have a partnership with a number of 3PLs who run our fleet business for us. Our fleet business is our operation whereby we run 1,000 or so trucks across the Australian geography. They are 4½-tonne trucks. We own the trucks and it is operated by our third-party logistics partners, being Linfox and Kings.

**The CHAIR:** Just for Hansard, 3PL is third-party logistics.

**Mr WINDEYER:** Third-party logistics partners, yes. We also have three relationships with Drive Yello, Sherpa and 13cabs, who operate our on-demand platform.

**The CHAIR:** Have you got an arrangement with Uber Eats?

**Mr WINDEYER:** No, we do not have a relationship with Uber Eats. One of the reasons for using the on-demand platforms and what it provides us—we really use it for two reasons, one being to service our same-day deliveries where the fleet is not a practical solution to that. Also, we use it to augment and flex up and down for the peaks and troughs in demand, and that became an important aspect during the pandemic at which time we had a relationship with Uber but not Uber Eats.

**The CHAIR:** Do you still have a relationship with Uber?

**Mr WINDEYER:** No, at this stage we are not operating with Uber.

**The CHAIR:** When did that stop?

**Mr WINDEYER:** We stopped operating with Uber two months ago. I would have to take that on notice in terms of the specific date, but reasonably recently.

**The CHAIR:** What were the reasons to halt the relationship?

**Mr WINDEYER:** They were changing the way that they were operating and we concluded at that time and we are working through whether or not that model will work for us in the future.

**The CHAIR:** That was a reflection of changes in their business practice which you felt meant that they could no longer service your needs? Is that a fair statement?

**Mr WINDEYER:** No, it was probably more the point that we are just working through whether or not it can.

**The CHAIR:** Just a couple more preliminary questions, if I can. In New South Wales, how many stores do you have?

**Ms PELUNSKY:** Over about 800. I can come back with an exact number if anyone knows, but just over about 800.

**Ms ELLIOTT:** It is about 800 sites. That includes 300 supermarkets. So New South Wales represents about 30 per cent of our supermarket network.

**The CHAIR:** That is across the four brands?

**Ms ELLIOTT:** Eight hundred sites is across the four brands. It is 300 supermarkets and 57 Big W stores.

**The CHAIR:** How many distribution centres do you have in New South Wales?

**Ms PELUNSKY:** Five.

**Ms ELLIOTT:** In New South Wales we have five.

**The CHAIR:** How many employees?

**Ms ELLIOTT:** In New South Wales we have 60,000 employees. Around 40,000 of them are within our supermarkets business.

**The CHAIR:** Do you have any numbers as to the proportion of casual versus non-casual?

**Ms DIGBY:** We do. Our casual workforce makes up approximately 25 per cent of our workforce, which is below the industry average and is a factor of, firstly, the fact that we are—and proud to be—a major employer of young people, providing Australians with their first job often, and often they need that flexibility to support their educational commitments. Secondly, it provides us with the flexibility to adapt to the seasonal peaks and troughs of retail.

**The CHAIR:** Do you use labour hire?

**Ms DIGBY:** We do. Not within our supermarkets, but we do within our distribution centres [DCs] and our dark stores—customer fulfilment centres.

**The CHAIR:** I will get to the dark stores in a minute. In terms of the distribution centres, how much labour hire do you use?

**Ms ELLIOTT:** Within our DCs, full-time employees represent the vast majority at about 70 per cent. So labour hire would be roughly equivalent to 30 per cent, depending on, again—like Jess said—the seasonal nature of our business.

**The CHAIR:** You made mention of your dark store network. Just for the purposes of the public record, what is a dark store?

**Ms DIGBY:** A dark store is essentially like a large supermarket that is closed to the public. It is a supermarket that is a bespoke store just for online picking, so the picking of online orders.

**The CHAIR:** How many do you have in New South Wales?

**Ms DIGBY:** We have three in New South Wales and five nationally.

**The CHAIR:** I presume "dark" means you do not disclose the location?

**Ms DIGBY:** No, that is totally fine. We can disclose that.

**The CHAIR:** Do you mind, on notice, providing us where they are?

**Ms DIGBY:** I can tell you now. We have got one at Mascot, Brookvale and Lidcombe in New South Wales, and then Notting Hill and Footscray in Victoria.

**The CHAIR:** That is where the predominant online personal shoppers work. Is that fair?

**Ms DIGBY:** Actually, no. So 85 per cent of our online orders are picked from our stores—from our bricks and mortar stores that all of our customers can walk into. The dark stores are really just for high-density areas, normally of inner cities, where it gets a bit congested if we have personal shoppers walking down the aisles alongside customers in large volumes.

**The CHAIR:** How many online shoppers do you have?

**Ms DIGBY:** We have approximately 2,400 in New South Wales and another 1,000 in Victoria, and that is supplemented by approximately 200 labour hire agency casuals.

**Mr WINDEYER:** Chair, I might add to that. Ms Digby has just outlined the numbers of personal shoppers that we have in our CFCS—customer fulfilment centres—rather than the entire network. Across Australia, we have circa 25,000 personal shoppers.

**The CHAIR:** What is a customer fulfilment centre, as opposed to a dark store?

**Mr WINDEYER:** A customer fulfilment centre is a dark store. It is one and the same.

**The CHAIR:** When you have mentioned fulfilment centres, that is what you were talking about? You were not talking about the warehousing form of a fulfilment centre?

**Ms DIGBY:** That is correct.

**The CHAIR:** Great. That is my preliminary questions just to establish a baseline.

**The Hon. MARK BANASIAK:** I will ask a couple to get some perspective on the employment figures you have put in on page 3 of your submission, when you were talking about self-service check-out and its impact. You had 113,000 and you now employ around 140,000. From 2009 to now, how many new stores or new fulfilment centres or facilities have you opened since that? I am just trying to get that jump from 113,000 to 140,000 in some sort of perspective.

**Ms ELLIOTT:** I do not have the exact figures in front of me. We are happy to provide that on notice and come back to you with the specifics.

**The Hon. MARK BANASIAK:** That would be good. The 25,000 you talk about—the online personal shopping—was that surge workforce that you put in place and how are they largely employed? Are they more casual, like temporary? Is it on demand? How are they employed?

**Ms DIGBY:** It is a real mix. None are on demand in our stores. They would be permanent or casual. Typically within stores the teams would be made up of some casuals and the majority permanent but it depends what suits.

**The Hon. ADAM SEARLE:** You mentioned your Future of Work Fund. The idea is to train up some 60,000 of your workers. My rough calculation shows that that would be an investment of about \$830 per worker. I know you are still working out the logistics and partnerships, but what is the type of training that will be provided and will that be portable and independently recognised training so that your upskilled workers can then have more marketable skills, whether with you or other employers?

**Ms PELUNSKY:** Thank you for the question. That is absolutely part of the intent. Our focus is really on employability and thinking about how to credential a whole range of skills that today might even go unrecognised as of actual value. Part of what we are doing at the moment is engaging with a range of partners to understand actually what will our partners want and what do we think is going to be the best use of that fund, in terms of putting infrastructure and opportunities in place so that people can upskill and re-skill over the years.

**The Hon. ADAM SEARLE:** When you say your partners, who are you talking about?

**Ms PELUNSKY:** We are actually talking to a really broad range at the moment. We know that we are not going to do this or be able to do this well completely on our own. We want to find from the education sector some online platforms et cetera. At the moment we are still engaging with a very broad range of potential partners, including universities, TAFEs, online platforms et cetera.

**The Hon. ADAM SEARLE:** You are talking to universities and TAFEs in particular. Are we talking about diploma-recognised outcomes for your workers?

**Ms PELUNSKY:** We are actually exploring the full range, so everything from micro-credentialing all the way through to what may future digital degrees need to be. I think we are very cognisant that university and TAFE qualifications may be an element of what is required in the future but so too would micro-credentialing. For example—

**The Hon. ADAM SEARLE:** What is micro-credentialing?

**Ms PELUNSKY:** Micro-credentialing is when you take a particular skill that is recognised and instead of, for example, having to learn or put together a whole range of learning in order to get a degree or diploma, it recognises that particular skill. For example, if I am working as a cashier and I have understood how to really

provide customer service to customers who come through, I might actually be recognised for my ability to understand what a customer is, interact with them well et cetera. It is a very micro recognition of a much broader skill set that you may have.

**The Hon. ADAM SEARLE:** Sure, but to be valuable that kind of recognition would have to be, I guess, awarded by some kind of independent body. Would it not?

**Ms PELUNSKY:** Yes, and that is exactly the issue. How do we as an industry and how do we with partners start saying, "Actually, how do we all agree on what are the skills and the micro-credentialings that are going to be of value as we move into essentially a new phase in our industry?"

**The Hon. ADAM SEARLE:** What is your time horizon for finalising these details?

**Ms PELUNSKY:** The fund is a three-year period; we are in the first sort of two months of that. Set-up is intended to be over the first six months. We want to identify our partners and then—so I would say six months until we have identified our partners and really formalised those arrangements.

**The Hon. ADAM SEARLE:** In formalising those arrangements, would you also be formalising what are going to be the recognised and certified educational or skills outcomes for your workers?

**Ms PELUNSKY:** I do not think we will be able to say for sure it will happen in that time period because I think it actually depends on how we engage with the different educational partners and how together we get to those outcomes. I would hate to commit to six months and not be able to deliver on that. I think it is going to be a real partnership around that to be honest.

**The Hon. ADAM SEARLE:** What kind of attainments or outcomes do you currently have in mind? Are we talking the full gamut from what you call micro recognition through to certificate III diplomas from TAFE? Is that the kind of thing or university degrees? What is the spectrum?

**Ms PELUNSKY:** The spectrum at the moment is I guess, if we think of all of our team members, we want to make sure we are helping everyone be employable for the future and take a step forward. What we need to think about is: How do you both service and help someone who is working in a store or distribution centre really get the skills they will need for the next 18 months, two years, five years? And equally how do you help someone who is working in a finance team above store, given that finance might also be changing rapidly due to disruption, get the skills they need? We are not going to be able to do everything within the first six months and solve all of it. Part of what we need to do in the first six months is really work out the phasing and also where the greatest materiality is and where we can actually make the greatest difference in the short term. That is part of what we are doing through this first phase.

**The Hon. ADAM SEARLE:** Moving now to the self-service rollout. You make the point that it has not led to a loss of jobs. In fact your argument is that there has been an increase in jobs, although I think you would probably accept they are different kinds of jobs. Nevertheless, certainly in my community where I live, which is in a regional location, it has been well commented that since the self-service rollouts there are certainly fewer employees in your chain on the shop floor and certainly interacting with customers and obviously most customers then are being pushed to use the self-service. What I do see is that there are a number of stoic customers who still prefer to line up at the extensive queues. Clearly there is a displacement of a number of your frontline workers. What is being done to ensure that they are not losing their jobs?

**Ms PELUNSKY:** I will call on colleagues to supplement my answer, but I think that is exactly the reason for the Future of Work Fund. What I am really proud of is that we are being a step ahead to think about, "What do we do around that?" We do not want to put our heads in the sand. We are the only retailer in Australia who said, "Actually, we need to be on the front foot of this and really think about, for any role that may disappear in the future, how do we recognise that those team members still have skills? How do we make them more employable, ideally somewhere else within the Woolworths system?" I think that goes to the heart of the reason that we said that we absolutely need to invest in this, put focus on it and arrive at the solution for that, which will take time to work through.

**Ms ELLIOTT:** Potentially if I can just add: On average each of our supermarkets employs a footprint of between 100 and 125 team members, usually that is obviously local people in the community. Self-serve are one aspect of our stores. We are a very customer-driven organisation so we do need to respond to the convenience aspects that our customers are looking for. As you said, we appreciate that there are many customers who will always want to experience talking to their local community, talking to people in our store who they have known for decades potentially, so for many years into the future that will be a part of our footprint.

**The Hon. ADAM SEARLE:** It is part of your footprint but it seems to be, at least in my experience, a much smaller part. You have quite a large number of self-serve outlets and very few where it has actually got real



people attached to it. How did you work out those ratios and do you have any concerns about it all being skewed one way? Are you getting customer feedback to move perhaps to a better balance between the two?

**Ms ELLIOTT:** I think generally I would say again, we are customer-driven so the response in our stores is very much around what customers are looking for. There are many of our customers who love the self-serve check-out. I would say in my own experience my nephew loves being taken through the self-serve because he can put things on the scales, he can measure and it is a good learning for him. We do get customer feedback around every aspect of our store. Like I said there are many people who will always want the manned. There are other customers who love the experience of the self-serve.

**The Hon. WES FANG:** Thank you, Ms Elliott, for that answer. How accurate is that feedback loop when you initiate it? Because, I will be honest, when I am standing in line for a self-serve check-out or a usual operator-served check-out—and I usually try and aim for an operator-served check-out because I like to keep people in jobs—I hear rumblings when people are in the lines talking about how there are not enough people on check-outs and how the line for the self-serve check-out is either quite long and when you get there and you have got a trolley, which I often do, it is very awkward to try and scan all of your items and bag them. Certainly the feedback anecdotally—

**The Hon. ADAM SEARLE:** The machine argues with you.

**The Hon. WES FANG:** Yes, and I often have to have the operator come three or four times. I do not know what I do wrong, but I am sure I am doing something wrong.

**The CHAIR:** We are too, Wes.

**The Hon. WES FANG:** My point is: Is that actually the feedback you are getting? Because anecdotally I do not think that is accurate and I cannot point to a circumstance where I have been in a supermarket where people go, "I love these self-serve check-outs."

**Ms ELLIOTT:** I would ask anyone who wants to contribute. We regularly seek feedback from our customers. I could not tell you the figures but it is an important aspect of our business to regularly and routinely get that feedback from customers about a whole range of experiences that they have in store. Again, I think I would just say we are a very customer-led organisation and so it does look at the range of things that our customers want to see in store.

**The Hon. ADAM SEARLE:** Just on that, if you can provide us with any details or figures that you have got about the customer feedback and what it is around this issue, I think Committee members would really like to see the hard figures because, like Mr Fang, the anecdotal evidence I have received is quite otherwise.

**The Hon. WES FANG:** Yes, and I must ask: How do you actually conduct that? Because I will be honest if you had somebody there with a clipboard and asking them "Do you like this process?", I can tell you that the guy with the trolley trying to get his bags in the thing while trying to unload the things and scan them and try and fit them all on that tiny little rack, usually me—it is not working.

**The Hon. SHAYNE MALLARD:** Mr Chair, could I contribute to this?

**The Hon. MARK BANASIAK:** What is your grievance?

**The Hon. ADAM SEARLE:** I have got one final question but I realise I have been taking up a bit of time.

**The CHAIR:** Members can put their grievances with Woolworths supermarkets on notice to the witnesses if they wish; I am sure we all have them.

**The Hon. ADAM SEARLE:** I am conscious that I am taking a bit of time. I will just ask this question and other Committee members might like to pick up on it. Obviously you have a very large business footprint and you have got a very large logistics supply chain. You obviously interact with a lot of other companies to transport things to and from your distribution centres out to your stores and the like, and you must have commercial partnerships with a lot of service providers to you. In evaluating those tenders and deciding who you do business with and the terms upon which you do business, what visibility do you require of those business partners about how they treat their workforces and the pay rates they give their workers so that you can actually see the end worker doing work ultimately for you—albeit two steps down the supply chain as it were—is not being exploited or not having their contracts or their pay reduced over time when contracts change over?

**Ms DIGBY:** I can answer that in a generic way and then my colleagues might have more details specific to supply chain. Absolutely whenever we are entering into a new partnership with another business we do a due diligence process where that forms part of it. Separate to that we also have a responsible sourcing team where we

proactively go out and investigate either through independent conversations with the employees of our partners and asking our partners questions specifically just to validate that that continues to be the case and all of our partners are complying at an absolute minimum with the law. Above and beyond that we try to make sure that our partners are doing the right thing. Does anyone have anything they would like to add in terms of supply chains?

**Mr ADAMS:** I would probably add as well if you think about the supply chain DCs—so transport into those DCs and out—there is actually a shortage of drivers and has been for some time. The reality is that quite often the demand outstrips the supply. We partner with reputable people like Linfox and Ron Finemore and we believe that our pay in that area is in the top quartile. We certainly evaluate not only the financial side of things but also their safety records. We work very closely together to make sure that we are managing that effectively. I think it is important to distinguish what happens in that. Also those drivers are all licensed, so there is some barrier to entry there. It is not like someone can just jump in a truck and drive it; they need to be licensed. We take that very seriously.

**The CHAIR:** Just on that, in terms of your DCs, you rely on third-party logistics providers. Is that for inbound into the DC?

**Mr ADAMS:** We have got a combination. Most of our DCs are run by Woolworths employees. From a transport point of view the way it is set up is slightly different inbound to outbound. Maybe I will tackle outbound first and I will come back to inbound. But on outbound to store—

**The CHAIR:** So this is from the distribution centre to the stores.

**Mr ADAMS:** Yes, the distribution centre to the store or the online fulfilment centre. We treat that as another store from an ordering point of view. We own a lot of the trailers; the majority of the trailers are ours. Then we have third-party logistics providers that actually bring the prime mover and the driver to make those movements.

**The CHAIR:** That is to move from DCs to stores.

**Mr ADAMS:** Yes. They are typically quite large contracts with typically one provider per State. So you have people like Linfox, Toll and Finemore, those types of companies. On inbound we run a combination. A lot of the suppliers actually provide their own transport into our distribution network. Our suppliers engage directly with the transport provider to bring their goods in. We also run our own transport for suppliers as well, branded under Primary Connect. We will actually pick up on their behalf on a commercial arrangement and bring that into our distribution network.

**The CHAIR:** Does Primary Connect apply to predominantly fresh food?

**Mr ADAMS:** It is largely grocery, so it is ambient. There is a little bit of produce and quite a bit of meat out of our meat plants and providers.

**The CHAIR:** And dairy?

**Mr ADAMS:** Dairy is a little bit. I do not know what the split is but it certainly provides some in that chilled space as well.

**Ms ABIGAIL BOYD:** Thank you very much and good morning to you all. I will add my two cents and say that I actually really enjoy the automated check-out. I find it to be a lot of fun, which perhaps says more about my personality than anything else. The only reason that I do not use the self-serve check-out is because I want to ensure that there is demand for employees going forward and that we have real people still being employed. I think this issue of how many people you are employing in supermarkets is very relevant. I note that you say there is an average of 100 to 125 people per supermarket at the moment. How does that compare per supermarket to 2009 when you first introduced the automated check-outs?

**Ms ELLIOTT:** I think that is a good question. I would not have that information on me at the moment but I am very happy to take it on notice.

**Ms ABIGAIL BOYD:** Thank you, that would be useful. I am also interested in when those check-outs were first put in place and as they have been increasingly implemented throughout the stores and are taking up more of a percentage of stores. Since that time, how many people were made redundant when that happened versus how many were redeployed to other areas? Do you have any information on that?

**Ms DIGBY:** I do not have anything to hand but I would hazard a guess—and I am happy to take this on notice—that it would have been none. They would have really just been moved into other areas of the store. For example, I know when we introduce increased numbers of self check-outs in stores typically we have for quite a

period of time additional team members helping customers with those check-outs. Where we introduce new types of self check-outs, for example the trolley-specific one because that is absolutely feedback—

**The Hon. WES FANG:** Is there one?

**Ms DIGBY:** There is, yes. It is coming. There is significantly more space. We even have some that are rolling out where you can pack the products from your trolley onto a conveyor belt. So if you have two people doing the shopping, one can pack and one can be scanning. Absolutely with those newer models we need a lot of teams. Often it is a one to one or one to two ratio just to really help our customers to adapt to the new technology. But we are happy to take the specific question on notice.

**Ms ABIGAIL BOYD:** Thank you, that would be really useful. Looking forward, what is the next area of automation that you think will reduce the numbers of jobs in certain areas and what are you doing to prepare for that transition?

**Ms PELUNSKY:** I will give just a short answer to that which is that actually that is one of the areas we ourselves want to most understand. We are currently running a proof of concept with a potential partner to help us answer that very question—that is, what is the technology that is coming through, which are the roles that are most likely to be most impacted and therefore, in a sense, how can we come up with some kind of heat map as it were to really identify, therefore, where we would most want to deploy the Future of Work Fund. I think that goes to the heart of something we are trying to work out at the moment.

**Ms ELLIOTT:** If I can just build on what Ms Pelunsky has said, some of the new technology is not at all about job reduction. We see new roles being created similar to what Ms Digby has said. One example I might touch on is the trial of safety robots in store. What this actually does is identify trip and slip hazards in our stores and allow our team to get to them a lot quicker than what they would have previously if they had to be self-identified. These robots are actually helping to detect around 570 hazards each month. In those stores where we have the robots what we are actually seeing is that there is a 20 per cent reduction compared to those stores nationally which do not have that technology in store. That has not resulted in any job losses whatsoever. The other example that is currently being trialled I believe in around 20 stores is our Scan&Go check-out, designed to stand alongside our manned check-outs and also the check-outs where we are hearing a lot of feedback today, which we appreciate. This actually requires new teams. It includes technology teams, it includes customer experience teams and it also includes customer support in store, so instore roles and also back-of-house roles.

**Ms ABIGAIL BOYD:** Thank you. I have one last question before I throw back to the Chair. We heard from ALDI at a previous hearing and it was very interesting to listen to their business model, which obviously is very different to your own. One of the most surprising things, from my perspective, was to hear them say that they have very few casuals—in fact, maybe no casuals. Why do you think they are so different and why are you not similarly able to have a more permanent workforce?

**Ms ELLIOTT:** Ms Digby, feel free to jump in. One of the things I would say is that we are incredibly proud to be an employer for many people's first jobs. A big proportion of those getting their first job at Woolworths are students, whether that is high school students or students at university. Typically those students do require casual work; it enables them to build their employment around the combination of school or university. I would say we believe that casual has a role to play. It offers work and employment opportunities for people who otherwise may not get access to employment.

As Ms Digby has indicated, retail is a seasonal business, so it is necessary that we have a workforce that is made up of full-time, part-time and casual. It enables us to flex up and down as needed, according to seasonal work. An example would be COVID, where we had to flex up our workforce with very little notice. What I would say, though, is that the vast majority of our workforce is full-time permanent. Just to add, we also have the ability to flex up for casuals. I note that this was something that the Federal Government was looking at in terms of reform in this space. We do already have that option for our casuals to move to part-time work.

**The CHAIR:** Sorry, part-time permanent work?

**Ms DIGBY:** Part-time permanent, but also casual. We do have structured pathways for casuals to convert to permanent employment if they want to. I did read Aldi's comments on casuals in the transcript and was fascinated by them. I would love to learn more about that. I have not worked for ALDI, so I am not able to comment specifically. We actually see very few casuals seeking to convert to permanent employment, either because they lack the flexibility that comes with casual employment and/or the casual loading.

**Ms ABIGAIL BOYD:** You said 25 per cent of your workforce is casual?

**Ms DIGBY:** Correct.

**Ms ABIGAIL BOYD:** How has that changed over time from, say, 10 years ago or 20 years ago?

**Ms DIGBY:** I believe it has stayed relatively consistent, but in terms of the specifics I am happy to take that on notice.

**Ms ABIGAIL BOYD:** Thank you.

**The Hon. COURTNEY HOUSSOS:** My questions flow on from the questions that my colleagues have been asking around the self-service check-outs and also about the new Scan&Go—am I using the right terminology?

**Ms DIGBY:** Yes.

**The Hon. COURTNEY HOUSSOS:** Scan&Go for the new technology. Obviously there is a calculation that is in place: "This is more efficient. This is going to be a direction that we want to take the business in." As part of that I assume that there is some level of products that you are expecting that people will forget to scan, or the child who they are with is carrying the yoghurt pouch, or whatever it is going to be. What is the actual figure that you calculate in as part of that? Do you have a different figure for the self-service and for this new Scan&Go system?

**Ms ELLIOTT:** Generally I would say that stock loss is a problem for all retailers. Woolworths has a wide range of strategies which we have in place to minimise that. This has actually proved effective in recent times and has brought the number in our stores down over the last 12 months. In terms of actual numbers, I would have to take them on notice.

**The Hon. COURTNEY HOUSSOS:** Okay. If you can just provide that for the self-service and then also for the Scan&Go—what is the figure that you calculate and is that part of your calculation as you actually transition the stores? Do you match that stock loss against the employees?

**Ms ELLIOTT:** Sorry, what do you mean by "match it against employees"?

**The Hon. COURTNEY HOUSSOS:** Do you match that figure against individual stores and against the employees that will be in those stores?

**Ms ELLIOTT:** Unless anyone has the answer, I think we could take that on notice.

**Ms DIGBY:** Yes, we might have to take that on notice. One thing I would add in terms of stock loss is that there absolutely is a component of stock loss that is inadvertent—either self-serve or potentially Scan&Go—although I suspect Scan&Go is too new to have much data around. But a lot of our stock loss is also products expiring, products being taken off refrigerated shelves and being put in a non-refrigerated area and products being damaged in transit, in addition to inadvertent or theft.

**The Hon. COURTNEY HOUSSOS:** So you do not separate out those kinds of losses of refrigerated items because someone puts the milk in the non-refrigerated part? That is calculated in the same way as if someone takes something through the self-service?

**Ms DIGBY:** I believe so, but we will need to check that.

**The Hon. COURTNEY HOUSSOS:** Sure, okay. No worries. Before you do the self-service check-outs or this new Scan&Go technology, do you have any way of engaging with your workforce to go, "We are thinking about doing this. What is your feedback? What are your thoughts? As the people who work on the floor every day, what are your thoughts on what we are looking to do?"

**Ms ELLIOTT:** Using the Scan&Go example, most of these are trialled—so, a pilot project in the first instance. I believe Scan&Go is in either 11 or 15 stores out of 1,000 nationally at the moment. Absolutely, they are things that we trial and get feedback from customers and from teams.

**The Hon. COURTNEY HOUSSOS:** Okay, but my question really goes to before, when it is in the concept stage. We have heard from previous witnesses who have said that often the workforce is best situated to be providing feedback on these new technologies, but they are often not consulted until quite late in the piece. The business makes a decision that they want to go in this particular direction but they do not engage with them until it is the actual trial. The Scan&Go is being rolled out and then you give feedback at that point. Is that the way it is with your business?

**Mr WINDEYER:** I might add to it. Generally speaking, our teams will be aware and consulted and brought into the thought process on these things relatively early, given the fact that they often have a great sense of what customers are doing in stores. That feedback is essential to our business and essential for moving forward. In the Scan&Go example, our teams were into being part of that team very early in the process and were able to

contribute, understand where it is coming from and contribute to what they thought the customer problems could be, and therefore what the problems in store could be. Generally speaking, they are brought in relatively early. Certainly in the Scan&Go example, they were brought in quite early.

**The Hon. COURTNEY HOUSSOS:** When you are talking about that engagement, does that include with the relevant trade union?

**Ms DIGBY:** Yes, it would. Yes.

**The Hon. COURTNEY HOUSSOS:** Excellent, thanks.

**The Hon. SHAYNE MALLARD:** Good morning. Thank you for coming in today and for your submission. I will put my 10 cents in on the automatic check-out.

**The CHAIR:** Why not? Give us your view.

**The Hon. SHAYNE MALLARD:** I am a big fan. I live in the same region as Adam Searle and I do not hear those complaints. Technology has evolved dramatically in banking and the motor fuel area—filling your car up. People have to adjust to changing times. This is about the future of work. I am interested in the contentment and happiness of your workforce. I will compliment you that I find people at Woolworths—I shop at Woolworths—to be very cheerful, people-oriented people, and quite friendly. Do you have any method of measuring the contentment of your workforce? Do you do surveys or have some sort of meeting?

**Ms PELUNSKY:** Yes, we absolutely do. Actually, we are just about to launch a new way of listening to our team, which we are calling "always on" or "active" listening. It means that a team member will be able to comment about how they are feeling at work and experiencing work at any time, as opposed to formal engagement surveys, which might be run once a quarter or annually. I am happy to share more about that. Essentially, listening is one of our core values. Part of what we are doing now is both an online, active listening, "always on" way of listening, as well as running a lot more listening groups that we have historically always done. But really, especially during this time, we are increasing that so that we do understand the sentiment of our team. In a sense, what we are also moving away from is the broad term of "engagement" to really understand how team members are advocating for us as a place to work as well as a place to shop. We feel that advocacy is a much better true measure of how they really feel about working at Woolworths, rather than a broad term of "engagement".

**Ms ELLIOTT:** Could I just add some tangible, third-party examples? We are an employer of choice for women, which we are very proud of. We have received an Employer of Choice for Gender Equality citation from the Workplace Gender Equality Agency. This was in around February of this year. Also, we are recognised as one of Australia's top organisations for LGBTI inclusion, having got gold tier employer status in the Australian Workplace Equality Index.

**The Hon. SHAYNE MALLARD:** Good on you, that is good. The reference to your survey work—is that a document perhaps or a report that you could share with us for our inquiry?

**Ms PELUNSKY:** I am sure we can find something to—as I say, it is literally being implemented this week so we will take it on notice and come back with something. We are very happy to share as much as we have.

**The Hon. SHAYNE MALLARD:** Alright, thank you. I should put it on the record that my mother was a check-out woman—or the correct term today—in the early eighties at Woolworths at Penrith. She loved it. The second thing I want to ask you about is the back-of-house future. It was touched on a little bit earlier. The warehouse distribution side of your business—taking in the goods from your suppliers and then sending them out to the stores—that is obviously becoming more and more seriously automated, is it not?

**Mr ADAMS:** I will take that question. I think it is important to understand that not all products can be automated, for a start. I think the thought that everything is going to move to automation, I believe, is incorrect, at least in the near term—and when I am talking "the near term", the next sort of five years plus. Products like fresh produce, for example—one of the key aspects of that is that it literally flows in and goes straight out the door almost two or three hours after it comes in. It does not lend itself to automation because there is a process to put it away then retrieve it, those sorts of things. Plus we have things like we check the quality as well. Our team members are not only providing a logistics service but they are also making sure that the quality that goes out to our stores is the best quality possible. Yes, I was deeply involved in the automation in Victoria. So to declare my role in that, I was the supply chain executive sponsor, and I was also responsible—

**The CHAIR:** Sorry, can you just explain exactly what was that automation in Victoria?

**Mr ADAMS:** Sure. So it is a retail automation distribution centre. The easiest way to describe it, without taking too much time, is it automates certain aspects of the handling of goods from inbound receipt into a high bay—so into high-bay automated storage. It then moves into what is called a case buffer and then is

automatically picked to store. There are a couple of reasons why that is important for us as we move forward. The first one is the safety aspect. Manual handling is our number one cause of injury; repetitive movement is our number one cause of injury within supply chain. Whilst we have tackled many, many things to try to improve that—and I can certainly elaborate on those if we have time—the only way to truly remove it is to eliminate it. So, certainly, in certain aspects the automation can allow that elimination of manual handling, the manual handling task. The automated distribution centres—if we think back to COVID, maybe that is a good example. So there are positives to automation but there are negatives also, I guess, for lack of a better word.

Automation, by its very nature, is fixed, so you have a fixed amount of input, you have a fixed amount of output, largely. When we went through COVID in Victoria we actually added manual distribution centres to be able to handle the influx and increase in volume. The best way to say it: Automation fits a certain profile of product. That type of automation is unproved in a temperature-controlled environment, for example, so it automatically knocks out chilled and frozen goods, and it does require a very large amount of cartons to go through that per day or per week in order to make it even remotely viable. So we are on record that we are building at Moorebank. We are looking to build a large automated facility there. We have one in Victoria and, really, they are the only ones in the distribution network that we have any plans for at this point in time. I think it is also important to note that in the same time that we built the automated facility in Victoria, we also built a brand-new produce distribution centre. We also expanded our Tasmanian distribution centre, and we expanded our Adelaide distribution centre. They are all 100 per cent manually operated facilities. So in the same time it is literally the right technology and the right solution for the right products.

**The CHAIR:** I invite Mr Donnelly to ask questions.

**The Hon. GREG DONNELLY:** Thank you and through you, Chair—I have only five minutes, which is not quite enough to cover all I want, so some of these might be on notice if that is okay. Thank you, all, for coming along. I go to page 2 of your submission, if I could please, and specifically to the paragraph at the top and, in particular, the second-last line of the paragraph about "online learning platform to offer team members easily accessible training, apprenticeship and mentoring support". On the matter of apprenticeships, is the Woolworths group still committed to the apprenticeship arrangements as traditionally understood in Australia or is this an apprenticeship arrangement that is somewhat different and developing?

**Ms PELUNSKY:** It is both/and. We have apprenticeships across our business, and those continue. Ms Digby, I am sure you can add to that. Again, through the discussions and engagement that we are doing at the moment, we are saying, "What does an apprenticeship look like going forward and what might we do in order to really help people not necessarily have to get university degrees or TAFE degrees in order to find employment and be employable going forward?"

**The Hon. GREG DONNELLY:** But the apprenticeships, as currently understood, are obviously credentials that operate normally at a State or Territory level, which is done through a formal training process that involves both training on site and training and/or study off site. So Woolworths is still committed to those apprenticeships as traditionally understood?

**Ms PELUNSKY:** Yes.

**Ms DIGBY:** Correct, yes, that is absolutely right. For example, in the refrigeration space I know the team has significantly increased the number of apprenticeships that we can offer because—and it is a great example of what Ms Pelunsky has been speaking to—it has been a really difficult skill set, a very in-demand skill set, and obviously something that is really important to us, given the number of refrigerated cases across our network. We have also had a few instances where we have had team members from stores go onto an apprenticeship to upskill and become a refrigeration technician.

**The Hon. GREG DONNELLY:** Say in the area of baking and butchering, once upon a time they were apprenticeships that were typically done at the store level. People working in the meat unit—there was always one or two apprentices. In the bakeries there was normally an apprentice or two. That has changed, though, over time, has it not? Because with respect to both butchering and baking, much work now is done, pre-prepared off site in a dedicated facility. Is that correct?

**Ms PELUNSKY:** Yes. With regard to butchery, I can find out the details, but I know that has changed. So I think the overall commitment to apprenticeship remains. How and where that plays out in our business, I could come back to you with.

**Ms ELLIOTT:** Although perhaps just to confirm, we still do have apprentice bakers and butchers in store.

**The Hon. GREG DONNELLY:** Oh you do? So you have apprentices in the stores.

**Ms ELLIOTT:** We do.

**The Hon. GREG DONNELLY:** Perhaps on notice I might ask something more specific about that, but thank you for that. Thank you for your submission. It is very good in terms of outlining looking to the future and your thinking and planning. With respect to the training, though, it would seem to me from reading this, either explicitly in some places or implicitly—perhaps reading between the lines—some of this training may be intended to be done, with respect to employees/team members, not in the workplace per se but perhaps at home or somewhere else. In other words, they might go down to the local library and log on to the website, so to speak, and go through training modules, for example, or parts. You referred to micro-credentialing as part of your evidence. Is the Woolworths group committed, with respect to the training done by its employees/team members, that all that training is paid for? In other words, it is paid training—they are not and will not be expected to be working, so to speak, doing training in their own time off site?

**Ms PELUNSKY:** Thanks for the question. Our commitment is absolutely to train our team members as part of their work at Woolworths. That they may be able to access this or make some personal choices, given the opportunities we may provide over and above that, would be beyond the training that we are offering and committing to through this. But again that is something that we are working through as we talk to different suppliers at the moment and different potential partners because the whole way in which people study at the moment is changing. To your question around is this going to have to be over and above what I do at my work, we wouldn't think so, but the way in which we have typically done it and the way we will do it in the future will likely look different given the way all of us are studying, learning and working.

**The Hon. GREG DONNELLY:** That is not quite what I said. I did not say it was not part of the work, but I said it may not be part of the workplace per se. In other words, because if one looks at that second paragraph on the second page, we are moving into some very innovative, very forward thinking, very new areas that even we do not know the future of. It is developing literally in front of our eyes. Advanced customer service skills, team leadership and agile ways of working and machine learning—a lot of that would seem to me to be lent to training using information technology and computers. My questioning goes to that whilst at work—that is, in the workplace such as the Woolworths supermarkets or the Dan Murphy's or the BWS or whatever—there may be exposure to some of these things, but there may well be technical, detailed specific training around concepts and matters that may require almost sit-down study at computers, but that would not be expected to be done by employees in their own time. That would not be an expectation, would it?

**Ms DIGBY:** We may have to take that on notice, and I would differentiate between training that is required as part of their job—and absolutely that is always paid for. It might be that some over and above training—for example, if I am a customer service team member and I am interested in learning about machine learning, it might be that elements of that are in their own time.

**The Hon. GREG DONNELLY:** Has that already been discussed by the company in terms of looking at this?

**Ms PELUNSKY:** Part of what we are trying to work out at the moment again goes to the heart of this, which is what do we have to do to make sure everyone can absolutely do their roles. This talks to what Jess Digby was saying—in order to fulfil your role, what do you need to do? The second piece is how do we provide opportunities for people to say, "I want to be employable for the future," and what are the opportunities they want to take up. I think it is a great stimulus-style thinking around how do we differentiate between the two. Have we fully answered that by ourselves? No, but I think it does go to the heart of what is the difference between what are we committing to ensuring our team members have to do their roles and what are the broader opportunities we are aiming to provide. I think that goes to the heart of some of the complexity that we need to work through.

**The Hon. GREG DONNELLY:** My final question is to Mr Windeyer. You described yourself as responsible for commercial partnerships. In terms of supply chain, and specifically supply chain with respect to the agriculture workforce here in Australia today, there has been very open, very clear publicity in the media about rather horrible and terrible conditions being experienced by some workers in certain subsections of the agricultural industry. Fruit picking in particular has been raised, and you will be well aware of that. Berry picking in New South Wales and elsewhere has come up for some pretty awful exposure. In terms of Woolworths, you have your direct employees but you obviously have your supply chain partners. In the agricultural industry, what is the position of Woolworths in terms of ensuring that they do not—I would not expect it to be done deliberately—inadvertently end up with partners who are in fact, quite frankly, dreadfully exploiting their employees in terms of illegal conditions and arrangements?

**Mr WINDEYER:** Thank you for the question. We will need to take the majority of that on notice, given my remit does not span into the agricultural industry.

**The Hon. GREG DONNELLY:** Or produce?

**Mr WINDEYER:** Sorry?

**The Hon. GREG DONNELLY:** This is Woolworths produce.

**Mr WINDEYER:** Yes, they are all produce. However, what I would suggest is that at Woolworths our core business relies on team members and businesses and partners across the entire network, and we expect everyone in that network to create great safe environments and treat their customers and the team and the people working for them fairly. So we will take the majority of that on notice in terms of the specifics around the horticultural industry that you are referring to, but that would be the principle by which we make our decisions.

**Ms ELLIOTT:** Can I just add that in August last year Woolworths Group released its first modern slavery statement. We are captured by the Federal legislation in that regard. Potentially, I can table that.

**The Hon. GREG DONNELLY:** That would be very helpful.

**Ms ELLIOTT:** It covers exactly what you are talking about. I would say the modern slavery statement does describe the work that the group has done in FY20, so it should give you some pretty detailed information in that regard.

**The CHAIR:** I am going to call this to an end. It was a pleasant hour. Thank you very much for the time you have taken. You have taken a variety of questions on notice for which you will have 21 days upon the receipt of the transcript to return answers. I am sure in the meantime other Committee members may wish to place further questions on notice, including their specific experiences at specific Woolworths stores for you to respond to. We appreciate your time. We appreciate the fact that some of you have travelled from Melbourne as well. It has been very useful for us, especially as you are a major national employer. Thank you very much for taking the time for joining us this morning.

**(The witnesses withdrew.)**



**BERNIE SMITH**, Branch Secretary, Shop, Distributive and Allied Employees' Association, NSW Branch, sworn and examined

**MITCHELL WORSLEY**, Industrial Officer, Shop, Distributive and Allied Employees' Association, NSW Branch, sworn and examined

**The Hon. GREG DONNELLY:** Mr Chair, I need to declare an interest in this particular matter.

**The CHAIR:** Sure. Would you like to?

**The Hon. GREG DONNELLY:** Simply that I was an official of the Shop, Distributive and Allied Employees' Association [SDA] NSW Branch—proudly so—from 1986 to 2005.

**The CHAIR:** I appreciate that, Mr Donnelly. I would now like to invite either of the witnesses to make an opening statement, if they so choose.

**Mr SMITH:** Thank you for this opportunity as the voice of workers in retail, fast food and warehousing industries, which are all undergoing significant technological change at the moment. There is no doubt that the gig economy is having a profound effect on the way that workers perform work, but there is nothing particularly new about the gig economy. The division of work into specified tasks and allocated in an arbitrary fashion by employers could be seen as far back as the Great Depression when workers stood on the Hungry Mile waiting for a job to be offered to them for the day. Now workers wait on a different Hungry Mile on a queue that is a virtual one through an app on their phones.

The relationship between employers and employees is essentially a human relationship. The division of labour in this way dehumanises work. By removing any ongoing obligations between the employer and the employee and communicating exclusively through automated messages on an app, the relationship loses its human connection and the dignity of the worker is compromised. Workers come to be seen as nothing more than economic units of production. When seen in this way as a mere economic unit of production rather than as a person, is it surprising that there are ways of circumventing the legal and ethical responsibilities of the employer to provide a safe workplace, to pay a living wage and provide basic entitlements like sick leave become a business method to reduce economic costs?

Woolworths, who we just heard from, directly hires its workforce that pick and pack your online orders. They have a very different and ongoing relationship with those employees than an Airtasker has with the person at the end of their app who might go into a Woolworths store occasionally to pick and deliver a small order but then not receive anything through that app or have any ongoing connection to the workplace that they pass through. Automation can have a similar effect. Automation no doubt has a positive impact on our society through the gains in productivity that it can bring. But automation can also have a dehumanising impact on the workers still involved that production process. We are not modern day King Canute's here. We do not want to hold back a technological tide, but we are conscious of how we harness this rising tech tide in a way that humanises its impacts and shares its economic benefits with those involved. At its core automation is about removing gaps in time from as much of the production process as possible.

Take, for example, Amazon and its automated distribution centres. The Amazon management strategy is to remove as many gaps in the process of picking, packing and sending goods from their warehouses in pursuit of greater efficiency. Warehouse workers are still needed to perform tasks but are treated as just another economic unit in production in the process. Tasks are highly specified with performance indicators attached. But workers are human beings, not automated machines. There are naturally gaps in the way that we work. We need breaks to rest, interaction with others, and time to make decisions and problem-solve. Taking out this interaction between workers in the work process dehumanises work and is detrimental to workers. It eats away at the sense of community that work has always brought to the group of workers engaged in a common enterprise.

In an automated workforce workers' performance is constantly being surveilled to a high degree not just on cameras but also through the machines they operate and the data those machines capture. Employers use data and technology to set performance indicators and manage performance. These key performance indicators are often set in controlled environments which are often not attainable in real world settings. This can lead to workload stress and can have damaging long-term effects on workers. In a survey the SDA conducted of its members in 2015 and 2016, workload stress was the number one safety issue identified by our membership and that has not changed. As human beings, each of us are unique individuals with different strengths and weaknesses. Using data and technology essentially to automate performance management and implement hyper-Taylorism forms of management dehumanises those workers. With increasing surveillance, we need to consider a revamp of our

current workplace surveillance laws to take into account new forms of surveillance where monitoring may occur, including in other jurisdictions, and what should or should not be permitted to be subject to surveillance.

Amazon subjects its workforce to extreme levels of surveillance. They seek to take out every gap in working time, but they also subject their staff to surveillance in their few bits of downtime in the day when they are on a break. Recently Amazon attracted attention around the world for advertising a position to undertake global surveillance of Amazon workers' union activity. I can inform the Committee that after a recent SDA union workplace visit to Amazon I received a letter of complaint from Amazon that one of our organisers had breached the one and a half metre social distancing in a tearoom during the visit. Nothing was said at the time but there was no doubt that, on reviewing the footage from CCTV footage in the tearoom, Amazon realised this. So Amazon workers whose working day is engineered to the nth degree, even when at rest, are subject to surveillance. When their union visits to check on their welfare, their every interaction is monitored. This is unacceptable and dehumanising.

Automation brings great gains in productivity, which should be welcomed. But how those productivity gains are shared is the crucial question. Unfortunately, the reality is that automation can have the effect of displacing workers. Our workplace laws and training systems should reflect this reality and support those workers who are displaced. We should be structuring our workplace laws to ensure that productivity gains are shared between profits for companies, higher wages for higher skilled workers but also supporting the workers who are displaced. We need updated termination, change and redundancy laws in our workplaces and industrial instruments that ensure workers who are displaced have an opportunity to find productive and secure work.

There need to be greater obligations on employers to upskill and re-skill workers with redundancy as a last resort. In order to support displaced workers, we need a training and education system that is appropriately funded and accessible. This necessitates the increased funding of TAFE and in particular the support of regional TAFE and campuses. The skills needed must be relevant to industry. The skills attained must be portable as part of recognised qualifications for workers. The best way to achieve this is through re-establishing tripartite training boards of workers, employers and government to ensure relevant recognised training is available to ensure we have the skills for the future workforce that industry needs.

**The Hon. ADAM SEARLE:** I thank the union not just for the opening statement but for its very comprehensive, well-researched submission. Mr Smith, one of the many focuses in the paper is to do with annexure A, which is the gender gap, if you like, and the union plan to address that. I think at point 7 you say that the industrial relations framework needs to be made more fit for purpose to actually proactively have a focus on correcting the gender pay gap. You have also provided some research that shows that the cohort of the workforce that is totally reliant on awards is primarily female and seems to be trending that way. What are the impacts of that continuing trend towards a complete reliance on very minimal awards?

**Mr SMITH:** There are two parts. The COVID pandemic has really highlighted this problem and what we have seen is that, whilst the COVID pandemic recession was effectively a pink-collar recession, most of the money going into recovery has been a blue-collar recovery. Rather than investing back in the services and industries which are largely female dominated and which suffered the consequences of that recession, more money is going into male-dominated industries in terms of recovery. That is a problem in itself. In relation to award-reliant employees versus agreement-reliant employees, probably a good example within our coverage is looking at warehouse workers versus shop workers.

Both are at very similar skill levels in the award system, but through a period of time of industrial representation the rewards going to warehouse workers have been significantly higher over that period of time. Warehouse work is not exclusively male but it is male dominated compared to the very similar skill set of retail, which is female dominated. In terms of how work is rewarded and recognised, we do have a problem in our system. It is something that we do seek to address. I do think that with the increasing use of technology there is an opportunity to reflect the reality of service sector workers who have higher skill sets than have been recognised in the past.

**The Hon. ADAM SEARLE:** On that last point, certainly federally it seems that you have got these very minimal sorts of awards, but access to higher wages and conditions is primarily driven through bargaining and the taking of industrial action. That seems to leave female-dominated industries behind, as it were, because they are industries where workers are less able to take that kind of frontline industrial action. Has that been your experience?

**Mr SMITH:** Yes. Our experience is that most workers do not want to be in conflict with their employer over a prolonged period of time. But taking that ultimate step of industrial action is a big step. Probably the most extreme example that I can think of is a small chain of IGA stores where workers were not getting paid on time and there were significant delays in getting their pay. We said to the workers, "We can actually stop work. You

are not getting paid. It is not really even industrial action because you are not even getting paid for the work that you are doing." But there was a serious reluctance there because of the nature of the workforce and the reliance on that wage and their concern about the risk of that wage. I would say that is also connected to secure work as well. The more secure the work, the more willing people are to take some sort of action or act collectively. That is whether you are a casual worker or we even see it in warehouses amongst labour hire workers. There is just a significant reluctance to take action if you are in insecure work.

**The Hon. ADAM SEARLE:** In relation to the industrial relations architecture, in recent years there has been a shift where the Federal Parliament and Federal issues have sort of dominated. But even in the Fair Work Act there are a number of what are termed non-excluded matters, which have been left to the States, and one of those is anti-discrimination laws. Do you see a real opportunity for State legislatures to, if you like, fill some of this gap in properly recognising female work and its value? Do you think there is a real opportunity there to try and lift the standard?

**Mr SMITH:** It would be good if there is, but I think that would probably trespass on the terms of conditions that are exclusively to the Fair Work Act. But if there is another way of doing it we would be extremely interested.

**The Hon. ADAM SEARLE:** In relation to your point about the pink-collar recession—in terms of the pandemic response, governments have turned to funding of infrastructure or at least identified that. I think in pages 35 and 36 of your submission you talk about some international research that has shown investment in the services sector actually provides far greater jobs generation than more investment in infrastructure. Is that where governments should be putting more emphasis in terms of rebuilding the economy post-pandemic?

**Mr SMITH:** Yes. We have no issue with investment in infrastructure, but the investment in social infrastructure will pay a better dividend to the community in the long run and it will create more jobs for both men and women. The information contained in the submission reflects that. When you look at the dollar for dollar investment in social infrastructure versus hard infrastructure you actually get a higher return for both men and women from that investment in social infrastructure.

**The Hon. ADAM SEARLE:** You make a good point at page 11 of your submission about productivity growth being at an all-time high in recent decades but wages growth sort of flatlining. Do you think that is due to the decline of arbitration as a determinant of wage outcomes and a greater reliance on those parts of the economy that can, if you like, bargain hard with their employers?

**Mr SMITH:** There is a very significant constraint on their capacity to collectively bargain in Australia today, is what I would say. It has removed some of the effectiveness of being able to do that. Arbitration underpinning disputes is also a significant method of getting agreed outcomes—but outcomes that are actually beneficial to all—if you have got arbitration sitting in the background. If you do not have arbitration sitting there then it is the law of the jungle and the strongest survive, not necessarily the most worthy or those who are most deserving of that investment.

**The Hon. ADAM SEARLE:** Arbitration needs to be a real lever here if there is to be fair outcomes over the long term?

**Mr SMITH:** Yes. We have been very strong supporters of arbitration through different industrial schemes. We see it as the method of, in a dignified way, sorting out industrial disputes, rather than just who has the strongest on the ground, but actually who has the most valid argument. I suppose we see it as—

**The Hon. ADAM SEARLE:** Evidence-based, even.

**Mr SMITH:** Yes—the strength of your argument rather than the argument of your strength is what it comes down to, in terms of getting a fair outcome. We think that arbitration should underpin everything. It is worth noting that many opponents of arbitration in the industrial system are very big proponents of arbitration in the commercial system. Very big proponents such as Kate Carnell in recent times have come out very strongly in support of compulsory arbitration components for small business to be able to apply in their disputes with larger businesses. Commercial arbitration on a grand scale between international corporations is well known and is well accommodated for, yet arbitration between workers and corporations where there is a significant power imbalance is often not there. I would have more time for arguments against arbitration if people were consistent with their arguments throughout the system. I do not oppose small businesses having arbitration rights with bigger businesses. I do not oppose international corporations having arbitration rights. But I do find it offensive that often workers do not have those same arbitration rights.

**The Hon. ADAM SEARLE:** You make a very good point there, Mr Smith. I think you mentioned that termination change and redundancy [TCR] provisions in industrial instruments really need a significant overhaul.

These provisions really reflect what happened in the 1980s and there seems to be a need for a significant change in terms of the way they are cast. Did you want to speak some more about what sort of factors need to be built in to them to make sure they have got real teeth?

**Mr SMITH:** If you reflect on the current TCR provisions and the application in New South Wales of the official formula as to what redundancy scales there were—or official formula mark two, I think, from memory—New South Wales was a pacesetter at the time in setting new redundancy standards, but that was to deal with a different technological change that we saw come in the eighties with computerisation. As we face this new technological change, I do think there are new challenges that we face. That needs to be a combination of looking at what amount workers need to bridge them from one job to another, particularly to undertake training. Here is an example: We look after pharmaceutical manufacturing workers. The workers who make Panadol in Australia, their site closed down at Christmas time, unfortunately—that is another story about the need for a decent pharmaceutical manufacturing plan, which we will not get into today, but we are very supportive of—

**The Hon. ADAM SEARLE:** That is a bigger conversation.

**Mr SMITH:** The reality is that they are high-skilled workers within their workplace but to get the same wage that they attained over many years of being in a unionised workplace is very difficult for those workers. If they remain within the pharmaceutical industry they will go to contract pharmaceutical manufacturers that do not have as high a wage. How you bridge the gap over a period of time for those people to perhaps supplement their wage for a period of time as they become workers in those new workplaces is one issue. How do you provide the relevant retraining? How do you provide somebody who was a highly skilled warehouse operator who is compliant with Therapeutic Goods Administration requirements in a pharmaceutical sector to become a highly skilled warehouse operator in an automated warehouse that places like Woolworths or Coles will build over the next five years? Given the high skill set that should be required in those areas—but a different skill set—how can they then get the economic benefit of that to replicate the wages they had been receiving over a period of time? We see that as a real challenge.

We see the hollowing-out of the TAFE system as really problematic. How do we get those skills sets to those people? We think that is a real problem. We think that the termination change and redundancy provisions should have a real focus not just on the economic amount of a lump sum—it is great to have a lump sum to go from one workplace to another, but how do you attain the skill sets? If you get a lump sum when you are 64, that might be wonderful. If you get a lump sum after 20 years working with one workplace and you are 38 then that is a very different story. What you really need is a proper training program to set you up for the work that is available into the future with the proper skill sets—and not an airy-fairy "these are the jobs of the future that will be there"; they need to be real jobs with real pay and conditions that people can really skill for.

What we saw in the eighties was that a lot of people who left manufacturing jobs never really got the same sort of pay ever again. I had a very sad experience of talking to a worker three years ago on the shop floor, talking about his experience of work—he was a young fellow. I said, "What does your dad do?" He said, "My dad is a car manufacturing worker." I was thinking, a car manufacturing worker in Sydney? That is unusual. I said, "Where does he work?" He said, "He worked for Leyland." I said, "Okay. He wouldn't have done that for a long period of time." He said, "No, but he is still a car manufacturing worker." After that he went on to various jobs in cleaning and other various tasks that all are very worthwhile, meaningful jobs, but because they are female-dominated industries they do not get the pay they deserve. He never, ever again attained the same level of prestige and pride in his work that he had as a car manufacturing worker. I think that we have a real obligation, in this technological change, to make sure we do not see people like that left behind. How do we match them to the skill sets needed for the future.

**The CHAIR:** I had better go to the Deputy Chair if you do not mind, Mr Searle.

**The Hon. ADAM SEARLE:** I just had one last question. Mr Smith, you make a good point about TAFE. Allied with that, you would agree, would you not, that to make sure that this is not just some sort of make-work or make-believe "jobs of the future" that training needs to be properly accredited and certified with properly recognised skills in documented form?

**Mr SMITH:** Yes. A number of years ago I sat on a training board called WRAPS, which was the Wholesale, Retail and Professional Services board. That was when it was still a tripartite body of government representatives, employer representatives and worker representatives from the union. Our role there was to make sure that industry training was relevant to the skill sets that industry needed. If you do not have that tripartite input you could go off on a skew where the educator thinks this is what is needed but the employer says, "We don't need those skills." If you do not have the worker involvement then the employer says, "This is the very narrow skill set that we need." You do not get the broader skill set and, therefore, what you attain is only useable at that one employer as opposed to a portable qualification that works for everyone. The re-establishment of tripartite

training bodies would have a very significant impact. The Azarias report into the agricultural task force that has just been completed at a Federal level made the point that there is a need for a tripartite body to look at workforce planning issues in the agricultural sector, but I think that is something that is necessary for all skill sets into the future.

**The Hon. MARK BANASIAK:** I just have one question to do with the funding of TAFE and VET. Recommendation 13 in your submission states:

**Recommendation 13** That the NSW Government consider ways to fund TAFE and VET programs that makes them accessible and applicable to regional NSW.

Do you think that the current arrangement, where we have got Connected Learning Centres where you cannot teach full units or full courses, is cutting the mustard?

**Mr SMITH:** No. We have a very large regional membership. There is a Newcastle branch of our union; putting that to one side, 40 per cent of our members are outside of the Sydney Basin, in terms of who we look after. We have a very significant impact and reach into regional New South Wales. The hollowing-out of the TAFE system has been very problematic. Mr Donnelly asked the question earlier about bakery and butchering apprenticeships. What you see now is the need for block release because people have to travel significant distances if they are going to go to a TAFE course for that, because the local TAFE course does not exist anymore.

These Connected Learning Centres seem to be more like online learning provision but not hands-on. In my limited knowledge of adult education, one of the things is that people learn in different ways. Particularly in learning certain skills, there is a real need for hands-on skill sets. Again, this is definitely not my area of expertise, but I think with the recent issue about the TAFE in Scone and the equine centre there you were taking a purpose-built centre that has a capacity for hands-on training for people and then you are saying, "Well, there is a Connected Learning Centre up the road." I do not think you can fit a horse in a Connected Learning Centre classroom. I think there is a real issue with the capacity to do that hands-on training.

**The Hon. MARK BANASIAK:** Picking up on your references to Mr Greg Donnelly's comments about baking and butchering, they are really specific electives within the diploma in retail services and cannot be delivered anywhere else but TAFE—

**Mr SMITH:** Yes.

**The Hon. MARK BANASIAK:** —or a private provider. They cannot be delivered at school. You really do need to funnel that investment into TAFE so we do have those qualifications for people.

**Mr SMITH:** I agree completely. There are social consequences as well. Many years ago, when people were being released on block release training, that is when we intervened to significantly increase the living away from home allowance. We had young 16- or 17-year-old kids living in caravans out the back of a pub in Liverpool whilst they were away from home to do their block release training. They travelled long distances to do that because there was no TAFE in their local area to do that. That was a significant period of time ago and things have just got worse. The hollowing out of TAFE in regional areas is very detrimental.

**Ms ABIGAIL BOYD:** I am particularly interested in your comments around the way that the benefits of automation can be shared more equally between society and workers versus profit makers. At the moment I agree we have a situation where workers are often treated as simply a line item, as a cost, rather than as an asset to businesses. Are there examples from other jurisdictions, or even within New South Wales, of particular businesses taking active steps to make sure that they are sharing the benefits and the additional profits from increased automation with their workers?

**Mr SMITH:** It is still early days to say there are any good examples at the moment of how that is shared but, as we say in our submission, our real concern is how do you make sure that the workers who remain, who have a higher skill set perhaps than they previously did, then receive higher wages? That comes back to collective bargaining capacity in the system but also proper recognition of skills. How do you have somebody who is monitoring six self-service check-outs versus operating one check-out— how do they get a better recognition of what they are actually doing in the workplace and the value they are bringing to the workplace? There is the need for the higher wages component, which is a work in progress at the moment.

But probably equally so is the workers who may be displaced or the workers who are still to come, the new workers who may have gone into those jobs who will not go into those jobs now. How do we make sure that they have available to them the proper avenues to be trained? Whether that is personal training, accounts like superannuation funds or just making sure that places like TAFE are properly funded. There needs to be some sort of a community dividend, for want of a better term, where money is invested in the training of those workers who are displaced. But it is not just those workers who are displaced. How do we invest some of those productivity

gains in the education system more broadly to make sure that people who will never go into those other workplaces go into workplaces appropriately skilled or, if they do go into those workplaces, they are going in as someone who might be higher up on the online retail chain than the person who was displaced from a picking role.

**Ms ABIGAIL BOYD:** Do you think there is a place for government to try to capture some of the productivity gains from automation to use for the benefit of broader society or do you think this is something best left to negotiations between business, and workers and unions?

**Mr SMITH:** There is definitely a role for government because, if there is going to be a community dividend, the Government and the Parliament are the representatives of the community so that has to be worked through. As to format that takes, we are in early days of thinking about that but we, as a union, have been turning our mind to what is the appropriate way to have that three-way sharing of the benefits of productivity gains. We are not at a stage to say this is what we think the outcome is, but we are well down that path and in due course we hope to have some very serious policy considerations for people to consider.

**Ms ABIGAIL BOYD:** The issues you raise around surveillance are very concerning and I have heard— anecdotally at least there is a lot of talk of people who have gone for jobs and the contracts are telling them that they have to have a certain amount of surveillance or lose a certain amount of their privacy in order to obtain that job. Is that something that other jurisdictions have dealt with in a way that we could perhaps learn lessons from?

**Mr SMITH:** I cannot put my finger on a particular jurisdiction to say that they have done it well yet. The changing nature of technology means that I think that most pieces of legislation are behind. At one stage, New South Wales had one of the leading pieces of legislation in that place and we are well behind now in terms of workplace surveillance. That comes into a couple of different areas. Are you surveilling where the work is being performed versus where the surveillance is being carried out? Amazon has recently advertised for somebody to globally monitor their workers' organising activity into unions around the whole world. That work is probably being done in Seattle by a well-paid person in Seattle. Do our laws cover that? Our laws need to focus on where the work is being performed in terms of surveillance. What is the nature of that surveillance? I am sure it is not what would be described as a video surveillance once. I would not pretend to have the technical knowledge to know what that surveillance is now, but I do know that the surveillance is constant, continual and it is when people are meant to be resting.

As I said earlier, it is dehumanising enough that every second of your working day is being monitored but then when you sit down to rest you are being monitored as well. I can say from personal experience that I was at an Amazon lunchroom doing a visit under a right of entry as per the law and I saw somebody there who I knew from a previous company who I would have expected to say hello to me. I put out my hand to shake their hand and they did not shake my hand. I thought, "That is unusual." But then I thought, "They are probably under surveillance." And, whilst they would have in another environment done that, being under surveillance and seen to be shaking the hand of a union official in an Amazon workplace may not be your best career move. Disappointing, but I think that that is something that needs to be looked at. Why should people be under surveillance when at rest in their tearooms? I find that very strange.

**The Hon. COURTNEY HOUSSOS:** Just on that, Mr Smith. We are looking at doing some hearings around workplace surveillance, so I will just ask you a brief question about that. What are the legal protections for workers at the moment? To any average person to be surveilled whilst you are on your break seems to be totally unacceptable, but is that legal at the moment?

**Mr SMITH:** As long as there has been signage up to say that you are under surveillance, yes, because the only restriction is currently upon change rooms and bathrooms. That is the only part of the workplace that is currently excluded from being under surveillance.

**The Hon. COURTNEY HOUSSOS:** You already talked about the global surveillance—the recruitment by Amazon of those particular people to keep an eye on their workers worldwide. What are the other ways that companies are trying to stop their workers organising? You went to the point earlier about the role of collective bargaining and the importance of that in actually ensuring better outcomes for our workers.

**Mr SMITH:** I think the real issue is also neutrality. Take Amazon again as an example because there is a very well-publicised example in Alabama where their workforce attempted to organise. The problem was, in that jurisdiction, neutrality is not required to say that it is up to you whether you want to organise or not, we will not get in the way of that, you make your own decision. But instead, every toilet break someone took there was a sign on the back of a toilet door saying that Amazon basically did not support unionisation. People had to go to mandatory sessions where they were again inculcated with the message that you should not be joining a union. There are well-known videos on YouTube available of management videos from Amazon about how you can recognise "organising activity", which by the way seems to be any normal human activity. People talking together,

people seeming upset about something—every single thing you could imagine in the world seems to be to organising activity, so I do not know how effective that is.

I think that, for example, workplace surveillance laws here need to be conscious of not enabling employers to monitor union activity. In the workplaces that we look after email is not a common form of communication but how is that excluded so that people's emails are not monitored to take into account their union activity. For us, it is meeting workers in their workplace as we are entitled to under the Federal laws. How do we make sure that is not under constant surveillance? There is a range of issues there that need to be addressed. It needs to be flexible enough to take into account the new technology that will also emerge with it all. Also, if you are monitored every second of the day that you are moving around your warehouse, if you pause to talk to someone and you get called into question, you may be pausing to ask them a work question. You may be pausing because you need to go to the loo, and we have all heard the terrible stories about Amazon and toilets. But you may be talking to somebody about a workplace problem. Is that union activity or not? Do you get called into question for that? There are areas of concern.

**The Hon. COURTNEY HOUSSOS:** You have used the example of Amazon frequently, which is very helpful for our Committee because we are looking to go and visit there. Particularly you talked in your submission about roster engineering, which you say sounds logical but in practice actually takes out that human element of doing a job. You might stop to talk to a customer or you might stop to have an interaction with a fellow worker. If we were all robots then of course that would not be the most productive way of us interacting, but we are not. We are humans and interacting with customers or interacting with other people is actually going to make you a better worker, going to make you happier and keep you more content and keep you working for longer, and that is a better outcome. Do you want to just explain though how that has led to an increasing level of workplace stress and fatigue for your members?

**Mr SMITH:** Yes. When you take an engineered standard and apply it to say a supermarket setting or a general retail setting, if that has been done in a controlled environment which says that you can do a guided split on how to unpack a pallet and you can attain this level of productivity, or you can pack into a shelf at this rate of productivity, or you can work on a check-out and put through goods at this rate of productivity, you take out one fundamental factor and that is the customer. Customers have this annoying habit of getting in the way of you doing that work. They might actually want to know where something else is, so you might be packing soft drinks and they want to know where the anchovies are and you have to take them to that point of work, which is what the employer expects. But is that built into the engineering standards?

The high-level companies who would appear before these committees would say yes, because they will say to you that there is about a 20 to 30 per cent give in those things. But that is not the message that gets filtered down to the store, and the store managers who are looking to enforce those standards say, "Well, that's the standard and that's the standard that we must meet no matter what." Now a good manager with a bit of experience may understand that there is that need for flexibility, but for too many managers it is a case of, "Well, this is what is expected of me, these are the only hours I've got. If I don't get the job done within this period of time it is not going to be effective." As that gets shaped more and more, it becomes harder and harder. There have been some reasonable changes in some businesses to move from a goods on display versus sales through the till method of looking at things. That can be beneficial but only if it is a real world setting of goods on display, like how long does it really take to fill something in a real world environment, which needs to be taken into account.

**The Hon. WES FANG:** Mr Smith, just acknowledging that the customer involves themselves in what would be the engineered standard, for a company like Amazon where it is effectively outside of where the customer is, given that it is all predominantly app based, is it not more appropriate in that sort of setting? Whereas somewhere like Woolworths—just mentioning the previous witnesses—the other day they had some old grapes out, I asked for some new ones, the person stopped what they were doing, actually went and got them for me and brought them back. Now that, I am sure, interrupted the engineered standard, but it provided the customer experience that I remember and I am recounting now. Does the setting not drive how the company would look at those standards? Because the customer service experience is probably more valuable to Woolworths than that productivity gain.

**Mr SMITH:** Yes, but there is just as many variables inside a warehouse as there is in a shop, to be honest, particularly if you look at the nature of Amazon's warehouses. Whilst they portray themselves as a technology giant, if you were to go into their current set-ups, the current fulfilment centres that do not have automation in them, the way they are laid out is actually quite old fashioned. They are nowhere near as well laid out as say a Woolworths or a Coles distribution centre in terms of where would you go to find the particular items. It is driven by the app knowing where the item is, so you have to follow the app. But it is not always correct, for one thing. So there can be just as many variables inside that sort of environment—maybe slightly less, but there

is still a lot of variables inside that environment and if you have taken it to the nth degree where you just remove every single gap out of that process, then the person cannot maintain that over a long period of time.

We are looking at workers over an extended period of time. A lot of people look at retail workers and say it is a job that people have when they are at school and they leave. That is not the case at all. It is a job where people have spent their working lives. We have a 25 year club in our membership and a very significant proportion of our members have been working at their workplaces for over 25 years. A lot of people might go into the industry thinking it will be a short-term job and find they actually enjoy the customer service side of things and it works for them in terms of their lifestyle. So the challenge is how do you cater for somebody over a whole work lifespan if you have got an engineered standard which might be able to be met for a short period of time if you have got a high turnover of staff? That is, I suppose, the Amazon example where they are renowned around the world for having a very high churn factor in their workforce compared to most warehouses—

**The Hon. WES FANG:** They do? I was not aware of that.

**Mr SMITH:** Yes, people just cannot keep up with the standards. Our union has been very active in health and safety in Amazon before COVID, and COVID means that you actually have to put space back into the process, so it has eased a bit but it still was very intense. Before COVID hit there was a term for it called "Amazon pace" to work at, which is somewhere between a walk and a jog and a run, to be able to meet the time frames that they set. When it is done at that level of intensity because you are disposable, then that is just not acceptable. Engineered standards which enable somebody over a lifespan of work, that is something different because we are all different. I know that when I worked at Woolies on the floor, the rate I could pack a shelf then compared to if they put me on the floor today, I reckon I would be a bit slower than I used to be. So how do you cater for that lifespan?

**The Hon. COURTNEY HOUSSOS:** We heard from Woolworths earlier that they have these things called dark stores, which are essentially where they fulfil online orders. Do you cover workers in that space as well?

**Mr SMITH:** Yes.

**The Hon. COURTNEY HOUSSOS:** Do you see a difference in their pay and conditions, between the two stores, or are they considered the same as retail workers? Are they warehouse workers or are they retail workers in terms of how they are considered?

**Mr SMITH:** They are retail workers in a different setting. If you were to go into one of those fulfilment centres, it is different to their distribution centre but it is different to a shop. Both Coles and Woolworths, both of their dark stores, if you were to go in there, the shelving that people pick the goods off are supermarket shelves in a warehouse environment, but then you have got like a chiller area which is on steroids, for want of a better term—it is a really large chiller area, so it provides different challenges for people. The terms and conditions can be interchangeable between those places, but it will be interesting to see what happens over a period of time and what is the efficiency of them. There are different paths being taken by the different retailers—one looking at micro fulfilment centres and one looking at bigger, automated fulfilment centres. We are yet to really see where that will land, I think.

**The Hon. COURTNEY HOUSSOS:** I was just interested in any early feedback that you might have around—I like that term "Amazon pace"—if there is any of that kind of pressure being put on workers in the dark stores or the fulfilment centres?

**Mr SMITH:** No, but there are engineered standards there too. They have sort of a green, amber, red light system when they are picking, like as to are they keeping up to a certain pace, but it is not enforced in that same sort of way because they are unionised workplaces where there is proper interaction and discussion. Whether it is issues around safety in freezers and allocation of equipment in freezers, it is just different in a unionised workplace where we can actually speak effectively in proper consultation.

**The Hon. GREG DONNELLY:** Thank you both for coming along today. A number of the points I was going to raise have already been covered, so I will not cover them again, although some of them I would seek a seek a bit of elucidation on. Just on the matter of retail companies and indeed the whole industry you cover, including fast food and distribution and the pharmaceutical industry, I am interested in the ongoing importance of having a portable credential, one that can be taken from one company to another. In Australia we have got the apprenticeship framework that exists at a State level, which is normally articulated into TAFE training, or the traineeships that once existed. You referred to your involvement in fact on a traineeship board.

Do we potentially run the danger of an employer themselves, and I am not talking about anyone specifically, developing in conjunction with experts, that is, businesses that are experienced in training or



institutions that might provide training—are we in danger though of not having a complete picture being taken in terms of working out what that portable employment and training may need to look like? For example, what is missing from that discussion is the involvement of the employees' organisation, their trade union and indeed input from government through their respective departments of education and training. They seem to be missing out of a framework if you have got an employer essentially setting up their own training. I would just like you to elucidate on that point, your thoughts?

**Mr SMITH:** Yes. With improving people's skill sets you want them to be able to take that with them to any workplace and it should be the skill that has been recognised, not narrowly within a particular work environment. A good example that I can think of is the meat butchering apprenticeship. I remember that we had to intervene at one stage because employers had increasingly moved to cryovaced meat, so you are just slicing cryovaced meat in a supermarket environment but you were not breaking down a beast—like breaking down a whole carcass. That means that you are restricted to only working in a supermarket environment because you cannot go work in an independent butcher shop but you will still be expected to break down a whole carcass. We intervened in that process to ensure that those people when they went to TAFE were receiving practice on breaking down a whole beast to be able to do that effectively.

If you look at the baking trade where we cover as well—again if you move to a system which is driven just by a particular retailers approach to baking, you may de-skill somebody if you do not have the whole rounding out of that person in all the elements of the trade, whether that is baking or there is also the pastry cooking and cake decorating side of things. If you are only restricted to a very limited part of that and then you are skilled for that supermarket, you may not be able to go work in an independent bakery either. Again, if you were to develop a skill set for people, instead of how do you learn a general skill about dealing with— it might be the return of goods. If you only learn about how to deal with the return of goods within Myer's framework or David Jones' framework rather than how do you actually deal with customer interaction more broadly in a return of goods skill set, then you are limiting yourself to only how you would do it within that environment. There is a whole range of skill sets that you could apply that to where it is the difference between being trained to do the job in a particular employer and attaining skills that you can take to any employer within the industry.

**The Hon. GREG DONNELLY:** Thank you for point nine in your submission which deals with data and surveillance; you make a number of salient points. In your experience as a union official, how has surveillance moved from the occasional CCTV that might be around in a workplace to the Amazon-isation of the workplace of this constant, incessant, almost minute-by-minute monitoring? Can you give us a sense of the scale of change that has taken place? Associated with that, Can you tell us about the issue of monitoring outside the workplace as well? That is, employers monitoring employees' social media, and if it is not an employee it may well be a contract or an employee being engaged through a third-party provider. There is the potential issue of employers monitoring people outside the workplace and taking exception or having concerns about those interactions the employee or contractor might be having with family members or friends or whoever outside the workplace. Can you talk to the data storage of all of this information that is collected? That is, with respect to employers or contractors, privacy issues, where it is warehoused, people's rights to that information and their e-history in terms of their employment relationship.

**Mr SMITH:** I will make a comment about CCTV footage. There are good purposes for it as well as inappropriate uses of it. Throughout COVID, CCTV footage has been invaluable in bringing to justice some pretty ordinary people and some of their behaviour in shops. We are not opposed to it full stop; it is the use of it and how it is used in terms of it. Our rule of thumb has always been that things like that should be used for securing the staff and the goods. We accept companies using CCTV footage for that purpose but not for the purpose of counselling work performance. That I suppose is the path that we have sort of tried to delineate. What you face as a problem with increased surveillance is that if you do not have a manager who has the skills to recognise the everyday problems that people face in the workplace and they just take a cookie-cutter approach of saying, "They say that this job takes 3.2 minutes to do and this one takes 5.3 minutes to do," and they do not account for the realities in between, then you get a very poor interaction in the workplace. It just becomes a very dehumanising interaction but also I just do not think it is good for either the employer or the employee.

If you are always monitoring people's check-out rate but people do not take time to talk to their customers—what became very clear during COVID was that people coming into the shops to shop, particularly that elderly hour, that was one of the few social interactions that those elderly people had throughout COVID. If you take out that human element, you are losing something for the worker who gets benefit out of that, you are losing something for the business like the example you gave of good customer service—they will come back—and you are losing something for the community in that sense of social connection that people have. It became very clear during COVID that our frontline workers were not just providing a valuable service in providing the goods but they are actually providing a social interaction for people who are isolated.

**The Hon. GREG DONNELLY:** Contributing to social capital really.

**Mr SMITH:** Yes, and so these things can actually eat away at some of those things and have very unintended consequences. If there is no social interaction, why don't I just buy the goods online? There is a real issue there. We do look after online retail workers so we are agnostic about that, but it is about how you look after those people effectively. Social media monitoring outside of work I think is far more insidious. I was complaining about an employer monitoring what you do on your rest breaks. If they are monitoring you outside of your work completely when it is not something to do directly with work, I think that is outrageous.

I have had examples where members have been counselled for supporting campaigns that the union has run on social media, including one at a delegate's meeting and taking a photo at a delegate's meeting. It took my personal intervention to call the company involved and say, "Look, you cannot do this." There are consequences for doing that—there are—but how many workers are prepared to take those consequences. Because that person was in the union, the matter was fixed. If they are not in the union, the matter does not get fixed and the people have an unjust sense of being curtailed in their capacity to interact and so that takes another form of interaction away from people. There is also room for legitimate criticism outside of your working hours that can be legitimate as well. People have got obligations to their companies. We accept that as well, but there has got to be a proper balance and that is not always seen.

**The Hon. GREG DONNELLY:** Finally and quickly, I have a question on the matter of the training of employees and the position that trade unions in Australia have had for well over 100 years. That is, the fundamental position that the training is done during time that is paid for. Do you see that there is a potential in the future of work where there could be the splitting off of some activity which is training or quasi-training whereby an employer—not naming any individual—could expect an employee to do that in their own time? In other words, they couch it as being almost voluntary but in fact it is articulated directly back to enhancing their skill base for that employer that they will be using in their day-to-day work.

**Mr SMITH:** Yes. Simply put, all time worked must be paid. That is the view we have always taken and continue to take.

**The Hon. GREG DONNELLY:** Including training.

**Mr SMITH:** That includes training. We have had to intervene with a number of companies where they have increasingly online training available to people. Again, a company might say, "Look, we allow time at work for them to do that training." That is okay at one level of the company, but the reality is the pressure on the day-to-day operation means that there is no time now to do that or you go into a workplace and into a tearoom and you see people on their phones at lunchtime and sometimes you think they are just doing social media but sometimes they are doing training. Our view is that we have had to intervene on a number of occasions. Companies accept that when you get to a certain level that all time must be paid, but there is sometimes a struggle to get to that level. There is that ever-present pressure which goes back to workload stress that we mentioned before which comes from engineered standards that means there is no time in the day allocated to this effectively to do that training. It is a real problem already today. It is a problem we have intervened in a number of occasions and we are successful when that happens, but again there would be a number of people who do not raise these issues who would be doing that training.

**The Hon. GREG DONNELLY:** Sorry, that is life blurring into a sort of grey zone where work ends and non-work commences.

**Mr SMITH:** Yes.

**The Hon. GREG DONNELLY:** You could have a situation of people doing activities which on any fair assessment is directly related to their work, but it is being couched as something that is option or voluntary and then there is a debate over whether or not they should get paid for it. That is the sort of matter.

**Mr SMITH:** Yes. I will give you two examples. There is the example of people doing that training on their phones and that is work because there is an expectation there because they get reminders that their module has not been done and so they go, "I have got to get my modules up to date and if my modules are not up to date by a certain time, I might get in trouble for that so I better get it up to date. I have no time at work. I will do it outside of work." One of the benefits of it being done on the phone is that it is timestamped as a general rule in those systems so we can actually get evidence of when it was done and then we pursue that as a back payment. But there is another insidious development coming and starting to emerge where work is allocated, even in a more structured workplace, via apps. If you want extra shifts of work, the work is allocated through an app and it is the fastest finger gets the next shift, which means that you are sort of almost always on call to get that extra shift.

What we would like to see and what we have raised with companies as to what should happen is that there should be an engineering into that system to have a fair allocation of the work based on your capacity to do the work on a sort of rotating system, rather than whoever happens to be constantly watching the app and hitting it. You need the work and a lot of our members are underemployed and want more hours of work. You are chained to that app because if the offer comes now when I am not watching my phone, someone else gets it. That becomes an insidious distraction of your time away from work and work life balance.

**The CHAIR:** Mr Smith, do you think prior to a worker having their role displaced by automation that they ought to have a right to negotiate with their employer collectively?

**Mr SMITH:** Yes. I believe that should go to their future whether in that workplace or outside of that workplace to have an equitable outcome for that person.

**The CHAIR:** In terms of the principle—

**Mr SMITH:** Sorry, I might add also that if the automation has been arrived at because the person has been tracked and their every movement has been tracked to enable the automation to occur, what part of that intellectual property does the worker own from the employer having tracked them to be able to work out the best way to do it? If that is the way they have come to the decision that they can automate, I think there is an even greater imperative that the worker whose labour has created that information should have an appropriate sharing in the benefits of that information.

**The CHAIR:** My final question is: Insofar as you say there should be a right to negotiate, do you think we should endorse a principle that says a worker should be offered alternative employment in the same enterprise if they so choose as a minimum right of entitlement for any person who is displaced because of automation?

**Mr SMITH:** Our union has always taken the view that ongoing employment is a much greater benefit to the worker and to the community than having people take a lump sum and finding themselves out of work. One of the most important things in terms of unemployment is keeping unemployment low. Once it gets above a certain level it is much harder to get people back into work. That was one of the things we saw in the eighties. That was one of the things we saw with the displacement of people from computerisation and changes to manufacturing processes and outsourcing overseas. We have always been a union that believes that an ongoing job is better for both the worker, we think for the company because of the knowledge that they retain, and also for the community because you do not have that same social downside. If that is attainable, that is what we would support.

**The CHAIR:** Thank you very much, Mr Smith and Mr Worsley, for your appearance this morning and also for the quality and comprehensive nature of your submission, including the very specific recommendations that you have made. If you have taken any questions on notice, which I do not believe you have, therefore you are spared of the obligation of returning the answers within 21 days. Should members have any further questions that they wish to put on notice to you the secretariat will be in touch. Otherwise, thank you very much for your time this morning.

**(The witnesses withdrew.)**

**(Short adjournment)**

**PETER ARKLE**, Chief Executive Officer, NSW Farmers, sworn and examined

**KATHY RANKIN**, Policy Director, Rural Affairs and Business, Economics and Trade, NSW Farmers, sworn and examined

**GRACIA KUSUMA**, Director, Workplace Relations, NSW Farmers, sworn and examined

**The CHAIR:** I welcome our next set of witnesses from NSW Farmers. Can I invite one of the representatives to make an opening statement on behalf of the panel, if you so choose?

**Mr ARKLE:** Yes. Thank you, Mr Chairman, and thank you for the invitation to appear today at this very important inquiry here at Macquarie Street. NSW Farmers is the largest agricultural advocacy group in Australia, representing over 6,000 predominantly family farm businesses across New South Wales. It is a pleasure to be here today speaking on behalf of our members. Agriculture in New South Wales is a significant contributor to the State's economy, with New South Wales home to around 30 per cent of all Australian farm businesses. Our sector is valued at around \$15.7 billion and contributes around 11 per cent to New South Wales export income. Over the coming decades, agriculture and regional New South Wales will be influenced by a number of mega-trends. Population growth, an expanding middle class, more informed consumers and an uncertain outlook shaped by globalisation and environmental change will all have a strong bearing on our sector and regional New South Wales.

Advancement and the adoption of technologies holds significant potential to unlock productivity gains in farming and agriculture in our State. It is one of the key drivers for agriculture in New South Wales to meet our industry goal of being a \$30 billion industry by 2030. Innovation in agricultural technology is exciting; we are talking high-tech protected greenhouses and vertical farming, changing the parts of our State where we will see food and fibre grown. Other technologies such as drone technology, remote sensors and robotics all have the potential to transform primary production in Australia. All of that is predicated on decent access to digital connectivity and reducing the challenge of connectivity black spots, but there are uncertainties that remain around the extent of technological advancement and the pace of adoption we are likely to see across our sector. Many farms in New South Wales still do not have access to reliable internet.

The high up-front costs of these technologies, difficulties surrounding on-farm integration and the availability of suitably skilled workers, combined with insufficient regional infrastructure, are all challenges that will potentially stand in the way of the broadscale adoption of some of the technologies I have talked about. Some recent work from CSIRO indicates that over the next decade the extent and nature of workforce transformation across all of the subsectors within agriculture will likely vary and therefore demand different types of skill sets. For my members that are interested in broadacre cropping production—growing wheat, barley or canola—we have seen the high uptake of automated precision technologies that are likely to demand a highly tech-skilled workforce to operate and deploy across broadacre cropping in New South Wales. Our livestock industries will demand a different type of workforce with the ability to capture, process and utilise data in a meaningful way.

Individual animal technology and the use of automated scales will feed back into breeding for livestock as data increasingly drives our farming approaches. While on-farm technological advancement will reduce the demand for unskilled and semi-skilled workers over time, lower-skilled employees will still perform an important role in many farm businesses going forward. On-farm improvements will in the first instance only be undertaken by early adopters. The transition to many of the technologies I have talked about will take place over years, if not decades, and we need to recognise the importance of having a range of skill sets in the available workforce for farming in our State. To drive this, we need a fit for purpose training and education framework and we need to increasingly expose students to the opportunities for careers in agriculture from a very young age. Strong tertiary level agricultural training must be available, both in terms of the VET sector and the university sector, to cater for the broad range of careers in agriculture and to appropriately resource the whole agricultural workforce.

It is critical that agricultural knowledge and careers are promoted at every stage of education, to raise awareness about the great opportunities that exist for meaningful careers in our sector and try to boost participation in the agriculture industry of both VET-qualified people and university graduates. It is important that we have easily accessible, skills-based training; licensing and compliance frameworks; and the opportunity to upskill existing workers who are already deployed and working in the agricultural sector to gain additional qualification and skills-based training, to be able to increase the contribution of their roles to growing the productivity of our industry. Obviously, both TAFE and private registered training organisations [RTOs] play a key role in that. The on-demand workforce has been a longstanding feature of the agriculture sector, particularly given our highly seasonal nature. Advancement in technology is unlikely to have a material impact in changing the need for that on-demand workforce.

Our industry has been highly reliant on substantial engagement of non-permanent forms of labour and non-employment labour or contracting. That approach from our industry has really been put in the spotlight through the COVID experience we have lived through; the closure of our international borders has obviously posed many challenges for many farm businesses. According to the Australian Bureau of Statistics [ABS] forms and characteristics of employment—when I talk about permanent staff, agriculture employs more full-time staff than part-time staff when compared to the national average. Around 75 per cent of farm workers are permanent full-time employees, as opposed to 67 per cent across the wider economy. Casual employment makes up around 26 per cent of workers on farms, as I said, to meet that surge need, often around seasonality. Agricultural businesses rely quite extensively on contractors, so 56 per cent of all jobs that need to be done on farms—the labour task—are met through contractors.

Often they are specialist businesses, whether it is seeding technology, seed treatment technology, or indeed contract harvesters or shearing teams. They play a critical role in getting the job done on farms in New South Wales. That is 56 per cent of the labour task on farms being met by contractors, which compares to around 17 per cent for businesses on average across the Australian economy. As I started from the outset, the majority of my members are small to medium, family-based enterprises. They are employers, as I have touched on, generally employing permanent team members. But to bring in the skills and capabilities they need to grow their businesses and to grow the size of our sector in New South Wales, the ability to simply and affordably access contractors and flexible forms of employment remains absolutely critical to the growth of our sector in New South Wales. Thank you once again for the invitation to attend this important inquiry. I am sure my colleagues will add some additional detail to my opening statement this morning. Thank you.

**The CHAIR:** Thank you, Mr Arkle. Do you mind tabling your opening statement, if you had written it?

**Mr ARKLE:** I am happy to do that, Mr Chair.

**The CHAIR:** Thank you very much. I will kick off first with some questions, if you do not mind. You make the point in your submission, or at least in the paper you attached to your submission, that the number of farming enterprises nationally is circa 90,000. Is that correct?

**Mr ARKLE:** That is correct.

**The CHAIR:** And most of them are family-owned businesses?

**Mr ARKLE:** That would be correct, in the majority.

**The CHAIR:** Therefore, is a lot of the labour force family members?

**Mr ARKLE:** That is certainly true, yes. Many of my members are multi-generational farming enterprises, so that would be true in many cases. But equally, we are seeing the need to bring skills and capabilities into our industry in terms of students and graduates, as I have mentioned.

**The CHAIR:** So a very rudimentary look at how the labour task in agriculture is met is through, firstly, family labour; secondly, employed labour; and third, contract labour. Is that a fair summation?

**Mr ARKLE:** Do you want to make a comment on that, Ms Kusuma?

**Ms KUSUMA:** Yes, that is a fair summation. However, there is also a pattern within the agricultural sector where there is amalgamation of farming businesses. As farming businesses are slowly evolving and corporatising, so then farming entities are becoming larger, and with larger operation it means then that there is also more demand for professional workers or workers to assist with the family farms because the family members either do not have the capacity or do not have the skills to perform all the varied tasks required on the farm.

**The CHAIR:** Fair enough. So, Mr Arkle, when you spoke about the workforce shortage issues that particularly affected the sector last year out of COVID, you made the point that that predominantly fell on the seasonal labour side of the industry's demand. Is that correct?

**Mr ARKLE:** I think, certainly in terms of the quantity of roles going unfilled in the current climate, definitely it tends to be the roles requiring less skills, like fruit picking. We believe there are around 30,000 working holiday-makers or backpackers remaining in Australia at this stage. Normally that figure would be about 200,000, so we see a huge shortfall in terms of those unskilled roles. But equally a lot of my members are struggling to recruit for semiskilled or skilled roles—leading hands on farms, people to drive harvesters, tractors and so on—so I think the skills shortages we are seeing are across the range of unskilled, semiskilled and skilled roles.

**The CHAIR:** Just concentrating on the component of unskilled to semiskilled that effectively disappeared last year, that had a major impact on the sector, did it not?

**Mr ARKLE:** It has, and it is still unfolding, certainly.

**The CHAIR:** My orange prices would indicate that there is a massive impact on the industry. Is that fair?

**Mr ARKLE:** Yes, I think when it comes to oranges it is only going to get worse as we head into the navel orange harvest in Griffith in coming months. So, yes, for people with tree crops or vine crops, there will be crops that go unharvested, that rot on the tree or vine. For a lot of vegetable producers, crops simply will not be put in the ground because they know from the outset they will not have sufficient labour to harvest those crops—so, yes, a profound impact on our sector.

**The CHAIR:** Do you think your sector has had too much reliance on foreign labour performed through seasonal work arrangements?

**Mr ARKLE:** I do, yes.

**The CHAIR:** Why do you think that your sector has developed such a reliance on that form of work?

**Mr ARKLE:** Look, it is a multifaceted problem. I will make some opening remarks, and then I will refer to my colleague here who manages our workplace relations team at NSW Farmers. It is a big labour task, obviously, harvesting vegetables and fruit across Australia. As I have said, we need in the order of 200,000 people to fulfil those roles, who typically are those working holiday-makers, and it has been an effective model for many of my members over many years. We have a challenge getting Australians to look at these roles as opportunities, which I think we are certainly thinking through. Obviously, the Federal Government in the last Federal budget did look at a regional relocation assistance package in the order of \$6,000 for people to displace—people living in the cities to move to regional areas.

The latest figures—we saw that only a number of hundred had taken those roles up. So, whilst we need to look at a range of solutions to meet our labour needs, the reality is that many Australians are not willing to take up these roles even when appropriate incentives are in place, so we need to look at that overseas workforce. That could be in the form of ramping up arrangements with Pacific nations under the Pacific Seasonal Worker Programme, which has proven very effective over a number of years now, benefiting both farm businesses here in Australia but also Pacific nations and Pacific communities. Also, we are strongly advocating for an agricultural visa to provide a more lasting solution to enable the smooth entry of people with an interest in working in Australian agriculture into our country to be able to take up these jobs on farms. Do you have any builds on that, Ms Kusuma?

**Ms KUSUMA:** Just anecdotally through stories shared by members, with a handful of Australians who have been initially interested to participate in farm work, the expectations are quite different. With that, the reliability for these workers to last through the entire season has been quite challenging—so they will turn up for work for one or two days and not necessarily follow through for the rest of the season. One of the challenges also is relocation and the willingness to relocate. That is probably due to the nature of these jobs where there is an intense requirement for a short spurt of time, and beyond that then workers are required to travel for other opportunities. So, the incentives for Australians to participate in this work are probably not as high.

**The CHAIR:** I have two more questions before I pass to other Committee members. Have you thought about actually offering higher wages as an incentive to Australians? Has the sector thought about whether or not the pay is adequate?

**Ms KUSUMA:** Certainly. That is one of the considerations, but also the reality of the business operation is farming is a price-taker industry where the value of the commodity, of their produce, is determined by an external party, and farmers are paid based on quantity and volume. So, at the same time then, an incentive-based payment needs to be organised or designed, as it currently is, based on quantity and volume and productivity of work, and the industry across all the subsectors—with grains, intensive livestock as well as horticulture—they are all subject to the same minimum conditions across all industries. So, to say that farming is not as well paying, it is not necessarily accurate as compared to other industries. A fair comparison would be whether the industry is comparable to other work available that is low-skilled or of similar skill levels because for picking/packing the skill levels that are required are not that high, but all farming businesses are subject to the same minimum conditions.

**The CHAIR:** NSW Farmers has been nation leading in terms of pointing out the supply chain issues and developing policy overhauls for supply chain pressures that agriculture is under. Your point is well taken about agriculture being a price taker, meaning that you would probably not have the ability to recover the wages. It is an important point that you make well. There has been a lot of controversy and a lot of discussions particularly around the revelation of some labour practices, particularly in the berry industry, which I do not think anybody

would recognise as being best practice. Can I give you an open invitation to respond to some of those issues that have surfaced in public debate recently?

**Ms KUSUMA:** Certainly. First and foremost, the industry, especially our members, are very much—and I think it is quite important to say that industries are opposed to those types of treatment. The commitment is for fair treatment of workers for a fair day's work, definitely. There are, as in any other industry, definitely rogue operators who are not meeting minimum standards. As a whole, including the industry, we are committed to work towards improving the conditions for all parties, including these workers. However, there are legal frameworks in place where these behaviours are illegal, and they need to be treated as illegal activities and prosecuted accordingly.

**The CHAIR:** Thank you very much.

**The Hon. WES FANG:** Thank you very much for appearing today, and for your fascinating insights and your submission. I will start with the labour issue that my colleague has talked about. Last week I was in Hay, and we were looking at a program called Hay Inc, where a local group of farmers was able to form a group to organise training to get people ready for a farming workforce because there was a real lack of knowledge and skills within those communities. With the advent of technology, that skill set is going to adapt and change. Do you see a role for your organisation to help groups and other training organisations assist with developing where you see the technology going for agriculture and making sure that the next generation of farming graduates is skilled and ready for that implementation?

**Ms RANKIN:** I will try to make some observations about that. I think you are quite right, but the challenge I think going forward with technology is that we do not know what it is going to be like in two, five, 10 years. I would support your position that those that are coming into or are already established in the agricultural industry need to be in a position to be able to build adaptive and have reactive opportunities in order to add additional skills to their portfolio. As my colleagues have indicated, agriculture tends to be a fairly robust environment where people will apply their skills in different ways to different farming endeavours.

I think one of the opportunities is to be able to have that same opportunity to employees to be able to have short, sharp training that is recognised within their qualification set in order to pick up some of these basic skills that they will then apply and adapt as they go along. An example of that might be looking at the interpretation of data—not necessarily the application of data but the interpretation and the forecasting and the planning. On the other side of the coin, it might be around looking at where technology has been installed on the workplace such as for gate monitoring, security, water, management of solar, determinations of on and off. So being able to have the ability to both install and to monitor but then analyse those skills within a different environment is really important.

**The Hon. WES FANG:** Turning to one of the other points that was raised earlier around wages and attracting labour, is it your experience or opinion that higher wages alone is the only reason that we are not getting people into say places like Gol Gol or Wentworth where there are quite a few challenges, or are there other factors around remoteness that are precluding people from metropolitan areas being attracted to that work?

**The CHAIR:** I think you mean lower wages, not higher wages.

**The Hon. WES FANG:** You are proposing higher wages would—

**The CHAIR:** Your question was whether higher wages are an obstacle. I think you meant lower wages.

**The Hon. WES FANG:** Sorry. Would higher wages attract them?

**The CHAIR:** That is the right question. Would higher wages overcome those obstacles?

**Mr ARKLE:** I think it is a good question, Mr Fang. Traditionally, I guess our view may have been that strong farm businesses would lead to strong regional economies, but I think our thinking is evolving in a sense that we really need to focus in a concerted way on making our regional communities great places to live. That comes down to obviously digital connectivity. I mentioned in my opening remarks that it comes down to accessible health and education opportunities and wider regional services. So, yes, I think that the wages alone are one part of trying to get the bigger attraction of regional living across to those people that may be able to step up and play a role in our industry.

**The Hon. WES FANG:** Your members, for example, are out quite far west in New South Wales. Even if they were to offer higher wages, they would still struggle to attract some or a large number of members to join their workforce because there are other issues around the community and the remoteness. It is not just money alone, is it?

**Ms KUSUMA:** Yes, definitely, Mr Fang. Just to add to that, farming agriculture is a multifaceted industry with a range of opportunities. Pickers, packers and entry-level jobs—the remuneration being offered is at the entry level. At the same time, the industry also has high-paying jobs with a lot of perks attached to the role. It is quite common for broadacre farms to offer accommodation as part of their role with annual wages ranging from mid-sixty thousands to more than hundreds of thousands. There are varying opportunities. However, the industry is also experiencing skills shortage, not just quantity or the number of labour shortage, on certain types of work like a machine operator as well as mechanic type of work. There are multifaceted answers that we all need to work through from connectivity infrastructure, education and the health system in the regional area to attract a vibrant regional community because it is the regional community that will play a part in attracting these people who predominantly are more attracted to metropolitan areas to want to move out and find those career paths.

**The Hon. WES FANG:** There is probably a role for government in assisting with that, isn't there?

**Ms KUSUMA:** Certainly. Definitely. My colleague here is in—her portfolio is in rural affairs, so she is probably better in elaborating more on a number of our work so far.

**Ms RANKIN:** I think there is a role in terms of government. If I could come back to your original comment that it is not just about high wages, a lot of the work that has been done historically is about attracting and retaining people in regional New South Wales or regional areas, particularly those more remote areas. It is not just about finding a job for one person; it is about finding a job for two. While agriculture might be the driver of the original job application, if there are not additional services or additional opportunities for a partner or children to be able to undertake a career entry or progression, that is really important as well. To then take that back to your observation about opportunity for government, yes, government might build the environment that allows businesses to work through their processes to determine that they can establish viable business, and they might be complementary businesses to the farm sector.

I mentioned previously about the data analysis. A lot of our farmers will have consultants or contracted work, and they are individual businesses that establish and provide services. So creating an environment where we have certainty of high-quality connectivity into those regional areas where the download and upload speeds for the data and video is appropriate as well, as well as supporting some of those additional issues of more flexibility in accessing health and education services. There have been some good examples of the New South Wales Government providing those sorts of technology-enabled supports, but we do think that there needs to be a little bit more done so that people who are thinking of making the move out to a regional and remote area feel that they are actually going to have the same equitable level of access as they would have had in the more populated areas.

**The Hon. WES FANG:** Government support and funding is important, obviously, to improve those communities and be able to attract the workers and their families into those areas. So programs like grants programs or Stronger Country Communities funding that has been distributed by the New South Wales Government have actually made a difference to those communities? Is that what you are seeing?

**Ms RANKIN:** I would hesitate to answer yes definitively on that one because all of those programs will have a different role and different effect on each of those communities. But the role of government in enabling and building some certainty around infrastructure and services is really quite critical for people to make long-term decisions about moving into regional areas, particularly if they have young children, because they will want to have the same sort of opportunities and access. That goes from health to training to education through to cultural and recreational activities as well. So in general terms the support that government provides as a basic enabler is really quite critical to allow businesses to come in and leverage and expand on that underpinning infrastructure investment.

**The Hon. WES FANG:** I have one final question: So is any criticism of funding that does go out that way from the New South Wales Government probably unwarranted?

**The Hon. ADAM SEARLE:** Depends what it is on.

**The CHAIR:** If you would like to respond, you can.

**The Hon. GREG DONNELLY:** That is quite a Dorothy Dixier question.

**Mr ARKLE:** Yes. Look, a number of those grants programs have played an important role. I commend the work of the Department of Regional NSW in taking a more strategic approach to regional investments, looking at the natural competitive advantages of different regions. I will take the opportunity to note that we are working closely with the Agriculture Commissioner here in New South Wales to look at a holistic review of the New South Wales planning framework because NSW Farmers has articulated a number of concerns around the fact that a lack



of planning or investment certainty due to difficulties with local council approvals and so on is leading to investments in agricultural businesses going to States other than this one. So there is good work from the ag commissioner, which will create a more certain investment climate, which will allow businesses to invest, which will allow many of these new jobs I have talked about to actually take place in New South Wales.

**The Hon. WES FANG:** I will be sure to let the Minister know—

**The CHAIR:** I am sure you will.

**The Hon. WES FANG:** —that the Department of Regional NSW has got your tick of approval.

**The Hon. ADAM SEARLE:** In the attachment to your submission—your submission to the national workforce strategy—you talk about the decline in farm businesses over the last 50 years from 192,000 nationally to 89,000 today. What are the comparable New South Wales specific figures? If you do not have them I am happy for you to take that on notice.

**Mr ARKLE:** Yes. I will make some general comments, Mr Searle, but I will take it on notice and come back with some more detailed numbers. Background consolidation in Australian agribusinesses is at about minus 1.5 per cent year on year. That holds true for New South Wales and we do see in the years immediately following major drought events that that consolidation occurs at a more rapid rate and it would be fair to say we are observing that in the current market in terms of the number of rural properties on sale. A lot of the productivity gains in our industries have come through family farm businesses achieving more optimal economies of scale through purchasing neighbours or driving efficiencies in their properties. I guess we would anticipate that consolidation may continue at about that level observed basically.

**The Hon. ADAM SEARLE:** I would be very interested in the comparable New South Wales figures.

**Mr ARKLE:** Happy to provide those.

**The Hon. ADAM SEARLE:** You also make the point that only 6 per cent of farms have operations of over \$1 million per annum. Is that right? Was that also in that submission?

**The CHAIR:** I saw it.

**The Hon. ADAM SEARLE:** In which case, again, is that also the case for New South Wales? Because that must mean agriculture is really being uber concentrated into a very small number of large farming concerns.

**Ms RANKIN:** Can we take that question on notice in terms of the specific number? But I think the thing to note is that there has been, as Mr Arkle has mentioned, significant change in the way that businesses have been able to operate over the last three to four years because of the drought effects. That will have an impact on the profitability, if you like, of those farms.

**The Hon. ADAM SEARLE:** Sure. It is page 3 of the submission, just so you can see. I would be interested in the relevant New South Wales figure. In relation to workforce shortages, I was following I think your opening submission where you said something like 75 per cent of the work is performed by permanent ongoing workers but then you also quoted 56 per cent of on-farm work was being done by contractors. So we have a better understanding of the sector, could you try and give us a full breakdown of the total farm workforce on notice? How much is directly employed by farms in terms of permanent ongoing workers? How many are contractors? What proportion of those contractors are, I think as you put it, specialists with special bespoke skills that you need to bring in for short periods of time? I think you talked about people with particular seed knowledge. And what percentage is your less skilled worker, your fruit picker or your labourer or—I guess a classic contracting job is fencing.

**Mr ARKLE:** Yes.

**The Hon. ADAM SEARLE:** I would like to get a better understanding of the total workforce breakdown. But in terms of your members' lived experience about workers working for part of the season but not the full season—I think there was mention of workers presenting for a few days but then not coming back. Has there been any attempts to understand from those workers why they did not see out the season or what were the drivers for them or the barriers?

**Ms KUSUMA:** That comment was made in particular to the horticulture sector with the recent harvest seasons. There has not been a concerted program or survey to track that. However, feedback—

**The Hon. ADAM SEARLE:** That would be very useful, would it not?

**Ms KUSUMA:** Definitely. With the Harvest Trail program and the service providers they have captured some of those feedbacks. Now some of that information may or may not be part of their report to the Federal

Government. The reason is that is a Federal Government funded program, so it would be interesting to note or to have visibility on what is part of their report to the Federal Government. What we have been privy to is the anecdotal sharing of information. I would just like to clarify the figures before for the breakdown of permanent workers. It is 75 per cent of permanent workers employed in agriculture are full-time employees as opposed to part-time. Then that is further broken down into—as opposed to permanent—what percentage are casual employees. But I take note of the request for information. We will provide what we can from available data.

**The Hon. ADAM SEARLE:** Okay. But it is going to be very difficult for us as policymakers or government departments or even you as an advocacy group to recommend solutions to some of these problems if we do not have the proper line of sight on the barriers, for example, to workers taking up these roles. You would agree with that, would you not? We need to understand what the problem is.

**Mr ARKLE:** We certainly do. Absolutely.

**The Hon. ADAM SEARLE:** Just on that, a lot of this work is seasonal work so it does not last all year round. It would be very difficult for a possible employee to move to a regional location and sustain themselves permanently on the basis of a seasonal job. Is that where most of the workforce shortages are—in that seasonal work? Or is it also hitting the permanent ongoing workforce?

**Mr ARKLE:** Yes, I think the problem extends across both those job types.

**The Hon. ADAM SEARLE:** Sure, but what is the nature of the problem? Is it consistent? Is it the same problem to the same degree or is it much less with those permanent roles?

**Mr ARKLE:** Look, there are major difficulties in attracting quality candidates for permanent roles on farms. I have touched on assistant managers, farmhands and so on. Traditionally they may have been skilled migrants coming from places like Canada or South Africa potentially so obviously COVID has had an impact on our ability to source those skill sets from beyond Australia. Then it comes back to a question of how we attract more Australian graduates into these career opportunities because, yes, it is not a shortage of opportunities. It is a shortage of candidates at the moment.

**Ms RANKIN:** Could I make another observation? There is such a broad range of skills and capabilities needed within the agricultural sector that that work would need to be, as my colleague has indicated, broken up between professional and other qualifications. But could I give you examples of two things? One of the challenges that the grain sector found with the COVID lockdowns was the availability of those with the skills to drive the very heavy machinery that does the harvesting. One of the problems with that is that with the nature of agriculture—because it is seasonal—we have a stable workforce that spends six months of the year operating those machines in Australia and then six months of the year operating those machines in the northern hemisphere. That gives them that permanent income stream, if you like, or consistency of employment. There is the example of the internationalisation of some of those skills that are needed.

There are also examples of people who have long-term experience in industries such as the horticulture sector where they may spend six months of the year or four months of the year working and returning to a production facility—say, tomatoes in Queensland—and then moving south at a different time to meet the seasonality requirements. I think that one of the things that agriculture has done is recognise that there is a seasonality and there is flexibility. But one of the opportunities that maybe we have missed is how to be able to build the connections between one opportunity in one State or one location and applying and crossing those skills across to a slightly different environment—talking about how skills may be applied in a different context.

**The Hon. ADAM SEARLE:** I think making that linkage is one of the issues, particularly as workers would need to provide housing for themselves—unless it is provided as part of their package—in all these different locations, and that would make for their housing to be impermanent as well as their work. That is a challenge, is it not?

**Ms RANKIN:** I think it probably is a challenge but, again, it depends on the circumstances of the individual. I think we take it from there.

**The Hon. MARK BANASIAK:** I just draw your attention to the part of your submission where you talk about skills, training and education. The previous witness spoke about the need to have industry involved with the educators and making sure what they are delivering is fit for purpose and done in an authentic way. Have you ever been asked to provide input in terms of the years 7 to 10 syllabus on ag tech? I know you mentioned that in your submission. Have you as an association ever been asked to provide your insights as to what should be in it or what should not be in it?

**Ms RANKIN:** There are two answers to that. I have been with the organisation for just under three years. In that time we have not had that formal request, but we have provided insights and input into the New South

Wales Department of Education and the Minister's office in terms of the sorts of things that might need to be covered in there. The additional answer to that is that through the New South Wales Government funding for ITABs—the Industry Training Advisory Boards—NSW Farmers has provided input on qualifications. Some of those qualifications are also then able to be delivered as school-based traineeships and apprenticeships.

**The Hon. MARK BANASIAK:** That would extend to the Certificate III in Agriculture?

**Ms RANKIN:** Yes.

**The Hon. MARK BANASIAK:** I know there was a recent upgrade to the Certificate III in Agriculture and it was just minor stuff, but perhaps on notice could you provide some commentary on both the years 7 to 10 syllabus and the Certificate III in Agriculture, in terms of the remit of this inquiry around the future of work and whether there is any commentary or improvements you think we could make to those syllabuses with that in mind?

**Ms RANKIN:** Yes, certainly.

**Ms ABIGAIL BOYD:** Thank you all for coming and giving your evidence today. I think this issue around labourers is really interesting, and thank you for drawing out the distinction between the skilled labourers and the things we can do to attract more permanent workers to regional towns versus the seasonal workers. I think in the media we get those conflated quite often, so it is good to hear that there is obviously different considerations for different types of workers. Looking at those seasonal workers, is it fair to say that the vast majority of those pre-COVID were either backpackers or people who were here on temporary visas from predominantly poorer countries? Were there many Australian residents doing this work? I am talking in those—

**Ms KUSUMA:** I will start and then my colleague can build on it. In terms of quantity, the majority would be visa holders on the various visas, whether it is working holiday visa holders, international students or even recent migrants or refugees. For the lower skilled or entry-level type of work, I think it is a fair comment to say that the majority have been made up of visa holders rather than Australian workers or permanent residents. Previously, the Federal Government has introduced initiatives to encourage uptake of seasonal work and harvest work by Australian residents; however, it has not been successful. The reason probably is because of the hesitation to relocate for temporary work. But in saying that, there are groups that members have indicated who are attracted to these types of jobs due to the lifestyle that they have at that particular point in their life, whether it is the grey nomads or people who just want to travel the country. That would be my observation.

**Mr ARKLE:** Just on the specific question of whether these workers would predominantly be from poorer countries, they are not in many cases. A lot of them are indeed backpackers from European countries who are doing their time in Australia, so I do not think that point is reflected in what we observe.

**Ms ABIGAIL BOYD:** Just to clarify that, I was not suggesting that all people coming from other countries were from poorer countries and working as seasonal workers. I divided them into backpackers—and by that I meant people who were basically travelling and that was a way to get income in order to continue travelling—versus those people who were coming from predominantly poorer countries, or poorer people in those countries, who were then sending the money back for their families or whatever. It is a very different class of worker.

**Mr ARKLE:** Yes, most certainly, but I would observe the success of the Pacific seasonal worker scheme that I touched on in my opening remarks. It has proven effective for many agricultural employers. I think reviews of the program have shown benefits both to Australian businesses but also to communities and Pacific nations. We do see that program having an important and, indeed, hopefully increased role going forward in filling some of these roles.

**Ms ABIGAIL BOYD:** I have a couple of questions coming off that. I think earlier in your opening remarks or maybe after one of the first questions there was a comment about how the pay rate for those seasonal workers was broadly equivalent to the type of entry-level job that might be being faced as an alternative. Apologies if I am putting words into your mouth; it was along those lines. I am just curious as to whether that takes into account the temporary nature of the work. Are we comparing the pay rate for a seasonal farm picker, for instance, with somebody who is looking at another entry-level job that is only going to last for three months or six months?

**Ms KUSUMA:** It would need to be. It would need to also consider the temporary nature of it because by virtue—on this context, I think it is safe to assume that we are generally talking about entry-level work in the horticulture sector, such as pickers and packers. With the minimum pay rates determined, all farming businesses are bound by the modern awards framework, and within the horticulture award there are certain rules required on determining minimum pay. For all casuals, there is a component in-built into their rates that needs to be considered for temporary type of work, which is a 25 per cent casual loading that needs to be in-built in either the hourly rate or that piecework rate.

**The CHAIR:** How many people work on the hourly rate versus the piece rate? Do you have data on that?

**Ms KUSUMA:** We do not have immediate data, but the observation that I can share is that the majority of picking type of work would be paid based on piecework—I am saying "majority", not all—while other types of work, whether it is as the team lead or packing type of work, is generally being paid by the hourly rate.

**Ms ABIGAIL BOYD:** I understand that in France, the UK and a number of other countries that since COVID they have had a very similar problem because they have lost the backpackers. They have lost a lot of the lower-paid immigrants, as well, coming across to do that work. Are there any lessons to be learnt from those jurisdictions? Do you know if they have been dealing with it differently?

**Ms KUSUMA:** I will try to comment as best I can because I think for a number of these countries it is still an evolving issue and, to the extent that we are aware of, there is no country that has successfully dealt with the issue or has a resolution. However, in the UK they have started the green army, who are encouraged to participate in farming work in their surrounding area. There have been a number of initiatives locally as well to encourage Australians to participate in this type of work, to contribute to the success of harvest work. However, there has been a varying level of success to date. As my colleague mentioned earlier with the relocation assistance, there has not been as great an uptake as had been expected.

**Ms ABIGAIL BOYD:** I am thinking about the experience over there, which obviously is different geographically because they do not have the same massive distances that we do to relocate for some of these jobs. If previously you have been dealing with a bunch of workers who either are just getting money to carry on with their holiday, or they are in a position where they cannot get money in their own country and so they spend six months here and go back for six months to their own country, if those workers are no longer available, presumably there need to be extra incentives to attract other types or class of worker who is within Australia. Has there been thought given to those kind of incentives? I heard what Mr Fang said about how we have got some additional money going into regional towns. Clearly that is not sufficient to incentivise workers to come into these entry-level positions. At what point do we just have to pay higher wages to those workers?

**Mr ARKLE:** I can share some remarks there. I think of the example of our horticulture chair, who has an apple and cherry farm just outside of Orange in New South Wales. He would normally have around 35 people on his seasonal workforce over the cherry harvest. They are predominantly normally European backpackers but he has made lifelong friendships with many. He employed 85 people in this last summer to do effectively the same job of harvesting his cherries. This was just due to the challenge of Australians not sticking with these roles that are hard jobs, hard work, in challenging conditions, particularly in the heat of summer.

The relocation incentive is a start. I think obviously the increased levels of JobSeeker did potentially reduce the incentive for people to look at these types of roles. That is a reality. But they are roles where, once you are adept at picking cherries, you can earn a reasonable income based on the piece rate. So I think we have got a job as an industry in terms of better articulating the opportunities in these roles not only for decent reward, if you work hard, but also for important life experiences out there in regional Australia, learning a bit more about where our food comes from. Part of it is perception of these roles that we need to continue to work on. I do think if closed international borders are likely to remain a reality for a number of years and if preference is going to be continued to be given to returning Australians rather than allocating that international arrivals cap towards economic migrants of different types, the reality is we need to do better at mobilising that domestic workforce that is a latent opportunity for us.

**The Hon. GREG DONNELLY:** Could I take you to the cover letter that goes with the submission and take you to the penultimate paragraph. It says:

NSW Farmers also supports reform to the workplace relations framework. While in many respects the current system works, some elements are out of balance and overly complex.

Elsewhere in the substantial submission that theme is continued about the matter of complexity and linking it to—the language used is "restraint". There is an inherent restraint in the system. But if I put it to you this way, that one person's restraint can be seen as another person's protection with our industrial relations system—so it is the other side of the coin, protection and restraint. What specifically have you got in mind when you say some existing elements are out of balance and overly complex? Could you give us some example of what you are getting at there so that we can see whether or not it in fact is the other side of the coin that you are getting at, and that is one way of looking at it, or if in fact there is some other issue we should be looking at.

**Ms KUSUMA:** Certainly. I will raise two matters that have been outlined in our submission as well. One is in relation to the differentiation between contractors and employees. Contractors and employees across various jurisdictions have slightly varying definitions with varying implications between workers compensation

law, employment law and superannuation. So a clarification and harmonisation of definitions across the various jurisdictions will definitely assist for both parties—for businesses as well as for the contractors. Because what we are finding in our experience in the agricultural sector is that the contractors are wanting to be engaged as contractors because it provides them with the flexibility, the independence and the ability to determine their workflow. It also provides them an ability to demand a higher rate of pay due to them undertaking the risk and commercial investment back into their business. So having clarity, consistency and reliability for all parties involved, when these arrangements have been made intentionally and are well informed, would assist.

For example, under workers compensation law there is the term of deemed workers. All of those variations and slight differentiations, if they can be harmonised across the sector that will assist. That is one example. Another example that we have called out is that, within the Federal employment scheme, there is protection for employees, rightly so, that are general protections. The ability for workers to access that type of claim is available once there is a prima facie case or certain factual incidents that enable them to make that claim in the first place with their own viewpoints. Their own viewpoints may or may not be well-informed viewpoints. However, that matter can progress to the Federal Court even if there are low chances of success. I think that a triage framework can be implemented.

**The Hon. GREG DONNELLY:** Just on the issue of picking up the Hon. Mark Banasiak's questions around skills and education, would NSW Farmers agree with the proposition that I will put now in relation to training in New South Wales, which includes apprenticeship training and vocational education training, that a well-funded, high-functioning TAFE system is a necessary part of that block of certainty over the ability to provide the training the organisation's members need?

**Ms RANKIN:** I am happy to respond that, thank you. I think the most important thing is long-term security about what training is available, what is going to be funded and where it can be delivered and where it can be recognised. We recognise the important role of TAFE NSW in being the backbone of the vocational education and training system, but we do have nationally a flexible environment where public and private training providers have the ability to be able to deliver the skill sets. We would suggest that having local face-to-face delivery of training is as important as the propensity to increase online training, regardless of who the provider is, and we believe that there is also a need to have very clear opportunities for people to be able to build within the structure of a training program to meet the needs of the individual in terms of individual skill sets that need to be added on, and the national training package qualifications allow that to occur.

**The CHAIR:** Ms Kusuma, you made a point about the industry being price-takers. Part of our remit is competition policy and it would be helpful if NSW Farmers could provide on notice the multitude of submissions it has made to different authorities about its call for reform with respect to the national competition policy and supply chain reform. That would be most helpful for us to look into that part of what you are calling for. Is it possible for you to do that?

**Mr ARKLE:** Most certainly, Mr Chair—yes.

**The CHAIR:** Thank you very much. You have taken a series of questions on notice for which you will have 21 days to return an answer after you receive the transcript from the secretariat. Thank you very much for the time you have taken and for the quality and thought that has gone into your submission; it is very useful.

**(The witnesses withdrew.)**

**(Luncheon adjournment)**

**AMANDA GILMORE**, Head of Driver Operations, Uber, affirmed and examined

**MATTHEW DENMAN**, General Manager, Uber Eats, affirmed and examined

**The CHAIR:** I think both or one of you have travelled from Melbourne and I appreciate the fact that you have done that. Would either, or both, of you like to make an opening statement?

**Mr DENMAN:** Thank you, Chair, and honourable members of the committee for your time. I am Matt Denman, General Manager of Delivery, and I am joined by Amanda Gilmore, Head of Driver for Uber in Australia and New Zealand. We appreciate the opportunity to participate in this important inquiry on the future of work. Before I talk more about Uber's experience as part of the on-demand economy, I want to acknowledge the tragic incidents at the end of last year across the food delivery sector. While any death connected with our platform is tragic, it is devastating to have multiple deaths in the industry in such a short span of time. I would like to pay respect to each of those delivery workers and their families.

Since the events of last year we have worked constructively with the New South Wales Government taskforce reviewing food delivery safety to produce an industry action plan and a new guide on work health and safety roles and responsibilities. We have also worked cooperatively with SafeWork when incidents have occurred and we have systems in place to ensure we continue to meet our responsibility to notify these, as we do in other jurisdictions. Safety is fundamental at Uber and we take our responsibilities to those using our app very seriously. We always strive to do better, which is why we are continually looking for ways to improve safety before, during and after every trip. We have led the industry with tools like our fatigue management system, driver training and our personal accident insurance and counselling cover. We continue to invest in safety, with new helmet detection technology, free personal protective equipment and enhanced training modules. These initiatives are critical and will remain an ongoing focus for us given the growing role of rideshare and delivery in our communities.

Since our launch in Sydney in 2012 Uber has helped make transport more convenient and accessible for millions of Australians. Uber Eats, which launched in 2016, has enabled people to get the food they love and in turn drive more business to 30,000 Australian restaurants. Uber has also provided earning opportunities for thousands of people who are choosing to work in a way that fits around their life. Most people are using the app to supplement other income or as a stopgap while between jobs. Uber also offers work to people who have faced barriers in the labour market. And as we saw during the pandemic, Uber provided much needed work, allowing people to switch from badly affected sectors.

What we know is that people using Uber value the flexibility it allows. They also tell us where they want to see us do better and we want to continue to improve their experience. That is why we continually invest in safety, why we have been working on providing more transparency on our policies, improving our phone and chat support, and establishing driver advisory forums to discuss concerns and practical ways to address them. We are eager to work with all Australian governments to continue to improve independent work and ensure it remains available to people when they need it most. We look forward to responding to your questions. Thank you.

**The CHAIR:** Ms Gilmore, did you have anything you wanted to add?

**Ms GILMORE:** No, that is it, thank you.

**The CHAIR:** Mr Denman, in your opening statement you made reference to the incidents where Uber Eats riders died on New South Wales roads last year. There was three of them, was there not?

**Mr DENMAN:** That is correct, Chair.

**The CHAIR:** Nationwide has there been any more that we are unaware of?

**Mr DENMAN:** Since—unfortunately they are—

**The CHAIR:** Since your beginning.

**Mr DENMAN:** Obviously one death is obviously tragic. Since Uber Eats launched in 2016 there has been eight fatalities across the country on our platform.

**The CHAIR:** How many in New South Wales? Just the three or would there be more?

**Mr DENMAN:** There has been more. I would have to get the exact number; it is from several years ago.

**The CHAIR:** Can you take that on notice?

**Mr DENMAN:** Yes, certainly.

**The CHAIR:** With respect to the three deaths that took place last year, two of them were within days of each other, were they not? Or the very next day.

**Mr DENMAN:** Tragically, Chair, it was shocking obviously and devastating for us to have those fatalities happen so close together and I think, as I referenced in my opening statement, the events of the latter half of last year were obviously shocking and devastating for us and of course the families and the community at large.

**The CHAIR:** But they were within consecutive days. That was the question.

**Mr DENMAN:** Yes, Chair, I believe that is correct.

**The CHAIR:** On 23 September and 24 September. Is that correct? The two of them.

**Mr DENMAN:** I would have to go and get the exact dates.

**The CHAIR:** With respect to one of those incidents, was it the case that an Uber Eats rider was using a motorcycle that was not approved for use on any New South Wales road?

**Mr DENMAN:** I am not aware of that, Chair. The fatalities that occurred, two were on a bicycle and one was on a motorcycle.

**The CHAIR:** An e-bike that was unauthorised for use on New South Wales roads.

**Mr DENMAN:** I am aware of reports. They have been intimated to us from SafeWork and certainly we do not want to see unapproved e-bikes or any vehicle that is unsafe on New South Wales or on Australian roads at all. And so certainly we want to make sure that we provide the right level of information to all delivery partners about what the appropriate bikes that they should be using are, direct them to places where they can get those bikes and of course work with industry and government to try and find ways to get any unapproved bike off the road.

**The CHAIR:** SafeWork NSW has provided the Parliament with an improvement notice that it issued to Uber Eats, or at least a training company that Uber Eats is incorporated as, on 16 December in which it said that that rider was using a bike unauthorised to be used in New South Wales. Do you accept that?

**Mr DENMAN:** Yes, certainly. As I say, we obviously have not seen police reports et cetera, but that is what has been intimated to us—yes.

**The CHAIR:** With respect to the other death—

**The Hon. WES FANG:** If you do not mind, Chair. Mr Denman, when you say "intimated", a SafeWork report is not really—

**Mr DENMAN:** Sorry, yes, SafeWork have—yes, that is what we have been told.

**The Hon. WES FANG:** When you say "intimated", what you mean is that it has been communicated quite clearly to you by SafeWork.

**Mr DENMAN:** SafeWork has said that, yes. We have not seen the police report that it was based on—sorry, was my point.

**The Hon. WES FANG:** Because "intimated" implies that it is being sort of said without being said, but a SafeWork improvement notice is quite clear.

**Mr DENMAN:** Yes, correct.

**The CHAIR:** With respect to the other death that took place in September last year, was it not the case that that rider was using an unauthorised helmet or a helmet that was not compliant with New South Wales or Australian standards?

**Mr DENMAN:** As with the bike, that was made clear to us in the improvement notice—yes.

**The CHAIR:** Do you wish to explain how it is possible that a person could be riding for your platform using both a bike and a helmet that is not approved?

**Mr DENMAN:** Well obviously what we want is for everyone to be using our platform safely and we want to make information available to them to do that. We also make sure that in the case of delivery partners on motorbikes, they are licensed in accordance with the law here and those licences are valid, and of course the licensing regime requires that they be aware of their responsibilities and obligations under the law, including having the appropriate equipment. Clearly, when there are instances where someone on our platform is not using the appropriate equipment—and that is clearly unfortunate, and so what we want to do and what we are doing is

continue to provide information, including information on the e-bike specifically. We have released a landing page that points delivery partners to where they can get the appropriate e-bikes, what those standards are. We have partnered with organisations such as We Ride and Bicycle Queensland to continue to improve those processes.

Similarly for anyone using a motorbike, as I say, they do need to be licensed to use our platform. However, we appreciate that they are a more vulnerable road user and so we are releasing specific motorbike training modules that anyone on a motorbike will need to complete to become active and then annually. At the same time we are looking to do partnerships to help delivery partners access discounted personal protective equipment. Road safety is a hugely complex area and it is one that involves shared responsibilities. We accept that we need to continue to provide information and find ways to make our platform as safe as possible. But at the same time, we also need to make drivers and delivery partners aware of their responsibilities to keep themselves as safe as possible as well as other road users and government. We are committed to continually raising the bar on safety.

**The CHAIR:** Do you check people's equipment before you allow them to ride through your platform?

**Mr DENMAN:** It depends on the mode of transport. The issue for something like a bicycle is that naturally we could require someone to attend a location with a bike but once they have done that we actually have no way of knowing what bicycle someone is on. There are over 100,000 people partnered with Uber across the ridesharing and delivery businesses within Australia. We complete millions of trips across our platforms every single week. Practically, it is not possible for us to ensure that we know exactly what bike everyone is on for every single trip. That is why what we want to do is make sure that we are continually making drivers and delivery partners in particular—in particular delivery partners on bicycles—continually aware of the need for them to be safe when on the road. Whether that is bicycle training before they come on to the platform, whether that is a bicycle safety checklist they need to acknowledge each time they go online each day, whether it is landing pages to provide information on appropriate e-bikes, we are continuing to improve our processes and our products to make the platform safer.

**The CHAIR:** In addition to those two deaths, did Uber Eats notify SafeWork NSW of 74 other serious incidents between January and October last year?

**Mr DENMAN:** Yes. We acknowledge our responsibilities under the workplace health and safety laws in Australia and across every jurisdiction. In accordance with that we do notify SafeWork whenever we become aware of an incident that meets the criteria for being notified to SafeWork.

**The CHAIR:** Given that there are others who do not, it is good that you are at least complying with that aspect of the law. There were 74 incidents between January and October, which is a 10-month period. Do you have any updated figures as to how many have been reported since October last year?

**Mr DENMAN:** I would have to take that on notice. I do not think there has been any material change in the rate, but I would have to take it on notice to get the exact number.

**The CHAIR:** We are looking at roughly 7.4 per month on average. That is just 74 divided by 10. So we are looking at an additional 40 or thereabouts. That is not unreasonable for us to assume?

**Mr DENMAN:** I will not disagree with that. That is probably likely, yes.

**The CHAIR:** That would make Uber Eats one of the biggest reporters to SafeWork NSW in terms of any PCBU or person conducting a business or undertaking. Why are there so many incidents? What have you done to look into what is going on that is leading to so many incidents having to be reported?

**Mr DENMAN:** We have very robust and strong safety processes in place. We obviously monitor risks on our platform, we identify those risks and we try to put the appropriate controls in place to mitigate those risks, and we will continue to do that. The unfortunate reality is that road safety continues to be a challenge not just for Uber Eats, not just for other players in the food delivery sector and not just for other industries but for the whole community. In New South Wales in a 12-month period there are thousands—I believe somewhere in the number of 10,000—serious injuries that occur on our roads. Unfortunately, as a platform that has drivers and delivery partners on those roads or creates conditions for them to be on the roads, we are not immune from those risks.

That is why we continue to seek to improve safety on our platform and it is also why we have said in submissions to this Committee and also to the Federal Government et cetera that we do want to see minimum safety standards across the industry so that we can make this platform as safe as possible. We also want to continue to advocate as a business that moves people from A to B or moves things from A to B. We know we have an important role to play to advocate for road safety more broadly and so we want to continually engage with all governments to do that. But it is a complex issue and road safety is obviously something that all of us—



government, industry, road users and the community at large—need to continue to work on. We are committed to doing that.

**The CHAIR:** But do you agree that this number of incidents being reported per month is deeply worrying?

**Mr DENMAN:** I do not want to see any incidents occurring on the platform and I do not want to see anyone get hurt when they are trying to work. The unfortunate reality is that there are tens of millions of trips happening in New South Wales on the Uber Eats platform every year. Just like sadly there are obviously millions of trips happening on the roads at large and that leads to a certain number of incidents and injuries, they happen on our platform as well. That does not mean that we should not try and limit those occurring and it does not mean that we should not continue to try and get safer. To the contrary, we will always commit ourselves to making our platform safer and certainly, as I have said, we would like to see as much as possible being done right across the industry. That is why we are engaging fully and thoughtfully in the task force process. That is why we work closely with SafeWork NSW. We want to see our platform be as safe as possible.

**The CHAIR:** Ms Gilmore, do you have figures for your rideshare part of the business as to how many incidents have been reported to SafeWork NSW in the last 12 months?

**Ms GILMORE:** I do not have that figure.

**The CHAIR:** Can you take it on notice?

**Ms GILMORE:** Yes.

**The CHAIR:** Have you made reports?

**Ms GILMORE:** Yes. In line with our obligations similar to what Mr Denman noted, we have obligations across New South Wales as well as the rest of the country as it relates to workplace health and safety regulations and we report on those.

**The CHAIR:** Do you mind on notice just providing us the same data for the same time period if that is possible?

**Ms GILMORE:** Yes, happy to.

**The CHAIR:** Mr Denman, can I just ask you about the support that has been offered to the families of the riders who lost their lives. You say in your submission that they have access to a form of insurance that you have bought with Chubb, is that the case?

**Mr DENMAN:** Correct.

**The CHAIR:** What is the benefit that they get?

**Mr DENMAN:** Referring specifically to in the case of a fatality?

**The CHAIR:** Those three fatalities specifically, what have they gotten?

**Mr DENMAN:** We have a death benefit that is paid out to the next of kin. Last year that was \$400,000 and it has been increased to \$500,000 in our most recent renewal of that policy. There are also funeral and repatriation expenses and spousal benefits that might collectively reach close to another \$100,000 or a little less than \$100,000 for those families.

**The CHAIR:** Have they all been paid out to those families?

**Mr DENMAN:** Without getting into the specifics of each incident, in some cases yes and in other cases some of the benefits have been paid out but certain paperwork is still being completed on the family. Our insurer has worked as diligently as possible with those families. Obviously, as you can imagine, it is sadly—we want it to be as quick as possible but it is a complicated process in terms of administratively to get all the documentation completed. Our insurer is working as quickly as possible with those families. As you can imagine, in such tragic circumstances as these it is not always the case that the families want to immediately talk to an insurance company.

**The CHAIR:** Have you had any direct contact with the families? By you I mean Uber Eats.

**Mr DENMAN:** Again, it varies depending on the family. They do not always necessarily want to pick up the phone and talk to someone from Uber Eats. What we do is through our 24/7 support teams we make best endeavours where possible to contact the family. Through law enforcement we have a law enforcement response team that works closely with law enforcement. Through them and others we will send letters of condolences with contact details and through our insurer we will also pass on information saying we are more than willing to talk

to families. We are always open to talking to families, sometimes that happens and sometimes depending on the wishes of the family that does not happen, but we are more than willing to talk to any family.

**The CHAIR:** Mr Dede Fredy's widow spoke publicly in February and said there has been no contact from Uber Eats despite efforts to get in touch and make contact. Do you wish to respond to Ms Fredy?

**Mr DENMAN:** What I can say is we, through the channels that we have available to us, make ourselves as available as possible. I am not aware of any contact with us that has not been responded to and in fact more recently I saw those reports and was distressed and through our insurer we again sought to reiterate to the family that we are more than willing to speak to them on any occasion about any issue. We absolutely do that.

**The CHAIR:** Why are you talking through your insurer and not directly? Is that to limit your legal liability?

**Mr DENMAN:** No. At this stage we do reach out directly, where we can. Sometimes that might involve specific phone calls with certain families that I have made in the past. Sometimes we send a letter directly to families—or emails, if that is how we are contacting them. Sometimes they respond and sometimes they do not. There is no suggestion here that we are trying to avoid contact with the families. Sometimes, for various reasons, it is difficult to make contact. Sometimes they do not want to talk to us, but we are absolutely happy to talk to anyone. In that instance, put simply, the insurer obviously has the ongoing, current relationship with the family because they are working through the insurance process. Because of that, that was how we reached out, but I would be more than willing to get on the phone or Zoom or anything with any family member who was impacted by one of these tragedies. There is certainly no intent on our part to avoid that communication.

**The Hon. ADAM SEARLE:** What are these complexities that you refer to? My imperfect understanding is that in New South Wales when employees tragically die at work, their employers and SafeWork are able to provide whatever financial benefits flow reasonably fast to the grieving families. What are the impediments that you say have prevented that in these cases?

**Mr DENMAN:** As I said, certainly our goal is to have those payments get made as quickly as possible. That is absolutely our goal.

**The Hon. ADAM SEARLE:** Yes, but what are the impediments?

**Mr DENMAN:** My understanding is actually more than six months for a payout of this kind—because of all the administration, proving eligibility, proving next of kin status, et cetera, taking more than six months is very common and not unusual. This is exacerbated in circumstances where the families are overseas and English might be a second language, et cetera. That can sometimes make it more complex. There is no intent to do anything but work through the process as quickly as possible. Obviously our insurer managers that process; indeed, we are constantly working with them to find ways to improve the speed at which those payouts happen. Clearly we appreciate that this is a difficult time. If families are in financial distress, they would want to be accessing those funds as soon as possible, so we want to make sure that happens. Unfortunately, my understanding is that there are practical realities when you are dealing with death benefits and it does not matter what insurer you are talking about. That does sometimes slow things down, but we want it to be as fast as possible.

**The Hon. ADAM SEARLE:** What other benefits to workers who are injured does your policy provide and how does that compare to the compulsory system that operates in New South Wales for other workers?

**Mr DENMAN:** We provide various benefits for certain injuries, for a payment for a temporary disability, et cetera—

**The Hon. ADAM SEARLE:** To save time, are you able to provide us with a copy of the insurance document or a schedule of benefits that we can have a look at?

**Mr DENMAN:** Certainly, we can do that. One more comment: I think we have been quite vocal that we do want to see minimum insurance standards right across the industry. We do not necessarily believe that workers compensation is the right scheme because generally workers compensation schemes have—firstly, they are not national. In an ideal world, we would like to see reform done nationally. But to the extent that they do exist—and we wanted to look at a State-based scheme—workers compensation has not necessarily been created for on-demand work. That being said—and we know the New South Wales Government is already looking at this—we are more than willing and keen to engage with any process that might seek to create a standard minimum insurance requirement. Obviously that would involve discussion around what those benefits should or would be and we are happy to contribute. To the extent that that results in a minimum standard right across the industry, if the benefits change because of that, then so be it. We are very much open to that discussion.

**The Hon. ADAM SEARLE:** You say you are aware the New South Wales Government is looking at that. Have they consulted with you about the design of any such scheme?

**Mr DENMAN:** Obviously we work with all governments and regulators across the country. I know discussions have been had. I am not privy to—at this stage, our team has not seen any specific policy detail.

**The CHAIR:** Can I just quickly clarify? Ms Gilmore, do you have the same insurance policy as Mr Denman?

**Ms GILMORE:** Correct. That is available to all drivers and delivery people across Australia.

**The CHAIR:** So they are identical? They are the same policy, yes?

**Ms GILMORE:** Correct.

**The Hon. ADAM SEARLE:** When you say "available", are they automatically covered or do they have to pay for it themselves?

**Ms GILMORE:** They are automatically covered and it is paid for by Uber.

**The Hon. ADAM SEARLE:** Okay. At pages 14 and 15 of your submission, you talk about removing disincentives to providing worker benefits. You appear to be suggesting that if you did provide something like additional benefits, whether it is in the form of superannuation or standard payments, somehow that would jeopardise the model of independent contracting that you rely upon, or gig working. Do you have specific legal advice about that? That seems strange and counterintuitive to me.

**Mr DENMAN:** Obviously I cannot discuss legal advice; however, what I think the submission is pointing to is that we are keen to improve the standard of independent work, but we want to make sure that we retain the flexibility that allows drivers and delivery partners to go online when, where and how they want.

**The Hon. WES FANG:** When you say you cannot discuss legal advice, what do you mean by that? Certainly if you are given legal advice, you are free to provide us with whatever advice it is that you are using to make a determination. Commercial-in-confidence is one thing, but I do not believe that saying you cannot discuss legal advice is accurate.

**Mr DENMAN:** The point I was trying to make—and I appreciate the clarification—is simply that we want to see independent work improved. Where we can do things such as roll out minimum insurance, provide training, et cetera, we will continue to do that. We do think that it would be more helpful—it would be useful—if we had a national reform process that provided clarity and certainty for all participants and raised the bar across the board.

**The Hon. ADAM SEARLE:** Just on that, it sounds like you are saying you are happy to lift your standard of outcomes for your partner drivers but you do not want to do it by yourself. You would rather do it because you are made to do it by government at some level, so that all platforms are equally impacted. Is that right?

**Mr DENMAN:** There are many things that we will do by ourselves. As I say, the minimum insurance that we rolled out several years ago—we led the industry on that. It was not required by government. It was a proactive decision we took. We do think that—as a matter of good policy, but also just to protect the interests of the people using these platforms—to the extent that we have a level playing field and consistency, that can only be a good thing. We are certainly not suggesting that we will only do something if it is imposed upon us by government. We are saying we want to work with government to see how we can improve the quality of independent work. In our case, for instance, in the next few months we will be conducting policy round tables with various think tanks and academics on the question of what extending more benefits to on-demand workers might look like, because we want to be a positive contributor to the discussion.

**The Hon. ADAM SEARLE:** All the evidence we have received from workers and their representatives is that they like the flexibility, but they would also like some certainty around their earnings—at least to have some legally enforceable minimum standard in that space. Is there any particular difference in the app as it works here in New South Wales compared to, for example, the UK? Is Uber's model of operation essentially the same worldwide?

**Mr DENMAN:** No. What we have shown since Uber first entered this market and every market is that we work with the local regulators and governments in all jurisdictions in which we operate to create models that make sense for those jurisdictions.

**The Hon. ADAM SEARLE:** I will tell you where I am going with the question.

**The CHAIR:** Just before you do, the same question to Uber rideshare as opposed to Uber Eats, is it the same or do you have local differences as well?

**Ms GILMORE:** The same holds true, where we work closely with government to make sure that the model fits the regulations that exist within that market.

**The Hon. ADAM SEARLE:** The Fair Work Commission has three times ruled that Uber drivers are not employees, but earlier this year the UK Supreme Court ruled that Uber drivers in the UK were workers for the purposes of their employment protection legislation, which means, as I understand it, they get minimum conditions of pay and pension rights as long as they are logged in and available for work. What are the differences in the way that you work in the UK to how Uber works here in Australia? Are there different controls that you put on your drivers in the UK to here?

**Ms GILMORE:** The system in the UK is there are three different forms of classifications, and worker is one of those statuses. That does not exist here in Australia; obviously, we have a two-part model. Our recommendation is that we can actually maintain the flexibility that drivers love while working within that existing framework. We do not think that it is necessary to create a new regulatory framework. We can work within the existing constraints but, as Mr Denman noted, make some clarifications to those Acts so that we can provide additional support and protections for people who want to be independent contractors.

**The CHAIR:** When you say clarifications, you mean resolve the risk that the grant of additional benefits could lead to reclassification as employees?

**Ms GILMORE:** That is correct. Because what drivers tell us is that they love the flexibility of being independent contractors, so we want to preserve that, because that is the number one reason they use our platform, but also make sure that we can provide them additional support and protections without putting that flexibility at risk.

**The CHAIR:** I do not want to verbal you, so correct if I am wrong. Is it accurate to say that what is inhibiting you from being able to provide additional benefits right now is the fear you have that it could lead to a court saying your workforce is employees and not independent contractors?

**Ms GILMORE:** We already are providing additional benefits. There is the minimum insurance standard that we have rolled out and additional training. What we want to see is that: one, that happens at a national level; two, that it happens across the industry; and, three, that yes there are clarifications to make sure that people can retain that flexibility and that independent status that they say is the most important thing to them.

**The CHAIR:** What additional benefits would you provide if this uncertainty was resolved?

**Ms GILMORE:** There are a lot of different areas that we would like to explore and, as Mr Denman mentioned, we are conducting policy round tables to start to understand what those may look like. But we have put forward global policy papers that discuss the idea of portable entitlements, so essentially funds that platforms that drivers work on can pay into that would enable them to access different entitlements as they see fit. I think the most important thing to note is that the way that people use these platforms is incredibly different than traditional employment, and so it is important to us that we come up with schemes that make sense for this new form of work and that fit the way that people like to use our platforms.

**The Hon. ADAM SEARLE:** What additional flexibility do you and your drivers wish to retain that, for example, casual employees do not have? They are pretty flexibly deployed in many different industries, so why wouldn't being a casual employee of some kind give you everything you need?

**Ms GILMORE:** As a driver or delivery partner you can sign onto the app whenever you like, wherever you like, for how long you like, you can change that up week to week, and that is how the majority of people on the platform use it. About half of people drive for 10 hours or less a week, so it is very much a supplemental source of income and something that they do around other forms of employment or if they are caregivers or retirees. So it is incredibly flexible in that way, that it is, I would say, unlike traditional forms of employment or even casual forms of employment.

**Mr DENMAN:** I would say it is very different to casual employment. What we will see is driver and delivery partners literally going online when and where they want. They will be on multiple platforms at the same time. They have no obligation to accept a trip. They have no obligation to commit to a shift or be online for a given amount of time in a given hour or a given minute, let alone across the day or the week. This is a very different type of work and it is still a small part of the overall way that people earn in Australia. But for the people who do earn on our platform, it is very important that they retain the flexibility and it is really quite different to any form of typical employment, casual or otherwise.

**The Hon. ADAM SEARLE:** On notice, can you give us the breakdown of the percentage of your driver partners for whom this is their permanent work as opposed to people who you say are doing it for other reasons, if you have that data?

**Mr DENMAN:** Obviously, we can provide data on what earners tell us in the surveys. We actually do not know. But certainly the overwhelming majority of drivers and delivery partners are using the platform for well and truly less than what you would consider full-time hours.

**The Hon. ADAM SEARLE:** Whatever data you both have, if you could provide it to us on notice. My last two questions are these. In answer to the Chair's question about whether you inspected the work equipment of your driver partners before they started performing work for you, your answer seemed to be around the practicality of doing that rather than whether in fact you did do that. Just for clarity, do you inspect the work equipment of your driver partners before they start performing work for either of you?

**Ms GILMORE:** I can note, on the rideshare side of things, we require that all drivers who access our platform have a licence, that their vehicle is registered and that they have insurance on that vehicle. We collect a record of that and maintain it over the course of when they access the app. If it expires for any reason we have a record of that and they cannot access the app until they have given us valid insurance or vehicle registration records.

**Mr DENMAN:** Where there are government registration or licensing regimes in place that we can obviously get records of, or vehicle inspections that can be undertaken for rideshare cars et cetera, we do those. There is no standard for bicycles. Where a car is registered, the rider will know that that car is the car that is says it is. If it is not that car then obviously we will find out about it and so that allows us to ensure that every car on the platform is the registered car and it has got the appropriate insurance et cetera. No such system exists for bicycles, and so it is hard for us to ensure that every time anyone goes online on a bicycle that it is a certain type of bicycle or meets a certain specification. There is just no practical way for us to do that.

**Ms ABIGAIL BOYD:** Thank you to both of you for coming along this afternoon. Just on that point about the definition around the worker, whether they are an employee or an independent contractor, is your evidence today that you are reluctant to provide additional benefits because that may result in it being easier to classify that person as an employee? I guess the usual thing we hear from the employers is the idea that they do not want the person to be an employee because they do not want to have to then pay the benefits. Which is it? Are you saying that you are actually limiting yourselves in the benefits you provide?

**Ms GILMORE:** We are trying to preserve what drivers tell us is most important to them, which is flexibility and that is, I guess, a hallmark of the independent contractor status that they currently hold. But we are very open to providing additional support and protections and what we want to work with government on is understanding what those could look like, understanding how they could be applied to independent contractors and people who choose to work in the gig economy and how they could be applied across the sector.

**Ms ABIGAIL BOYD:** You would be aware of Menulog's decision to trial an employment relationship with some of their workers, including providing minimum wage. Why do you think that they have made that decision and are you thinking of following suit at all?

**Mr DENMAN:** Obviously, we saw news of that last week. I think it is important to note at this stage it is a proposal for a pilot. We have seen similar announcements and proposals from other players around the world, in particular in Europe. We are not aware of any platform such as ours operating around the world with a full employment model at this stage. The reason why we think that is and the reason why we do not think it is the right path forward is because every time we ask drivers and delivery partners what they like about Uber they say the flexibility, they say the ability to come online when they want and where they want. So we do not believe that an employment model reflects that desire from them or reflects the way that our platform works, but we are saying that we want to find ways to make independent work better. We do not think the flexibility needs to come at the expense of benefits or security, and so we are committed to engaging fully in that discussion with all governments in Australia on that point.

I think I would also call out that all platforms operate a little differently, although there are similarities. I am very confident there is no platform that respects the value of the flexibility and the flexibility that drivers and delivery partners want more than Uber. We know that is really important to them. That is why we do not have any set shifts, we do not require that they accept a certain number of trips. We give them the absolute flexibility to earn on our platform as they see fit. However, of course we want to continue to find ways to provide more benefits and make this type of work more beneficial to those people whilst protecting that flexibility.

**Ms ABIGAIL BOYD:** It is at least theoretically possible, is it not, that you could have that flexible work arrangement and also still have a backstop of quality protections and minimum wage provisions of some sort? Are you just saying it is simply the regulatory landscape that is stopping you from doing that?

**Mr DENMAN:** Obviously, it would depend on the detail of any proposal that was being put forward. If we talked about minimum wage, as an example, if you instituted a minimum wage that included wait time—that is, the period when you are not on trip but just online—it would be necessary for platforms such as ours to require the drivers and delivery partners to work only on our platform and that they work set shifts and that they accept a certain number of trips in order to pay that minimum wage. That would be a necessary outcome of a benefit such as that.

However—as we have said, we put in a submission to a Senate select committee last week—what we see in other markets, including the UK and the US, it is possible to look at how you can create some earnings consistency for the period that we actually have some influence over, which is once someone accepts a trip to when they drop off a passenger or the food. So in that way you might be able to extend benefits, but it would look different to a normal employment model with an hourly minimum wage, and so that is why I think what we are really clear on is this is a different type of work. That does not mean that we cannot improve the quality of the work and improve the benefits, but we ought to start from the premise that it is different and therefore the way we go about extending those benefits will need to be different. As we have said, that is a discussion that we have engaged with all around the world, and we are very keen to do so here in Australia as well.

**The CHAIR:** But in California you have a guaranteed minimum earnings model that is based on time performed on delivery. That is correct?

**Mr DENMAN:** Correct.

**The CHAIR:** And on ride. That is correct?

**Mr DENMAN:** Correct.

**The CHAIR:** On notice, can you provide us with some detail as to how that works?

**Ms GILMORE:** Yes, happy to.

**Mr DENMAN:** Yes.

**Ms ABIGAIL BOYD:** Accepting that there may need to be some sort of bespoke model, the idea of gig workers having multiple companies that they are working for—we saw on a different inquiry in relation to point to point industry where we were looking at safety issues coming out of Uber drivers also working, for example, for other companies and that leading to some form of driver fatigue. Do you see that as a problem within that model, and what are you doing to counter those safety concerns?

**Ms GILMORE:** We do know that drivers choose to earn on multiple platforms, and part of the flexibility is that they can do that. But there are, obviously, things that we need to consider when that is in play, and fatigue is one of those things. So we have a fatigue management system within the Uber app where if a driver has been continuously online without a rest, they cannot access the app until they take a continuous rest period, and we provide additional education and mandatory training modules that speak to how drivers can stay safe when out on the roads and specifically around fatigue management. But we would very much be open to consultation across the industry on how we can think about how we do this better in an environment where people are using multiple apps or platforms.

**The CHAIR:** Just on that, do you allow people to delegate their log-ins through your services?

**Mr DENMAN:** On the Uber Eats platform we do allow people to delegate services. It is an important part of that independent work. However, we do it with certain guardrails in place, yes.

**The CHAIR:** And does rideshare do the same? Do you allow delegation or not?

**Ms GILMORE:** Not really, I guess you could say. It is their vehicle and their account access is individual, and so anyone can sign up to be a driver as long as they meet the minimum requirements, as it exists in their various jurisdictions, and so that is the mechanism through which they can access the app.

**The CHAIR:** But they cannot delegate? So I cannot work through Mr Fang's account if he was to become a driver?

**Ms GILMORE:** No; the reason for that being your profile is associated with your account. Sometimes people do share vehicles as long as they are all on the insurance.

**The CHAIR:** Sure, but they each require their own account with you on the rideshare business but not on the Uber Eats business?

**Mr DENMAN:** No. They are required to pass all the appropriate background checks and have a profile with us. I think it is important—

**The CHAIR:** So delegate is required too?

**Mr DENMAN:** Correct. Obviously, the Uber Eats platform is a lower-barrier option. Obviously, there is not a regulatory regime in place for Uber Eats delivery partners. So, yes, delegation is allowed; however, the delegate does need to pass all the appropriate safety checks and background checks, and, obviously, we need to know who they are when they are delivering on the platform. We do not envisage this to be a very commonly used feature. I think perhaps the best, the most likely use case will be in the circumstances where someone does not have a car, for instance, and they want to give Uber Eats a go. They will still go through the process of getting activated and allowed access to the platform, but they might use a friend's car or whatever to do a few trips before making a decision as to whether or not they wanted to buy a car or a bike or whatever it may be.

**Ms GILMORE:** Just to clarify, that is a similar thing on the ride side of the business.

**The CHAIR:** Ms Boyd, do you want to complete, or will we go to Mr Fang?

**Ms ABIGAIL BOYD:** I have one more topic to cover off. I am interested in the partner support and protection package you were talking about earlier, which is your form of WorkCover. Are you able to tell us the total amount that you have spent on that insurance package since it was first launched in 2018? Are you able to give us a yearly figure for that?

**Mr DENMAN:** In terms of the premiums?

**Ms ABIGAIL BOYD:** Yes.

**Mr DENMAN:** I would have to take that on notice.

**Ms ABIGAIL BOYD:** That would be great if you could, but also do you have any general idea as to whether the amounts of premiums have decreased or increased over that time?

**Mr DENMAN:** It depends, obviously, on what payouts are occurring from year to year. I think what is important to us is that we are looking at the level of cover and making sure that it is a policy that is working for drivers and delivery partners when they do need it. But also, as we said previously, to the extent that we should look at sector-wide reform or sector-wide minimum standards in this space, absolutely we should be. We continue to see that as an important step.

**Ms ABIGAIL BOYD:** If you could take those numbers on notice, that would be useful. I am looking at the numbers that were revealed in, I think, February this year in relation to the number of claims that are still being made to icare from Uber workers. Do you have any idea as to why the number of claims would be so high?

**Mr DENMAN:** I am not aware of that.

**Ms GILMORE:** I am not aware of that either.

**Mr DENMAN:** Obviously our policy exists to provide cover for all drivers and delivery partners, and certainly we see them claiming and being paid out as a result.

**The Hon. WES FANG:** Could I just confirm, was Chubb the company that you have the insurance policy through?

**Mr DENMAN:** Correct.

**The Hon. WES FANG:** Was that a death benefit only or was that for injury and death?

**Mr DENMAN:** It is a range of benefits including injury et cetera.

**The CHAIR:** We are getting on notice the full benefits schedule.

**Mr DENMAN:** Yes.

**The CHAIR:** Just to be clear, you insure your direct employees through icare as, presumably, your statutory requirement. Is that correct?

**Mr DENMAN:** Correct.

**The CHAIR:** You have at no point in time taken out a policy through icare which would insure either your riders or your deliverers—is that accurate? You do not include their earnings in the wages submission you make to icare for the purposes of calculating your premium is probably the technical way of putting the question.

**Mr DENMAN:** Chair, obviously as they aren't employees, icare doesn't cover them. However, as we recognised, that created a gap of coverage, so that is why we independently went out and sought another policy.

**The CHAIR:** Did you ever seek legal advice as to whether or not they could be covered under the workplace injuries management Act?

**Mr DENMAN:** I would have to take that on notice.

**The CHAIR:** Do you mind? Ms Gilmore, do you mind as well?

**Ms GILMORE:** I am not aware. I would have to take it on notice.

**The Hon. ADAM SEARLE:** Point of order: Would the witnesses agree to stay back for another 10 minutes to answer some more questions?

**The CHAIR:** Is that okay?

**Ms GILMORE:** Yes.

**Mr DENMAN:** That is fine.

**The CHAIR:** Great. Thank you. It is better than us having to call you back.

**The Hon. WES FANG:** Thank you very much for appearing today, and thank you very much for your submission. I just wanted to touch on some of the answers that you have given to this point. Ms Gilmore, you said during one of your answers that it was the flexibility which your rideshare partners identified as the most important part of Uber, I think it was. Mr Denman, you then mirrored that with a comment later on. Was that in reference to Uber itself in relation to other platforms or was that in relation to the online app versus other forms of casual work?

**Ms GILMORE:** We do a range of surveys, I guess, and pieces of research to understand what drivers value about the platform. Specifically, one I can point to is we did a survey to our entire driver and delivery person base at the end of last year. We had over 19,000 responses and we asked drivers, "What do you value most about the platform?" and 95 per cent of them told us flexibility was one of the key things that they valued. We didn't ask specifically in relation to other platforms, but AlphaBeta released a report in 2019 that went into greater detail on that. Many of the people who choose to earn on our platform say that they wouldn't be able to be in other forms of more traditional employment; it is the flexibility of the arrangement with Uber that makes them choose us.

**The CHAIR:** You updated that AlphaBeta research last week, didn't you? You released the updated research.

**Mr DENMAN:** Yes. The research from 2019 related to the ridesharing side of the business. Through Accenture, we released—they released a report for Uber Eats.

**The CHAIR:** Can we get that tabled, by any chance?

**Mr DENMAN:** Certainly.

**The Hon. WES FANG:** It is likely that, given your response, they were referring to the flexibility that online app-based work provided to them as opposed to Uber itself versus other platforms, if I am interpreting that right. On that basis, why do you think it is that your partners choose to use Uber predominantly? Is it that you have a higher market share or is it the way in which you operate the business that differentiates you versus your competitors?

**Ms GILMORE:** I think we think about this a lot. We think about how can we make the value proposition for our customers a really compelling one, because to your point there are people who choose to work in the gig economy and there are lots of different ways they can do that, but then there are people who choose specifically to work with Uber and maybe other platforms. Providing things like education to drivers on how to stay safe when they are out on the roads and how to best utilise the app is one of the key things that we do. We also have this minimum insurance standard, which we were the first in the industry to move on that, and that is something that is important to drivers and delivery people. We are doing lots of new things as well. We have just announced that we are going to establish a driver advisory forum which will be a mechanism for representatives from across the country—drivers who actively use the app and delivery people—to come together, work with Uber on how we can continually make the platform better. I think it is things like that which attract drivers and delivery people to choose us.



**The Hon. WES FANG:** When you have drivers or riders logged into multiple platforms, shall we say, at any one time, I presume that by logging on and being ready for work, should there be an incident while they are circulating around a location they would be paid out for any accident, death et cetera. How do you look at where that person was logged in? Is there any coordination between the organisations or—I guess what I am trying to ask is how do you determine who is actually responsible for an incident when they are logged into multiple organisations at the one time?

**Mr DENMAN:** I think obviously when they are logged on to multiple apps at a single time and they are not on trip, we obviously don't have visibility of what they are doing, so I am not entirely sure ultimately what responsibility we would be searching for because they aren't on trip at that time.

**The CHAIR:** But you can identify whether a person sustained an injury whilst they were performing a trip for you or at least at the time that they were performing a trip for you?

**Mr DENMAN:** Certainly. So if they are on an Uber trip, then, yes, of course.

**The CHAIR:** To the extent to which a person multi-apps, if they are injured on a trip, you have the technical capacity to identify whether they were injured on a trip being performed for Uber or Uber Eats. Is that correct?

**Mr DENMAN:** Definitely. So if they were on a trip with us, then of course that would be, for all intents and purposes, an Uber trip. If they were on another platform, obviously they can't be completing two trips on two platforms at the same time.

**The Hon. WES FANG:** I am sure people have tried.

**Mr DENMAN:** Obviously the various platforms would know if an incident had occurred on one of their trips.

**The Hon. WES FANG:** The reason I was asking was I think it was Menulog that indicated that—

**The CHAIR:** Deliveroo.

**The Hon. WES FANG:** Deliveroo. Apologies. From the point that their partners log in until I think it was an hour after they have logged off or that they have arrived home, they are covered under their insurance policy. They may not be on trip, but they are covered if there is an accident or an incident. I guess what I am looking at is where you are logged into multiple platforms, in that instance they may not be on either trip but they are covered under one insurance policy but they would not be covered under yours. Is that correct?

**Mr DENMAN:** There are windows under the insurance policy, and I think we will take on notice to get the exact specifics of it, but before and after a trip where the coverage exists. Maybe Ms Gilmore can, but I don't think we can obviously speak to what the policies of other platforms are, but certainly our policy does have a window where there is coverage but necessarily it cannot be infinite.

**The Hon. WES FANG:** In the unlikely event that there is a bicycle rider who comes off 10 minutes after completing their last delivery, how would you determine who has the liability for that person? Is it the last platform with which they did a job, or if they had done a job for you 20 minutes previous and then another platform 10 minutes previous, is it the last platform or have you both got the liability?

**Mr DENMAN:** I think that is a really good question and I think this goes to the heart of our points in the submissions. What we are saying is that what we would not want to see is a patchwork of different platforms in different jurisdictions providing varying levels of cover. As it currently stands, we have obviously introduced a policy to provide coverage and competitors have done the same. However, there are platforms operating in Australia and New South Wales that do not have any coverage in place, so what I would say is that, to the extent that we should introduce minimum insurance standards, then obviously we would want to work through the specific detail to answer questions like that. I think that kind of speaks to why having some minimum cover in place is important.

**The Hon. GREG DONNELLY:** When a person commences as an Uber Eats delivery rider partner—say I sought to do that myself and did it. What would I be provided with by Uber Eats in terms of equipment and related matters? What is provided to me in regard to the Uber Eats delivery?

**Mr DENMAN:** It depends on what mode of transport.

**The Hon. GREG DONNELLY:** I apologise.

**Mr DENMAN:** Bicycle?

**The Hon. GREG DONNELLY:** Assuming a bicycle, yes.

**Mr DENMAN:** A bicycle? Well, delivery partners purchase a bag through a portal that we provide for them.

**The Hon. GREG DONNELLY:** How much are those bags approximately?

**Mr DENMAN:** I think \$35. That is sent out to them. We made personal protective equipment for sale through that portal but in the last few months we have actually rolled out free personal protective equipment, which would include a high-vis jacket, reflectors and a universal mobile holder for all delivery partners on bicycles in Australia. Obviously existing delivery partners can access that free of charge as well.

**The Hon. GREG DONNELLY:** So the individual makes the purchase of the piece of equipment that is used to carry what they are delivering. Then those three other items, the jacket, reflector and—

**Mr DENMAN:** Yes.

**The Hon. GREG DONNELLY:** That is the full extent of what is provided by the company?

**Mr DENMAN:** In terms of equipment. Obviously we provide a range of training and informational materials et cetera.

**The Hon. GREG DONNELLY:** Yes. With respect to that training material that drivers or delivery partners are expected to familiarise themselves with and become knowledgeable about, is that provided to them during paid time? Are they paid to learn, so to speak, and to get on top of these basic requirements that are necessary or found necessary by the company for them to carry out their role as delivery partners?

**Mr DENMAN:** No, they are not.

**The Hon. GREG DONNELLY:** With respect to this issue about the bikes and this conundrum, if I could use that word, of not knowing what bike a rider is using—in other words, if you created a situation whereby bikes were actually sighted and checked and found roadworthy, that would not be a guarantee that the bike that they used in fact is the same bicycle. That could be pretty readily overcome as a matter, could it not, if you just think about it even for a short period of time?

**Mr DENMAN:** We are happy to, as we said—we want to see minimum safety standards. So if there are proposals for how we could improve the safety of the platform or improve the safety of the bikes—

**The Hon. GREG DONNELLY:** I will put this to you. I just thought about it when you responded in the way that you did about the conundrum about this issue of the bikes. But what could be simply affixed to the bike is a locked attachment, which becomes a permanent feature of that bike. And every time the delivery partner got onto the bike—obviously they would have their mobile phone, which would be sitting there in the cradle—there could be an immediate matching of the bike signal. This attachment would just issue a signal with what is on the person's mobile phone, the app, and you would know instantly that the person was on the bike. In fact, it would be approved. That is just a very simple thought. There are bikes all around Sydney that are for hire that you see. I presume those bikes have identifying signals from them.

**Mr DENMAN:** Certainly we are open to engage on these points. Obviously for e-bikes there are some standards. Without a kind of minimum legislative standard for what a roadworthy bike is or is not we would obviously be creating an arbitrary one. That said, if the evidence was clear that this was a problem that could be solved through a solution and that was a solution, then that would be something that we would look at. But at this stage we do not necessarily have an answer on that point. But it is certainly something that we are happy to take away and consider.

**The Hon. GREG DONNELLY:** With respect then to the issue of the Uber Eats delivery rider partners, you do not have a particular position about the state in which the bicycle is in terms of its roadworthiness. Is that what you are saying?

**Mr DENMAN:** We think that the bike should obviously be in good working standard. Clearly the brakes need to work. The tires need to be functioning et cetera. We provide that information to a delivery partner about what constitutes the things that they should be looking out for through the bicycle training. Ultimately it is important that they take that information and continue to ensure that their bike is in working order. To the extent that we can practically come up with ways to improve that, that is something that we will always look at. We are happy to take your suggestion on board and obviously engage with the various task forces and other industry participants on things that we could do. What is really important for us though is that we are evidence-based and we do things that do not unnecessarily increase the cost or complexity for someone using our platform and also make the platform safer. To that extent and where that can be achieved we will obviously look at any proposal.

**The CHAIR:** Do you pay payroll tax in New South Wales?

**Ms GILMORE:** Yes, we pay payroll tax for our employees in New South Wales.

**The CHAIR:** That is both? For your employees, yes?

**Ms GILMORE:** Correct.

**Mr DENMAN:** Yes.

**The CHAIR:** Just to be clear, that excludes riders or drivers on your platforms.

**Ms GILMORE:** Correct. That excludes driver partners and delivery people.

**The CHAIR:** Have you ever sought legal advice as to whether or not your drivers or riders should be classified as employees for the purposes of payroll tax under the Payroll Tax Act?

**Ms GILMORE:** We meet all of our tax obligations in Australia.

**The CHAIR:** Just specifically on that point though, have you ever sought legal advice as to whether or not a court would classify them for the purposes of payroll tax, which is distinct from employment law?

**Mr DENMAN:** We do not believe payroll tax applies.

**Ms GILMORE:** Yes.

**The CHAIR:** And that is a view that is informed by legal advice?

**Mr DENMAN:** That is the position that is taken based on expert advice that is provided, yes.

**The CHAIR:** That is helpful. Secondly, you offer a standard terms of agreement for the people who perform work through your service. Is that correct?

**Ms GILMORE:** Correct.

**The CHAIR:** Can we get on notice what they are—the actual standard terms of agreement?

**Ms GILMORE:** Yes.

**The CHAIR:** Have you ever negotiated any derivations to that standard terms of agreement with any particular rider or driver?

**Mr DENMAN:** Drivers and delivery—

**The CHAIR:** Any independent contractor. I will put it that way. Have you ever negotiated any variation to the standard terms of agreement with any independent contractor?

**Mr DENMAN:** Not that I am aware of.

**Ms GILMORE:** Not that I am aware of.

**The CHAIR:** In respect to that terms of agreement, that allows you to terminate people's access to your platform, correct?

**Ms GILMORE:** In line with how the standards are set out—

**The CHAIR:** The policy.

**Ms GILMORE:** —and the community guidelines that govern our app.

**The CHAIR:** If a person wishes to challenge that in a court, can they challenge that in a court in New South Wales?

**Ms GILMORE:** Yes.

**The CHAIR:** So it is not required that they go to an external jurisdiction or the terms of agreement does not specify a particular jurisdiction in which to hear contractual disputes?

**Ms GILMORE:** No, they can challenge it in Australian courts.

**The CHAIR:** Because once upon a time I was told that you had a requirement that people challenge it in the Netherlands. Presumably that has changed.

**Ms GILMORE:** They can challenge it in Australian courts.

**Mr DENMAN:** Our partners contract with us with Australian entities.

**The CHAIR:** Great. Thank you very much. You have taken some questions on notice. You will have 21 days to provide answers to us upon receipt of the transcript. I appreciate again, Mr Denman and Ms Gilmore—I am not sure but one of you has definitely travelled from Melbourne if not both, so I appreciate the time and the effort, as does the Committee, that you have made to make yourselves available this afternoon.

**The Hon. WES FANG:** They are just happy to be out of Victoria.

**The CHAIR:** My colleague here congratulates you on your liberation from Victoria. We very much appreciate your time. Thank you for coming and providing the evidence you have today.

**(The witnesses withdrew.)**

**(Short adjournment)**

**RAE COOPER**, Professor of Gender, Work and Employment Relations, University of Sydney – Australian Women's Working Futures, before the Committee via videoconference, affirmed and examined

**ROBYN MAYES**, Director, Centre for Decent Work & Industry, Queensland University of Technology, before the Committee via videoconference, affirmed and examined

**PENELOPE WILLIAMS**, Senior Lecturer, School of Management, Queensland University of Technology, before the Committee via videoconference, affirmed and examined

**The CHAIR:** We now welcome our next set of witnesses via videoconference. I invite witnesses from the Centre for Decent Work & Industry to make an opening statement, if you choose to do so.

**Professor MAYES:** Thank you. I am here today as the director of the Centre for Decent Work & Industry [CDWI], and my colleague Dr Williams is also a member of the centre. The two of us are speaking on behalf of our other three submission co-authors who could not be here today. The Centre for Decent Work & Industry researches the socio-economic, cultural and gendered inequalities of work, focusing on the lived experiences of paid, unpaid and unwaged work in private, public and digital contexts. CDWI researchers also examine indecent work, labour migration and industry governance, including the early stages of a project in the Advanced Manufacturing Centre examining the impact of artificial intelligence and the specific challenges of the human-robot workforce on the future of work.

Our submission to the inquiry focused predominantly on our research in relation to the digital economy deriving from an Australian Research Council-funded project and including our national prevalence study on gig work in Australia. It also focused on the adequacy of skills and education systems for a sustainable and socially just future of work for our youth. We would particularly draw the Committee's attention to two of our recommendations in our submission. Recommendation 1 states:

Develop a system to monitor, over time, new and emerging forms of platform work and their impacts on the pay and conditions of workers in Australia.

Recommendation 4 states:

Invest in publicly funded post-secondary education and training systems, study and training allowances that provide a living wage, increased demand for entry level positions, and employment services that direct young workers towards skill shortages.

I thank the Committee.

**The CHAIR:** Professor Cooper, would you like to make an opening statement as well?

**Professor COOPER:** Thank you. Briefly, our submission was on behalf of our research project—which is the Australian Women's Working Futures project, run by members of my research group, which is the Women, Work and Leadership Group—but also colleagues across different disciplines at the University of Sydney across Political Economy, political science, employment relations. This project was a landmark study that was also partially funded by the Australian Research Council [ARC] that is looking at trying to fill that gap that we see exists in the literature in the policy conversation about the future of work, which is that there is an extreme emphasis on men's jobs, particularly on particular contexts and sectors; I guess I am thinking particularly of areas such as manufacturing and transport. We were quite concerned to try to fill that gap—we would see that there are not enough humans in that conversation—but also to note that where humans are appearing in the debate they tend not to be women.

Our project has really tried to collect data across a range of issues related to the future of work related to technology—but not only technology—with much of it looking at the social and the power relations at work and the differences between women's experiences compared with men's experiences, women's hopes, fears and aspirations for their future and how they may differ from men's. We also emphasise that there are significant gaps between the experience of Australian women at work compared with men, and that we are stepping into the future of work, if you like, way behind male counterparts in the workforce. That needs to be taken into account but if we are to meet the needs on these issues in the future.

**The Hon. COURTNEY HOUSSOS:** Thank you to Professor Mayes, Dr Williams and, of course, Professor Cooper. I am a big fan of Professor Cooper's work and often quote her in the House, so I put that on the public record. I wanted to start with paid parental leave. That is certainly a component that we have talked a little bit about in this inquiry. It is such a huge barrier, particularly for women at a crucial point in their lives. If all of you could perhaps outline—have you got any examples of what is best practice at the moment, either in terms of companies in Australia or around the world, particularly if there are other government schemes? I asked the

New South Wales Government witnesses about this. They have told us that New South Wales public servants are provided with 14 weeks of paid maternity leave and one week of other parent leave. That has since been increased to two weeks in the budget, but it seems like it is fairly on the minimum level of requirements rather than best practice. I would be interested in your thoughts and your experiences in that. I will perhaps start with you, Professor Cooper?

**Professor COOPER:** Thank you for the question. This is where I wish that my colleague Professor Marian Baird was sitting beside me because she is the international expert on paid parental leave, as you would know. It has been a great situation for Australia to move from being one of the international outliers in relation to paid parental leave in the last 10 years—and we are at the tenth anniversary this year, actually, of the paid parental leave scheme being introduced, so that is something to celebrate. But I think that much of the debate has moved on about trying to work out how we improve paid parental leave. I guess looking around the world—maybe if I just start there—at the situation with paid parental leave, there are much different and much more generous entitlements in certain contexts, particularly looking at the Scandinavian context, where there tends to be a much more generous—in terms of quantum—paid leave for families upon the birth of babies. Typically we look, internationally, at those systems, but there is also a number of companies that are trying to push around the edges to try to improve paid parental leave rights for their employees.

Typically what we would look at as being strong mechanisms and ways to improve paid parental leave would be about increasing the length of leave. I would probably say that around 14 weeks is probably the standard—I would not say the gold standard—in terms of what is provided by employers in Australia, but many businesses are trying to push beyond that. There is also the argument of looking at whether it is wage replacement for the period of leave that is provided. We all know that the national standard is not necessarily to provide wage replacement. I guess an area where we need to really be improving—and this is something that is connected up with gender equality more broadly across working life and in families—is about looking at flexibility and sharing of parental leave. One of the things that really stands out about those Scandinavian examples is that you have both a longer period of leave but also you have the capacity amongst the parents—both the parent and the non-birthing parent—to be able to share leave over a longer period.

Professor Baird may correct me on this, but I think the situation in Sweden is that there might be—it is often the case in the Scandinavian countries that there is a period of leave that is apportioned for the mother—the birthing mother—and that after that point it is a sort of "share the leave" type of situation. The reason why that is important is that it breaks down some of those barriers that men might have to accessing their ability to care for young kids and babies, but it also allows women in that capacity to not necessarily be the ones that are assumed to be the ideal carer, if you like, in the family. I think I will leave it there and perhaps Professor Mayes and Dr Williams have something to add to that.

**Professor MAYES:** I agree completely with everything that Professor Cooper has just said, particularly around the need for adequate length of paid parental leave and also parental leave that is not just targeted at mothers but brings both parents in, because our research has shown that one of the dimensions about paid parental leave is, while it enables women to provide care to their children immediately after birth, it is also a significant break in their careers and then leads to ongoing, long-term disadvantage in the workplace. So we need to have ways that might more evenly share out the responsibility for social reproduction and this means that, if we have mechanisms that encourage and reward both parents to take parental leave, we might get around some of those issues.

I think in terms of the broader contexts related to paid parental leave there is also the issue of the cost of child care and how people then can afford child care and arrange that as part of the transition back to work. Because, again, the research shows that many women after they have taken parental leave return to work as part-time workers and in positions that are lower than those that they left. There is plenty of evidence to show that that is continuing. I would also support what Professor Cooper was saying about Scandinavian countries. They have long been seen as world leaders in terms of paid parental leave and indeed have taken specific actions to make sure that both parents might take this leave. I am not sure how successful that has been yet. The research is still being done. It does show that we do require active intervention in not only extending paid parental leave but making sure that both parents have access to it and do indeed take it.

**Dr WILLIAMS:** I think you have covered most of what our research says. Possibly one thing I would add is that some of our work in relation to flexible work suggests that men are more likely to access flexible work arrangements when they support their skills development or to do further career-enhancing activities whereas women are more likely to access them for childcare reasons. If we address some of the paid parental leave issues and at the same time address some of the childcare issues we may free up some of the stigma associated with accessing flexible work arrangements that is essentially gendered stigma. As we begin to see more men accessing

flexibility for child-raising reasons, it becomes more socially accepted and that benefits both men and women in the workplace longer term.

**The Hon. COURTNEY HOUSSOS:** I think there is a Scandinavian country, I cannot remember which one, where it is compulsory for the father or the non-birthing parent to take the leave in the first 12 months. So the government scheme is nine months for the mother but there are three months or something for the father. It is a use it or lose it kind of system. I read about this years ago. I just cannot remember the specifics. If you know anything more about that I think that would be useful for us to have on the record.

**Professor COOPER:** This is where we need Marian Baird. I think it might be Finland, but I am not 100 per cent sure.

**Dr WILLIAMS:** You are right. We need to defer to Marian on that.

**Professor COOPER:** Can I take that on notice?

**The Hon. COURTNEY HOUSSOS:** Yes, that would be great.

**Professor COOPER:** I will provide that back to the Committee as soon as I can tomorrow. How does that sound? I know that Marian has done some significant work across international comparisons with Australia. I agree it is a very important issue and I will take it on notice and provide it as soon as I can.

**The Hon. COURTNEY HOUSSOS:** Anything else you would like to provide—you have 21 days, though, Professor Cooper.

**Professor MAYES:** I might take that on notice as well if that is okay because I am aware of a substantial body of Scandinavian research on the efficacy of this non-voluntary leave on the part of the fathers or non-birth parents and it might be interesting to bring that in as well.

**The Hon. COURTNEY HOUSSOS:** That would be really helpful. The only other thing on paid parental leave I wanted to ask you was about the question of super being paid on parental leave and where we sit in terms of that. Maybe I should throw to Doctor Williams and Professor Mayes first.

**Dr WILLIAMS:** My personal opinion is that super should be paid. What we see is the long-term implications of significant time out of the workplace on women's retirement income. Paid parental leave goes some way towards addressing that but, unless we are also ensuring that women are receiving superannuation during that time, what we are seeing happen is that, when they get to later years in their life and they are seeking to retire, they do not have anywhere near the same level of retirement income as men do, who are also parents. We have seen that play out in a number of ways. Certainly the largest growing portion of homeless people at the moment are women over 50 who do not have sufficient income retirement savings and that is because they have not been working because they were raising their children. While some of that is changing, we need to do more and superannuation is a key part of that and should be connected to paid parental leave.

**Professor MAYES:** I think that summarises it nicely. Just to reinforce the point that without having superannuation as part of paid parental leave it becomes a kind of punishment to take your parental leave in some ways, particularly since this often happens when people are young and it is at this point that they need the superannuation so that it can continue to grow.

**Professor COOPER:** I would just follow that up by saying that it has probably never been a more important time for us to actually be focusing on superannuation balances for Australian women. We know that the COVID period has been an absolutely disastrous one for women's labour force participation, both in terms of the jobs that they hold but also the hours that they work. We know that the largest group of underemployed and under-utilised workers are women and a great number of these are mums. A lot of people have depleted their super balances to try to cope with some of the economic shocks that they have faced through 2020 and early 2021. The super balances, as Dr Williams said, that women hold—I think women in Australia have 40 per cent less super balances than men when they retire. I would say that if we look at that after the COVID period, it is not quite over yet but, I think we will find there will be a significant impact of some of the policy approaches that have allowed women—and I can understand why they would because of the extreme financial hardship—and men to access their superannuation. I think that is a public policy disaster waiting to happen down the track.

**The Hon. COURTNEY HOUSSOS:** You both touched on the COVID pandemic and obviously we have seen a real revolution in the way we worked over the course of March and April last year. What should we be taking or what is the best practice that we should be taking going forward? What should we be looking for to learn from the COVID experience when we are shaping our workplaces for the future?

**Professor COOPER:** Great question. I think actually some of the aspects of the flexible working that we saw through COVID might be some of the only glimmers of hope of that period. I am in the field at the moment

looking at work practices and gender equality in a number of professions, some of which you would characterise as being reasonably conservative around issues of working from home and working remotely. Being in the field during the period of COVID showed us that, when operations had to move very quickly online, teams and organisations and even whole professions had traditionally said this cannot be done in this context because of whatever reason it might be—because of 24-hour operations, because of the need to be present with clients, for example, or because of the need for ongoing customer-facing work, it is not possible to be achieved. Some of those areas moved fairly rapidly and it was quite a shock to do so, but I think that there has been some learning there that it is actually possible if we have the right systems and the right technology to move to remote working. I think we also should keep in mind that not all professions and occupations or sectors can work on a basis that is remote.

I think, interestingly, to your question about gender equality, often those professions are women's jobs. We know that women were absolutely the front line during the COVID crisis in terms of the health, education and care work more recently. They—not always but often—are most likely to be undertaking labour which is contemporaneous, where they are working with children or working with the elderly or working with community members, and it is difficult to do that on Zoom. Sectors like education really did move online. There are some variations there but we would see that some of the jobs that are highly care focussed and customer facing are ones that cannot be done quite so easily.

A concept that I have been working with for the last five or six years—and I think this is something we need to keep in mind when we are looking at how flexibility plays in the recovery—is looking at mutually beneficial flexibility or flexible careers. Really that is about saying that flexibility is something that is really critical for different members of the workforce. It is often very critical actually for business as well. But I think often we are having a conversation about flexibility that plays out in a way which tends to be kind of one-sided. I would really strongly argue that what we need to do is to have an approach which is much more balanced, where employees have a sense of control over the flexibility that they are able to access and that works for them as much in some ways—and it sounds contradictory, but works very much for them in terms of having a dependable wage and a dependable series of hours that they are able to work. That is just as important, particularly to women who have care responsibilities, as it is to have flexibility.

In fact, our Australian Women's Working Futures project tells us that when you ask women under 40 what is the most important thing to them in their employment and a future flourishing career and their future of work, they point to two things. The first one is respect, and that is also something that has been quite in the news of late, but they also point to security. Down the list a little is flexibility. It is very important for women, and they say it is more important to them than men say it is for them. That balance between security and control with flexibility is really important so that we cannot just look at the flexibility that is required to develop high-quality careers and decent work across the life course. We cannot assume that that is just one-sided flexibility in which employees have very little say and have very little control, so I think that that is quite an important point to make.

**Ms ABIGAIL BOYD:** Hello to all of you. Thank you for your submissions and for appearing today. There are so many issues that this brings up. The issue of the pink recession—not just the impact of technology but also the acceleration of technology into the home during COVID. One of the things that I have been reading and hearing a lot about is that since COVID and the flexibility to work from home, families where you have got both parents working were cutting off some of the services they were getting from outside to help them with domestic work—cleaning services, nannying and babysitting services. Whether it was an economic constraint on those families or whether it was, "Well we are at home anyway so we can do more of this stuff. We do not need to commute et cetera." The impact of that was then a lot of women losing their jobs as quite insecure cleaners and nannies and babysitters. Do you have any insight into that and whether it has bounced back? Do you know what happened to those women during COVID?

**Professor COOPER:** I have not done research specifically on that but just to your first point that you made about the impact on family dynamics and economies during COVID, you are absolutely correct; that was a severe impact. Some very interesting research by our colleagues at the University of Melbourne, Lyn Craig and Brendan Churchill, looking at hours unpaid that men and women did at home prior to COVID and the hours of work that they did during COVID. What was interesting is that men and women sort of stepped in like this with women doing considerably more unpaid work at home than did men. During COVID men did more work so their hours of unpaid work increase but actually what you see is quite an astronomical increase in women's unpaid work at home. So that actually the gap between men and women's unpaid work at home has really increased significantly. That is Australian evidence and a really interesting study, which I am happy to provide a link to if you are interested. But it is also absolutely gendered work.

I have not specifically done research on those women who provide personal and other services at home, but the hypothesis you put there sounds reasonable to me in terms of the impact that we have seen in ABS data,



for example. We know that the jobs that were lost and most profoundly affected during, particularly, those extreme lockdown periods—for us, it was earlier, but in the Victorian situation, where jobs were really affected, it was in those kinds of personal service areas and some aspects of retail. Retail was sort of a two-speed story in many respects, but also in hospitality, cleaning and those kind of areas. It is likely that what you are describing is playing out in that ABS data, but I personally have not done any research on those jobs that people are doing services into the home—perhaps Professor Mayes and Dr Williams have.

**Professor MAYES:** I was just thinking, there is ample evidence about the way that women working from home have an entirely different experience of home to their male partners on many different axes. Not only in terms of responsibility for child care and housework but also in terms of the spaces that they have access to in homes. I am aware of research that shows that men are more likely to have a study or a secure space from which to work and women work on kitchen tables and so on. Of course the emphasis on those support services and what happens when they disappear has ramifications for both the women receiving the services and those providing them. While I have not conducted any specific research in terms of the experience of COVID, I have done research on au pair workers in Australia and they were significantly impacted by, firstly, the fact that they could not return home for many of them, and I do know that many of them did continue by extending their visas and extending the time that they might spend with a particular family.

Again, those kinds of support services come back to the earlier point about how the cost of child care has a lot to do with women's capacities to contribute in an equal fashion to men to the workforce. So if they do not have those resources at home, they are significantly disadvantaged. But also, it is about how people are then missing other educational services. I am just trying to show the way everything is interconnected. As you started out in your original question, the complexities of that continue to substantially marginalise women in terms of any gains that have been made for women over the last 10 or 20 years. We are seeing a massive step back for women's participation in the workforce and also their freedom within the home and being solely responsible for child care.

**Dr WILLIAMS:** I could probably add to that from a slightly different perspective in terms of research that has been done on the digital economy. Some of the jobs that you were talking about are undertaken through digital platforms now, so cleaning or even child care or babysitting work. Certainly even the global research that was done in the digital economy during COVID suggests that we are seeing the same types of inequities reproduced there. Women were most negatively affected; they lost most of their work opportunities. We saw increases, for example, in more work for food delivery drivers and courier drivers who are mostly men, and less work for the cleaners and domestic care workers who are predominantly women, even in the gig economy.

This is the difficulty with the gig economy generally, it is very difficult to get clear data on it because there are so many different ways of participating in the gig economy. There is some work that is done by the Oxford Internet Institute and they run what is called an Online Labour Index. It measures the number of jobs that are posted and where they are posted globally, and it attempts to look at how many workers have registered on digital platforms. That does not necessarily mean they are getting work but at least they are registered. What their work has shown is that there was a very significant dip globally when COVID first hit but that has recovered in similar ways to—roughly at pace with the different economies globally. So we are seeing the same kinds of recoveries depending on where you are in the world based on how well you are responding to the challenges economically.

**The CHAIR:** Doctor, do you mind providing us on notice a link to that Oxford index?

**Dr WILLIAMS:** Yes, certainly.

**Ms ABIGAIL BOYD:** Just picking up on the comments then, I guess time will tell but anecdotally at least I am hearing about a pressure on women now when they are working from home to be the carer and the one who responds when the children are calling out from downstairs or wherever as opposed to the man. I wonder about that reversal, that idea of a woman's place in her home and whether that gets eroded. But I guess we are too early to be able to see that.

**Professor COOPER:** One thing that we can say is that as we both just spoke about, there is a real gendered experience of working from home. Men working from home and women working from home especially with children present made it an unequal and gendered experience. Going back to the question, or I think it was the question before, if we are thinking about how we look at flexible working after COVID, we cannot necessarily just assume that working from home evens out gender inequalities. In fact, we would have to properly design to ensure that what we are doing is not actually entrenching gender inequalities at home that pre-exist at home, that pre-exist at work and that we might make worse by assuming that we are trying to help women when in fact it could actually send us backwards in terms of gender equality.

**Professor MAYES:** I would agree completely with that but I also think that it is not a matter only of saying "time will tell". It is a matter also of acknowledging that things such as COVID and the sudden working from home et cetera highlight ongoing inequalities that have not gone away. They are not new, they were always there, but they were a little bit more hidden when women could go to a workplace and be somehow separate from their domestic duties with sufficient child care. We should keep that in mind.

**Professor COOPER:** I would actually go a step further, I would say they were there and they have been amplified during COVID. We are actually in a worse situation gender equality wise if we look at any of the ABS data at the beginning of COVID. So it makes the argument that we often make as academics and scholars working in this area, it makes it all the more urgent that we need to design public policies and business practices that actually try to address those gaps, rather than amplify them.

**The Hon. ADAM SEARLE:** Just on that very topic I wanted to raise with you, Professor Cooper, and also the other panel members if they wish, the issue of equal remuneration or the lack thereof. We are coming up to the fifty-first anniversary of the formal acceptance of equal pay for women. Both State and Federal industrial legislation have a fair bit to say about equal remuneration and antidiscrimination principles, but there has been very few equal pay cases brought in either jurisdiction. In New South Wales you have not needed to have a male comparator to establish gender inequality in terms of remuneration, but since the early 2000s the New South Wales legislation has been confined to local government and the public sector.

My question is twofold: In what way does the law need to be changed so that we can be a bit more proactive in identifying and eliminating not just gender inequality in terms of pay outcomes but pay discrimination. Secondly, in relation to that—because of course the New South Wales Parliament is now limited to discrimination law. It cannot really deal with comparable worth or equal value, that is now quarantined to the Federal Parliament. What changes in the law should we be looking at to deal with this issue better than we have in the last two or three decades? Secondly, given how few cases have been brought and given the resources that are required to successfully bring such cases, is there a role for some kind of public institution to be proactive in this space rather than leaving it to individual cases to be brought up?

**Professor COOPER:** Thank you, great question. I think it was Mary Gaudron who said some time ago that we got equal pay, then we got it again and we still don't have it. I think that her comments about the early equal pay cases where we have important early principles in relation to pay equity set out, aimed at ending gender pay discrimination. I think what it shows is that there is a lot at work that is the law and there is a lot at work that is related to the law but is not entirely driven by it. You will know that presently, nationally, we have a gender pay gap where we compare full-time men's wages with full-time women's wages of 13.4 per cent. I heard some commentary at the time when that was released that this was a step forward because the gender pay gap has gone down.

I think something we need to keep in mind is that the lowest quartiles of men's wages actually dropped during the period of COVID. So that might actually be one of the drivers and I do not think that is much to celebrate. But it also is quite scandalous that we have a gap at all between full-time men and full-time women in the context of the very high levels of education that we have among women workers in Australia. We are the best educated prime-age female labour force in the OECD, we are the best educated female labour force in our history. Women are actually better educated from educational attainment than are Australian men. So having a gap at all is a scandal. That is only comparing full-time and full-time, if we look at total wages earned or we look at the wealth gap it is significantly higher than that.

In terms of what we might do to try to remedy that, there were some great advances as you all know in the State jurisdictions in the earlier period. New South Wales and Queensland actually led the way in some significant cases, which made us move away from having to always have a male comparator. Unfortunately, the situation we have gotten to at a Federal level and in the context and referral of powers of so many State jurisdictions, we have a situation where the majority of workers in Australia are employed under the Federal system where we seem to be requiring male comparators in equal pay cases and discrimination cases. That to me is a dead end because women and men in Australia work in very different jobs. Most women in Australia work in highly feminised jobs and most men work in highly male-dominated jobs. So we just cannot put a worker who is a man and a worker who is a woman and compare their wages and come up with some criteria for wage increases. We need to be looking at the value of those jobs, and those two jurisdictions did a very good job sending us along.

I would argue that what we need is some explicit advice in the Federal legislation which sees that we do not actually need to have male comparators and that there are other principles that might go to value or might go to people's qualities or something like that in terms of both the way that those cases operate but also in terms of the objective of the Act more broadly. In terms of the second question that you asked about why there are so few cases, they certainly have dried up as some of these full bench decisions have come down as they have and in the States that has been because there has been referral to the Federal work system. One of the reasons is that unions

need to make those cases. That is typically how these cases appear before the Fair Work Commission. They are very expensive cases to run. It would be very unlikely that you have a situation where an individual was able to bring a case. Unions think very closely about the amount of money that they are going to spend and the likelihood of being successful in a very expensive long-running case. I think they have been quite disappointed in terms of a range of cases most recently in child care around an equal remuneration order.

I think there is an argument to be made actually around the public good and about trying to advance gender equality in Australia that we start to think about what the mechanisms are that the State broadly defines—whether that is Federally or in the State governments—to think about how we can progress gender pay equality. Whatever is happening at the moment, it is not working to address gender-based pay inequality and it is not reflecting the value that women have in the labour market in terms of the jobs that they perform and the value that produces or the skills that they are investing themselves around. So, yes, I agree that there is some room to be had in dedicated bodies within all of our governments that have an eye to making change towards gender equality and trying to do something to absolutely remedy it.

**The Hon. ADAM SEARLE:** Professor Cooper, I take your point about what needs to happen in the Fair Work Act, but in the New South Wales jurisdiction what action can and should the New South Wales Parliament take? We do not have control over equal remuneration but the Anti-Discrimination Act is still an excluded matter under the Fair Work Act, so presumably we could still make anti-discrimination laws that deal with pay discrimination. What could we usefully do in that space here?

**Professor COOPER:** You have sort of got me there, not being a pay expert about the New South Wales system.

**The Hon. ADAM SEARLE:** I am happy for you to take it on notice if you want to go away and reflect on that.

**Professor COOPER:** I can have a think about that and I will consult with some of our expert thinkers in this area. We have a new special issue of the *Journal of Industrial Relations* which goes to precisely this issue, where our colleagues Meg Smith and Gillian Whitehouse have written a very good piece on this. I will have a look at that and I will come back to you. But I will tell you that there are lots of things that governments can do that are not just about the legislation that they produce. One thing that we might look at very closely, actually, is the very large number of employees that are employed by the State governments.

I know that some of the departments in the New South Wales Government are amongst some of the largest employers in the Southern Hemisphere. That direct employment is also one way that governments can try to make a difference in terms of what gender pay outcomes are for employees in the State. I would probably characterise that as having a little bit of a look at home, as well, about our direct employees, and making sure that what we have are equitable pay systems and that we are keeping an eye on that on a regular basis.

**The Hon. ADAM SEARLE:** Thank you.

**The CHAIR:** Professor Cooper, I want to ask you some questions about some of the points you make on page two of your submission, particularly in paragraph (2) iii. You say that women face—well, to be fair, you are quoting a study that says:

... women face greater threats than men to their autonomy, privacy and safety at work as a result of new technologies.

I was wondering if you could expand on that—equally, the two points above it—and whether or not there is anything you think, were it to be placed in law right now, could curb or otherwise stop this differential and disproportionate unjust impact?

**Professor COOPER:** Gender segregation, as I think I mentioned in one of my earlier answers, is quite marked in the Australian labour force. Because there are very different labour processes and very different social and power arrangements in terms of the way that work is organised in different sectors, it will naturally play out differently for workers in different sectors and because of gender segregations, that plays out differently for what would be a highly feminised workforce [audio malfunction]. I think the argument we are trying to make there is that because we are not having a conversation about technology and how it impacts women's work, it does not mean that the threat is not there in terms of some disruptions that might be negative.

It does not necessarily mean that there could not be positive impacts, as well, for women in those circumstances. In that paper that we did for the Workplace Gender Equality Agency, which is about the future of work and gender, we were particularly interested in looking at the ways in which technology has played out in some of those highly feminised sectors. You will all know, as people who have been on inquiries that there is a significant theme emerging acknowledging app-based employment about businesses like Uber and work in the

transport sector. That is probably where the majority of the academic articles have actually been written about job quality in those sectors as well.

But, in fact, if we have a look at where we are seeing quite an explosion of app-based work, it is in that personal services work—so, platform-based work, particularly in areas around personal care and disability care. Some of that is attached with changes to the National Disability Insurance Scheme. Our colleagues at RMIT University, Sara Charlesworth and Fiona Macdonald, have done some really interesting work on what that has meant and what threats there are to the quality of work in those kinds of sectors. We are trying to point to the ways in which we are leaving women out of the conversation and not talking about highly feminised sectors of employment. But, in fact, we are actually seeing quite a rapid uptake of platform employment in those kinds of areas and, in fact, they are explicitly driving down job quality.

If you talk, as we do when we interview, to some of the employers and employees who work in aged and disability care about the ways in which contracts are structured to provide labour under some of the schemes associated with the National Disability Insurance Scheme, they will let us know that there often is not enough in the costing structure to allow for things such as training of workers—and even to allow for things such as transport times between clients or for employees to be coming together to meet in the workplace—because of the design of the scheme. So, there is a lot of threat in there for that highly feminised workforce, which is over 90 per cent female, for what would typically be seen as caring work, which is driving down the quality of jobs. That is a very long answer, sorry, but that is what we are trying to get at in that point.

**The CHAIR:** I appreciate that. Professor Mayes and Dr Williams, did you want to add to that?

**Professor MAYES:** I did just want to add a couple of points and I am sure Dr Williams has some things to note as well. Our research into care work performed through digital platforms also shows a reduction in the quality of work; it becomes much more precarious. But we also see a shift in risk from employers to self-employed workers, as they are often constituted on digital platforms, which sees care workers responsible for their own insurance; for negotiating their own health and safety; for taking on risk in terms of whether or not they are paid and whether the environment they move into is safe; and also for negotiating a downward spiral in fees that they can charge—hourly rates. At the same time, people receiving care cannot be sure that carers have the requisite training or that they have the requisite experience. I think these are also showing up in our work on a global care platform. Dr Williams, you have done quite a bit of that work.

**Dr WILLIAMS:** Yes. We are certainly seeing some nuances in the risks that are associated with digital platform work in, for example, the care sector. Certainly one of the factors to take into account there is that when a worker who is perhaps offering disability care or child care through a digital platform signs up to that platform, their contract is merely the terms and conditions of the platform. Any other kind of employment contract is if they develop any employment contract with the client themselves. We have done some initial work that is as yet unpublished—interviews with care workers on a digital platform. They were telling us they almost never have contracts with their clients. They take on board themselves various ways of checking the safety of that work before they take on the work.

We were hearing anecdotally from care workers things like, "Well, I drive past the house of the client before I go in there, just to see where they live and to see if I think it is going to be safe. I let my mum or my partner know where I am going to be." So, they are aware of potential safety issues but they have no formalised structure for managing those risks. We also heard from male care workers—and female care workers—who were telling us stories about situations they were in with the person they were caring for that were a risk to their physical safety. Their only option was to wait until the parent or guardian returned and then not return to that job. That is because they are taking on this work not under an agency and not under a specific employer, so the risk is all on themselves and there is no current structure or recourse for them to address those safety issues.

**The CHAIR:** Thank you. I invite Ms Boyd to resume questioning if she so wishes.

**Ms ABIGAIL BOYD:** I am just reflecting on the nature of precarious work and when we talk about during the COVID pink recession having ended up with predominantly more vulnerable people losing jobs and ending up in precarious situations. Do you have any insight into the extent of precarious employment when it comes to women who are particularly more vulnerable? I am thinking about women with a disability, older women, women who are perhaps here on temporary visas, women from culturally and linguistically diverse backgrounds. Do you have any data on that to prove that idea of when things go bad it is people who are particularly vulnerable who do it worse?

**Professor COOPER:** Our research certainly does back that up, both our Australian Women's Working Futures survey and then we have done—25 it is now—focus groups with different occupational groupings but also different identity groups from the labour force. We identified particular groups to have long chats to about

the experience of precarity and also things like disrespect at work, harassment— both gender harassment and sexual harassment. What came out from the survey was that there are particular groups who are really acutely affected by some of these issues. It is a very acute effect on vulnerability and lack of respect for workers who are Aboriginal and Torres Strait Islander, for workers who identify as having a disability or disabilities, workers who identify as being culturally and linguistically diverse—in our sample, interestingly, very strongly so for women who were themselves born in Asia and also workers who identified as being LGBTQI+ as having greater levels of disrespect and vulnerabilities.

So that certainly does come out very strongly in our research and in our conversations with Australian working women. Some of the layered disadvantage if you like—that talking about women as a whole was a very different experience for women who are, for example, very senior corporate lawyers. That is a very different experience to workers who work in fairly low-paid, precarious employment who have English as a second language or other vulnerabilities that they face because of who they are. So, yes, that comes out very strongly, and the more precarious groups tend to be those groups that I mentioned.

**Ms ABIGAIL BOYD:** When we hear from large companies like Uber or when I have spoken with large cleaning contract companies, they talk a lot about the flexibility that the worker wants. Listening to you just then, I think there is obviously a clear difference between someone who is in a relatively privileged position—as you say, a lawyer or something who wants to work from home or wants the flexibility in their hours—versus somebody who is relying on that work in order to feed themselves and their family. Do you think that there is a basis for regulating the gig economy separately or in a different way depending on the level of wealth of the average worker?

**Professor COOPER:** It is an interesting question. It goes right back to the fundamentals of the discipline that I work in, which is industrial relations, and they were debates that were going on in the 1870s and 1880s when industrial relations developed, which is about looking at the extent to which the market will freely provide opportunities for workers that allow them to thrive in the workplace. At the time, that is when we had terms such as "collective bargaining" and "minimum wages", which were actually developed by scholars like Sidney and Beatrice Webb directly as a result of them arguing that in fact the market does not provide that unassisted.

I would probably say that I am not entirely sure that we need to find a way to regulate the minimums for different types of workers depending on their background differently. But I think that what we need to do is to ensure that what we have is a minimum that meets our requirements as a community around issues such as a living wage, about issues such as having a voice at work, having access to the ability to gain better skills and qualifications, and that we look at that as a minimum that is available to all workers, regardless of whether certain platforms or employers refer to workers as employees or not. I think rather than differentially regulating, what we need is a strong regulatory base underneath to ensure that we have as many mechanisms as possible open to ensure that the broadest group of workers is covered by those minimums.

**Ms ABIGAIL BOYD:** Professor Mayes or Dr Williams?

**Professor MAYES:** I think it is deeply problematic to try to regulate at that fine-grained level and often there are consequences that we might not expect. I was just thinking as well, though, that part of what we have to do is to increase the value of those feminised jobs—and I think part of that has been to raise the level of pay for childcare workers—to perhaps consider what does it mean to have a lot of child care in Australia provided by au pairs who earn pocket money on visas that distinctly limit their citizen rights. So I think we have to think about our visa policies in terms of our international workforce and how technologies inform that but also how we might want to document the kinds of work that vulnerable people do. We do not really know who does what au pair work, and we do know that they are vulnerable, particularly at times of crisis—domestic violence rises. They work in homes, for example. I think, too, that we need to have generalised ideas about what constitutes decent work. I think this is what Professor Cooper is getting at as well. This is a bit vaguer, what I am saying, but it does come back to our social understanding of the value of care work, for example, and the value of work in looking after other human beings.

**Dr WILLIAMS:** Can I add, too, in relation to digital platform work, I think it is quite problematic to regulate by different types of digital platform workers because people move in and out of digital platform work at various stages through their life. Certainly our research shows that many people participate in digital platform work during transitions in their life, so when they are between jobs—they have lost one job, they are seeking another one—and that many people who leave digital platform work do so because they found a secure job. We had respondents to our survey saying, "I found a real job" and terms like that. But platform work did provide them with an income at a time that was particularly difficult for them, so it is difficult to say when a person is precarious or when a person is particularly vulnerable and, therefore, to regulate for that. But as Professor Cooper suggests, if we have a minimum standard that is there for all that also applies to digital platform workers, we are addressing some of those issues.

**Ms ABIGAIL BOYD:** Thank you.

**The CHAIR:** We have one minute left so if any member has a particularly pressing question now is the time. Otherwise, we might close it there. Firstly, I thank Professor Cooper, Professor Mayes and Dr Williams for the time you spent with us this afternoon as well as for your really interesting and excellent submissions, which were of most use to the inquiry. You have taken some questions on notice, for which you will have 21 days after receipt of the transcript from the secretariat to return answers. Again, thank you so much for spending your afternoon with us.

**Professor COOPER:** Thank you for the opportunity. Good luck.

**Dr WILLIAMS:** Thank you for the opportunity. We look forward to your report.

**(The witnesses withdrew.)**

**The Committee adjourned at 17:13.**