

REPORT ON PROCEEDINGS BEFORE

CORRECTED

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

At Macquarie Room, Parliament House, Sydney on Monday 17 May 2021

The Committee met at 13:30.

PRESENT

The Hon. Daniel Mookhey (Chair)

The Hon. Greg Donnelly

The Hon. Wes Fang

The Hon. Courtney Houssos

The Hon. Natasha Maclaren-Jones

The Hon. Mark Pearson

The Hon. Adam Searle

Mr David Shoebridge

PRESENT VIA VIDEOCONFERENCE

The Hon. Shayne Mallard

The CHAIR: Welcome to the sixth 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 First Nations peoples present. Today we will be hearing evidence from representatives of Menulog, Coles, the United Workers Union and the McKell Institute.

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 receipt of the transcript. If witnesses wish to hand up documents, they should do so through the Committee staff. In regard to 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.

MORTEN BELLING, Managing Director, Menulog, affirmed and examined

STEVEN TEOH, Director of Delivery, Menulog, affirmed and examined

The CHAIR: I welcome our first witnesses, from Menulog. Would either of you like to make an opening statement?

Mr BELLING: Yes Chair, I will. Thank you to the Chair, the Committee and the secretariat for having us here today. My name is Morten Belling and I am the managing director of Menulog in Australia and New Zealand. With me I have Steven Teoh, who is the director of delivery for Menulog in Australia and New Zealand. On 12 April Steven and I appeared in a Senate hearing where we announced our intention to move towards an employee model in Australia when it comes to our couriers. Today I would like to reiterate how we came to this decision, why we believe it is the right approach and how we are progressing with this. But first I would like to take the opportunity to give you some background on Menulog as a business.

We have been operating in Australia for more than 15 years. We are a local brand, Australian-born and founded in Sydney in 2006. In 2015 Menulog was acquired by a UK-based company called Just Eat. This time last year, Just Eat merged with another global business called Takeaway.com, which formed our new European parent group Just Eat Takeaway.com. Menulog started as a pure marketplace or self-delivery business where we work with restaurant partners who typically do their own deliveries. Today we still work with thousands of restaurants that are doing their own deliveries. However, in mid-2018 we entered into the gig economy by launching our own delivery service. It takes time to scale a delivery service like this, and we got to that scale towards the back end of 2019. We continued to scale throughout 2020 in light of COVID unfortunately hitting all of us. Through scale, we started to get more learnings on the gig economy and how we operate in this industry.

While we believe we are fully compliant, we also do believe that we have got a moral standard to do more than what we are doing today. With the learnings we have gained as a late entrant to the gig economy, and with a new management team and a different set of values and philosophies, we want to go down the route of employing couriers. However, the regulatory framework presents a number of challenges, with specific regard to the absence of an appropriate modern award covering our industry, the lack of flexibility in existing modern awards and the subsequent costs. That is why Menulog as a business has outlined a well-considered approach consisting of three overall programs. First, we are looking at our existing contracted couriers and at ways to bridge the gap between the benefits and entitlements this group of workers has compared to an employment relationship. Second, this year we are planning on doing a trial with employed couriers.

As mentioned, the current modern award system is, in our view, not considering some of the important dynamics of our industry, so the purpose of this trial is to gain learnings to help us inform the longer-term plan, which is our third program. In this third program we want to investigate avenues for employment by making an application for a new modern industry award through consultation with industry stakeholders such as the Transport Workers' Union [TWU].

These three programs are very big projects on their own and we know that this process will take time. We are making good progress, and if it is okay with the Committee I would like to update you on the progress we have made so far since we announced this strategy. For our contracted couriers, we have injury insurance in place that is as close as we could get to workers compensation insurance cover. We are setting ourselves up to be able to make voluntary superannuation payments and we are on track to begin these later in 2021. We are also still supportive of a fair and reasonable portable leave scheme similar to what we see in some other industries across Australia. In terms of the trial itself, which we will be starting in the Sydney CBD, we have a multidisciplinary team setting up new processes and policies. We are in the process of developing a new employed courier app. We are also hiring a dedicated health, safety and compliance manager. We have finalised a job description for our employed couriers, and last week we put the job ad out for employed couriers and have received the first applications.

We have also decided on the award we are going to employ workers under, which is the Miscellaneous Award, because we feel that there are no other awards that are suitable for our industry. Regarding the application for a new modern award, we maintain the view that an on-demand industry award is the best solution. We look forward to engaging with the TWU and other stakeholders, and we have an initial meeting with the Transport Workers Union this week to discuss what a new modern award could look like. We accept that this is going to be a lengthy process. We need to respect the upcoming trial and let it run for a number of months to really get the learnings we need to form a view on what a new award could look like.

Sitting across these programs, we continue to be focused on enhancing our processes when it comes to the safety of our courier network. In addition to our insurance cover we have updated our health and safety guide and have more educational materials accessible for couriers. We have launched an in-app courier help centre. We have committed to other safety initiatives as recommended by the task force led by SafeWork NSW, such as translating materials into other languages. We believe that this overall plan will help us do the right thing by our couriers and meet our moral obligation as an Australian-born business and one of the largest food delivery platforms in Australia. We look forward to sharing more with you and we thank you for the opportunity to be here today.

The CHAIR: Thank you, Mr Belling. I will ask some preliminary questions about the size and scale of Menulog's operations before I invite my colleagues to ask some questions. You are obviously present in Sydney, but where else in New South Wales are you active?

Mr BELLING: In New South Wales we cover most of the region. We actually cover most of Australia already. Having been here since 2006 we have got quite a wide coverage, working with restaurant partners, as I mentioned, doing their own deliveries in more remote areas but also restaurant partners where we facilitate their deliveries. We estimate that we cover around 85 per cent of the population.

The CHAIR: How many people whom you have engaged as couriers or food deliverers—or whom you would engage in a typical week—are delivering food through the gig side of your operations?

Mr BELLING: This is not how I wanted to start the session. I would like to take it on notice without putting it on the public record because the number of couriers is an indication of the size of our business and we are a listed business, so I would like to avoid—

The Hon. MARK PEARSON: Can you give us a ballpark figure?

The CHAIR: Or a range?

Mr BELLING: Yes. We are talking thousands.

The Hon. MARK PEARSON: A bit better than that?

Mr BELLING: Pardon?

The Hon. MARK PEARSON: Can you be a bit better than that?

The Hon. WES FANG: Point of order—

The CHAIR: Let us let the witness complete the answer before we do the follow-up.

The Hon. ADAM SEARLE: Yes, I think that is a good idea.

Mr BELLING: It is thousands of couriers in New South Wales. Maybe it helps with a high-level overview of where we are sitting in the market. We believe that Uber Eats is number one in the market. We believe that we are sitting as a clear number two with a distance down to numbers three and four, which we believe are Deliveroo and DoorDash. I hope that gives you an overview of the size of the business.

Mr DAVID SHOEBRIDGE: That is useful.

Mr BELLING: We are happy to provide numbers. We just want to indicate—

The CHAIR: Sure. If you wish to provide that on notice, potentially confidentially, I am sure we are happy to entertain the request. How many restaurants do you have on your platform? Did you say that?

Mr BELLING: We have around 30,000 across Australia and New Zealand, and in Australia we have around 28,000.

The CHAIR: What percentage of them are you delivering for and what percentage of them do delivery themselves?

Mr BELLING: That is another number I would like to avoid.

The CHAIR: Sure, that is fair. I accept that there is commercial—

Mr TEOH: It is fair to say there are significant proportions of both. Both are very important parts of our business.

Mr BELLING: We had worked with restaurants doing their own deliveries for more than 10 years before we got into facilitating deliveries for them. Again, it is thousands on each side but I have to respect the fact that we are a listed business.

The CHAIR: You said you felt that you had a clear moral responsibility to make the shift. I think you mentioned that last year you reached that conclusion.

Mr BELLING: Yes.

The CHAIR: Will you take us through what led to that decision and what particular factors meant that you thought that you had to make this jump, and why you thought last year was the time to do it—or this year, actually?

Mr BELLING: If you look at our journey in this industry, we were quite late when it comes to the gig economy. We launched in mid-2018. As I mentioned, it really takes time to scale this business. But when you get to a scale that we believe we got to towards the back end of 2019, that is when you start to see things and learn things that you may not have noticed when you launched to begin with. And then COVID hit us and as much as I would have loved to be without COVID, we were deemed as an essential service. We saw an influx in demand. Again, that meant that we scaled the business more and we started learning more. Things like how things are supposed to work in theory—we learned that may not be how it actually works in practice.

The CHAIR: What specifically do you mean?

Mr BELLING: That could be things like delegation, as an example. Theoretically you have a principal who is supposed to, when they delegate to another person, make sure that person is actually covered by the same contractual agreement with us that we have in place with the principal. It could be around security, where independent contractors are theoretically supposed to be on their own. They are running their own business and theoretically that means that they need to take out their own insurance. Does that happen in practice? We are not convinced, because we started to see more and more accidents happening out there in line with our scale and we learned that they are not necessarily covered by the proper insurance.

Those are examples where when we got into the market we were relying on what we thought at the time was common practice or best practice. As we scaled the business and we learned more, it became evident that what you think is happening in theory may not be the same that happens in practice. And then I have to say at a global level, as I mentioned, we also went through a big merger last year where our former parent company merged with another company. That other company has been doing an employee model since 2016. Obviously through that transition you also learn what it means to operate that model, which is at the moment not existing here.

The CHAIR: On notice, will you provide us the jurisdictions in which those parent companies are providing that employee model?

Mr BELLING: Yes, happy to.

The CHAIR: But in general you do not think shifting to an employee model or a model that provides people with more rights will destroy your business, do you?

Mr BELLING: No, otherwise we would not go down this path. We believe in clarity for these workers, and that can sometimes be difficult when you are working across maybe three to four different food delivery platforms. Maybe you are also doing rideshare services. We all have different policies and processes and people have different ways of getting in contact with us. That can be confusing, I am sure, for the workers that are out there. We believe in fair pay. Right now, workers out there are paid on a per job basis rather than on an hourly basis. When we believe in fair pay, do we actually understand whether or not we are paying fairly? That is hard to assess when everybody is working across different platforms.

We believe in minimum entitlements because if we have a worker that is working over the weekend, for example, and the next weekend they cannot work because they feel ill then in another situation you would have entitlements to make sure that you get sick leave. We believe in proper protection and security out there through insurance. When you are an employee you get workers compensation insurance, and we have learned that far from everybody out there are protecting themselves with insurance like they are supposed to. We believe that to achieve the clarity and the minimum standard that we feel these couriers deserve, the best way of getting there is through employment.

Mr DAVID SHOEBRIDGE: I have a question through the Chair to the secretariat about the answers we got from Deliveroo. Have they been published? I am assuming they were not put to us with confidentiality.

The CHAIR: No, they have not been published yet.

Mr DAVID SHOEBRIDGE: But there was no request for confidentiality for them, was there?

The CHAIR: No.

Mr DAVID SHOEBRIDGE: Unless I hear otherwise from the Chair or the secretariat, I was intending to refer to some of them in the questioning.

The CHAIR: I will not rule against that in principle. If a member wants to raise objections, they can.

Mr DAVID SHOEBRIDGE: Mr Belling and Mr Teoh, thank you so much for coming.

The Hon. WES FANG: Point of order—

Mr DAVID SHOEBRIDGE: I will not do it until we have a response back.

The Hon. WES FANG: Okay, yes.

Mr DAVID SHOEBRIDGE: Obviously as you move from a contractor position to an overt employment position, you have done some costings on that. I assume you have done some internal costings?

Mr BELLING: We have looked at the award we will employ under to begin with. We have also said that we will apply for a different award. In looking at the award we will apply during the trial, there are a lot of questions we do not know. We do not know the type of worker. We want to assess it all. Are we able to employ full-timers, for example, or part-timers? Do we have to top up with casuals?

Mr DAVID SHOEBRIDGE: What is the award you are looking at—the current model?

Mr BELLING: The Miscellaneous Award.

Mr DAVID SHOEBRIDGE: And it is your view of that that it is not actually fit for purpose. It is the best fit but not fit for purpose. Would that be a fair summary?

Mr BELLING: That is a fair summary, yes.

Mr DAVID SHOEBRIDGE: As you have had a look at translating some or all of your workforce from contractor positions under that award, have you done a rough costing of that?

Mr BELLING: A rough one. At a high level, of course, we know what the award entails. But again, what we do not know is the types of workers. We do not know the utilisation of the workers. We do not know the density in which they are—and that all comes back to the unique economics. That is why we say we need to test it out to see what is the actual outcome.

Mr DAVID SHOEBRIDGE: And that is the purpose of the trial.

Mr BELLING: Correct.

Mr DAVID SHOEBRIDGE: And the trial is using the Miscellaneous Award.

Mr BELLING: Correct.

Mr DAVID SHOEBRIDGE: How many people are you looking to employ under that trial?

Mr BELLING: We are looking to get to a certain scale where we think we will get enough learnings to be able to form the longer-term plan of getting into a new industry award. We are talking hundreds of workers in the Sydney CBD to start with, because we think that is enough to get the learnings we need.

Mr DAVID SHOEBRIDGE: Are you doing that in conjunction with any one or more unions?

Mr BELLING: We will be consulting with the industry as we work towards a new industry award. The learnings we have—of course we will take those to the consultation with the Fair Work Commission and other industry players, and they will also have their views.

Mr DAVID SHOEBRIDGE: Have you commenced an application for a new award? If not, what have you done in relation to that?

Mr BELLING: We have not commenced the applications yet because we think that the key learnings will come out of the trial. This week we have our first meeting with the Transport Workers' Union just to see what their views are in terms of our approach. But we strongly believe that we need to get this trial going, we need to

get to a certain scale where we can get the learnings we need and we need to probably let it run for a few months to really inform our decision-making when we make that application for a new award.

Mr DAVID SHOEBRIDGE: Do you see yourself as being potentially at a competitive disadvantage if you move ahead of other key players in the industry towards an employment model? Do you see that as a potential competitive advantage or disadvantage?

Mr BELLING: We think there is a likelihood that this will cost us more. We still think it is the right decision for us to lift the standards. We need to see how the trial plays out. We need to see what the industry is also going to do. Of course we would like to avoid a situation where we are at a disadvantage. Is that a risk? Yes, it is, because a lot of what we are doing is that we will also make voluntary payments to meet certain standards. That could come at a big disadvantage because it is more expensive than how the others operate.

Mr DAVID SHOEBRIDGE: Obviously there is a potential reputational advantage by being seen to be an ethical provider in this space. I assume that is part of your thinking as well—people are looking for ethical providers.

Mr BELLING: We do not look at it that way. We look at it as the right thing to do, not what the public thinks that we should be doing or not doing. We think this is the right thing to do. We also see it as an investment not only in the couriers but also in the customer, because our delivery service, as I mentioned, is not the only thing that we do. We also work with restaurants doing their own deliveries. We also have pickup orders. We have other ancillary revenue streams. What we have learned from other markets where we also operate with a similar model is customers who are placing orders in our delivery service also go on to place orders somewhere else. That is why it is an investment in our customer. When you employ, you get more control, meaning that the delivery outcomes are getting better for your customers, meaning that you are going to gain more loyalty hopefully just because it is a better experience. And those customers, as you gain more loyalty, are going to go on and place an order somewhere else in our business.

Mr DAVID SHOEBRIDGE: I appreciate those answers. Your job in trying to do the right thing, as you see it, would be assisted if there was a compulsion by your competitors to also lift their standards so that the whole industry lifted its standards.

Mr BELLING: Ideally, yes. Absolutely. We are doing this because we think it is the right thing to do—minimum standards—and if the entire industry will follow suit, we would of course welcome that.

Mr DAVID SHOEBRIDGE: But, of course, one of the best ways of doing that is to have the State step in and regulate to ensure those standards get lifted—

Mr TEOH: A level playing field.

Mr DAVID SHOEBRIDGE: —to regulate for compulsory superannuation, for decent levels of leave and potentially for an employment structure.

Mr BELLING: That is an option. We believe in a national approach. As we said earlier today, we think the best way of getting where we want to get to is through employment.

Mr DAVID SHOEBRIDGE: Yes.

Mr BELLING: For us it is not just the minimum entitlements; it is also the clarity. If you are working exclusively for one provider, there is one set of policies, one set of people, one app and one insurance policy you need to take into account if the unfortunate event happens. If you are across different platforms, potentially four or five different food delivery platforms, and you are doing rideshare services, it is not fair to those workers if there is an incident and they need to think about, "Well, who do I work for now? What is their policy? What is their insurance?" So to provide clarity, for us as a business we believe in a national approach. For the same reason we also want to employ, because we think that in an exclusive relationship like that is when you get more clarity for the workers.

Mr DAVID SHOEBRIDGE: I think many people have said a national approach would be good, but there has been a very clear statement from the Federal Government that it is not interested in leading that and it wants to see what happens at a State level. Do you see one way of getting to a national approach as having States commence and then knitting it together afterwards?

Mr BELLING: I think the way we look at it is the ultimate outcome. We are going down a certain path to achieve that outcome. If, for some reason—and that is likely—we are not successful with going down this

strategy, we have a new situation and we need to look at other ways of getting there. But so far as it is a means to an end, our end goal here is to have minimum standards and to have clarity for these workers. We think the best way of getting this is through employment. We think that the current award system is not enabling us to do this in a sustainable way. For that reason we are going to make this application. If we are not successful, we have a new situation.

Mr DAVID SHOEBRIDGE: We have certain figures given to us by Deliveroo.

The CHAIR: On that, I am advised that members were asked last week as to whether there were any objections to publication. So far no objections have been raised with the Committee by any member, but members were given until 10.00 a.m. tomorrow. In the event that no-one is objecting now, I propose to allow the questioning.

The Hon. WES FANG: I am just confirming that there was no objection to us publishing?

Mr DAVID SHOEBRIDGE: They have not requested?

The CHAIR: There was no request.

The Hon. WES FANG: Then I have no objection.

The Hon. COURTNEY HOUSSOS: I move that we publish.

The CHAIR: Ms Courtney Houssos has moved that we publish. The motion is carried.

Mr DAVID SHOEBRIDGE: This is my final question before I hand over, and I am more than happy for you to take this on notice, just to pre-empt where we get to. Deliveroo were asked what the typical earnings for delivery riders under their app would be and their answer was that their data shows that in March the national average earning was \$23.40 per hour including time spent waiting for orders, and that the hourly rate—or piece rate—for March was \$34.02 excluding waiting time for orders. That is only earnings on their platform, obviously. On notice, could you provide a similar analysis for Menulog?

Mr BELLING: We would be happy to cooperate and give what we can. This is where it is hard, because if you want to talk about hourly rates you almost need to know—they work across different platforms and we only see what we see. We know what we are paying per order and we know from our employee models that we have in other countries roughly how many orders you can do in an hour. So that could give us a proxy of what we think the hourly rate is going to look like, but it is a proxy and you do not really know until you get into this exclusive arrangement.

Mr DAVID SHOEBRIDGE: If you could give us an answer with as many caveats and as much explanation as possible, that would be really useful.

Mr BELLING: Yes, absolutely. I would be happy to.

Mr DAVID SHOEBRIDGE: Thanks, Mr Belling.

Mr BELLING: Thank you, Mr Shoebridge.

The Hon. ADAM SEARLE: Mr Belling, I find the developments that you have outlined for Menulog quite heartening in the voluntary payments, improved compensation payments and the like. I am struck by one particular aspect, and that is that some of your competitors have come along and they have given evidence that they are concerned about the making of voluntary payments. They all say they want to lift the standards for the industry but absent some kind of compulsion in law, they are worried—or they said they were worried—that the making of voluntary payments to their workers could be held against them in a legal sense if there was ever a dispute about whether someone was or was not an employee. Is that something that you have looked at and discounted in this new model you are embracing?

Mr BELLING: The question is around the reclassification of workers, is it not?

The Hon. ADAM SEARLE: Correct, yes—about whether someone might be held to be an employee because you have given them superannuation or something like that.

Mr BELLING: My observation is that from the time when we entered the gig economy to now, a lot has changed. I remember when we set it all up back in the day, there was a test that you needed to have a look at and certain parameters you needed to adhere to, to avoid reclassification. Since then a lot of businesses in our industry, including ourselves, have still done more than what we said we could do at the beginning such as

insurance, for example. The key thing that stands out to me so far is around control. When you start imposing control over your couriers, saying, "You have to wear this, you have to take this route, you need to accept this order," the risk of reclassification is highest. That is my understanding.

The Hon. ADAM SEARLE: You talk about improving or bolstering your insurance cover. If you do not have the details here, are you able to give us some details about what benefits your workers receive when they are injured and what that might be in a financial sense?

Mr BELLING: Yes. I am happy to talk through it now because we have something with us.

The Hon. ADAM SEARLE: Okay.

Mr BELLING: The starting point is to explain our approach when it comes to our insurance. We believe in a national approach, like I mentioned before. We think that under an employment relationship you get the workers compensation cover. So we have looked across States and Territories to understand what workers compensation insurance is in place now under an employment relationship. We have then looked at all of that and said, "Well, because we believe in a national approach and because we have couriers who are working across most of Australia, we are aiming at finding the average across those States and Territories." That was the basis for us going to our insurance broker and saying, "You need to help us source this insurance." It turns out there are not a lot of options out there. The reality is I think there is only one, which is concerning in itself—Chubb insurance.

The CHAIR: Let us be clear: You went to a broker who approached the international markets?

Mr BELLING: We went to a broker with our ask: We need to find an insurance that gets as close to the same cover as you get under an employment relationship. Our broker sourced the market—

The CHAIR: Worldwide?

Mr BELLING: For Australia.

The CHAIR: Did they have to go to Lloyd's in London? Did they have to go to an international broker?

Mr BELLING: I am not sure what their approach was. I can definitely come back to you if you want.

The Hon. ADAM SEARLE: Please.

The CHAIR: Could you? Because we are interested in how available this insurance is, both in Australia and worldwide.

Mr BELLING: Yes. We came up with Chubb insurance being the most suitable option, like most other platforms. In terms of the cover of that insurance, we have accidental death insurance cover, which is \$500,000. That was capped by Chubb. We think the average was \$575,000.

Mr TEOH: Yes, \$575,000 is what we asked for but they capped it at \$500,000. It was the highest risk they would cover.

Mr BELLING: There was not an appetite to give us more cover than the \$500,000. What we did then instead is we increased our funeral cover and our—

Mr TEOH: Dependent benefits.

Mr BELLING: —dependent benefits, to try to get closer to the overall death cover that we wanted. That means that if you include the funeral and the dependent benefit you will get somewhere between \$530,000 and \$585,000 when it comes to death, really. The insurance policy also includes compensation for bodily injury where you are unable to work for a certain amount of time. There is a 10-day excess period. After that, for up to 104 weeks, couriers will be able to get 85 per cent of their earnings covered, up to a maximum of \$2,000. There is a permanent impairment of \$400,000, which was slightly above the average we saw across the States. We have also looked at seeing if we can get some lump sum cover in there for medical benefits. We have got a cover for bones, dental and reconstructions. We have got a cover for modifications at home if unfortunately someone needs to build a ramp if they are getting into a wheelchair. We have got a return-to-work assistance cover, workplace as well cover, and then we have cover for out-of-pocket expenses.

Mr DAVID SHOEBRIDGE: If you have got the benefits schedule, would you be able to share that with us?

Mr BELLING: Absolutely.

The CHAIR: Before we leave this topic, you said it was difficult to source this policy. Why was it difficult for you to source a policy like this?

Mr BELLING: I think it was difficult because there was not a lot of options. We briefed our insurance broker, "This is what we want." They came back saying, "At the moment we can really only recommend"—Mr Teoh, you jump in now. You did the process.

Mr TEOH: The broker let us know that in Australia, Chubb is the only one who is on risk for this space. So they were the ones who were most comfortable to come forward with the policy. I think our current insurance contract is going to end towards the end of the year, and we have asked them to go out to tender again to invite a wider variety of insurance providers so hopefully we can get some benefit through that process.

The CHAIR: But you would agree that there is a shortage of insurance providers in this particular market?

Mr TEOH: It seemed to be that was the case. We were only offered one option, which was Chubb. We were offered a range of options for policy type but only with one insurer, which was Chubb.

The CHAIR: Which presumably means that you are denied the competition from the insurer as well, in both claims management and premium cost. You would agree with that?

Mr TEOH: That is potentially true at this point, yes.

The CHAIR: To the extent to which we would recommend that a provider source their own policy, is it fair to say that every platform would collide with the same issue; that is, there is only one insurer in the market in Australia currently?

Mr BELLING: I think that is a fair assessment based on our observations.

Mr TEOH: We would hope that, given the size of the insurance cover now that we have and that our major competitors have, there may be more insurers willing to enter the space as these contracts come to term. That would be our hope.

The CHAIR: But basically, supply of insurance is following demand for it.

Mr BELLING: Yes.

Mr TEOH: That is a fair statement.

Mr DAVID SHOEBRIDGE: I do not carry a flame for this insurer, but we have been provided with the terms of coverage that Deliveroo got through Marsh. What we might do is provide a copy to you to take on notice. At first glance, they appear roughly comparable to the kinds of figures that you have been talking about. Maybe that is a useful response we could get.

Mr BELLING: That is helpful. We would like to see that.

Mr DAVID SHOEBRIDGE: Have you compared the cost of getting that policy that you have got to what it would cost you for statutory workers compensation?

Mr BELLING: No, we have not made that direct comparison. We have not. I would like to take on notice again, and in confidentiality, the premiums that we are paying onto this policy, if that helps.

The Hon. ADAM SEARLE: Thank you for that. Could you give us some insight into who your workforce is? Are they predominantly students trying to earn some money while they study? Are they people between employment? Is this their full-time occupation, providing courier services for you, or is it a mixture?

Mr BELLING: I will hand over to Mr Teoh. He has a few more details. We do see this as a secondary nature of work. We definitely see the likes of students and people who want to have a second source of income. Do we have some stats with us, Mr Teoh, in terms of demographics?

Mr TEOH: We do not have stats on those kinds of demographics, but Mr Belling has characterised it.

The Hon. ADAM SEARLE: I am happy for you to take that on notice if that would assist.

Mr TEOH: I can give you some demographics around age if that helps paint the picture.

The Hon. ADAM SEARLE: Yes.

Mr TEOH: From 18 to 25 we had, at our last survey, 23 per cent—so about a quarter; from 26 to 35 we had around 43 per cent; from 36 and above we had 33.9 per cent—so 34 per cent; mostly male—86 per cent male; and not all in capital cities, so we had more than 20 per cent outside of a capital city of Australia. Those are the broad demographics. Not necessarily youth and university only. We also have some more slightly more mature workers in our workforce as well.

The Hon. ADAM SEARLE: Would a significant proportion be studying in some capacity? Would you have any visibility of that?

Mr TEOH: We do not have that particular statistic, but we certainly know that there is a significant proportion which do study. International students in the inner city areas tend to be a pretty common thematic. But in our regional areas, it is not the case obviously.

The Hon. ADAM SEARLE: Amongst your city couriers, are they predominately overseas students?

Mr TEOH: I am not sure.

The Hon. ADAM SEARLE: If you have those statistics, that would be useful. My final question, and I am happy for you to take this on notice, is around the portable leave proposal that you are thinking of. Is there a particular model you are looking to or that you have developed, or is this something that you are still crafting?

Mr BELLING: We are very early stages with that one. As I mentioned before, we have got three big programs and we are progressing with a priority of this trial to get some learnings. What we have said is that we are going to examine and be supportive of a portable leave scheme. We take inspiration from other industries such as cleaning and construction and mining where that seems to be working well when workers are moving from one workplace to another. Again, for us it is a means to an end. Ultimately, we want to provide these entitlements and this could be an option of getting there.

The Hon. WES FANG: Thank you very much for appearing today and providing such a detailed opening submission and for being frank with your answers. I note that MenuLog is deployed across New South Wales, not only metro but also rural and regional areas. I note that a lot of your competitors are not. Has that made a difference to your business in that rural and regional operating setting as opposed to just a metro operation that some of your other competitors do? Does it have a cost on your business? Does it affect the way you approach your interaction with those contractors or providers of a service to your company?

Mr BELLING: If we look at coverage, I think it is fair to say that because we have been around for longer we probably have a broader coverage than our main competitors. That being said, I think there are a few areas where we operate our delivery service where our competitors are not present. Mr Teoh, you could probably comment on that further.

Mr TEOH: I think the competitors are all encroaching into rural areas as well now. It is not homogenous, but it is approaching it.

The Hon. WES FANG: I am from Wagga Wagga, and I know that there are only two services that are there—yours and another one. Some of the other ones you mentioned are not there. When you are looking at deliveries in metro areas where it might be shorter distances—you have got much longer distances in rural and regional areas—does that have an effect on how you engage with the people that provide you a service? Do you also interact with the food providers in a different way around those rural and regional areas because of that?

Mr BELLING: I think it is fair to say that every zone or region is different in nature. There are different dynamics. Of course, we always try to adapt to different dynamics—density, for example, is important. If there is not enough density in a certain area, it is going to make it really hard to launch a service there. But we have teams working with Mr Teoh in particular who are looking at: Where do we launch? Where does it make sense to launch? How do we optimise the way we operate in each area?

The Hon. WES FANG: So insurance is not more expensive in a rural and regional setting than it is in a metro area?

Mr TEOH: For our insurance in particular, because we have a national coverage we have not discussed a breakdown of costs for how the insurers consider in rural or otherwise. That may be a consideration that their actuaries take into account, but it is not something that we are aware of. In terms of our operations, as Mr Belling said, every zone is different. Every area we operate in is a little bit different and we have to approach it a little differently. Regional, I think, has some different characteristics to the very inner urban because it is less density.

But it does not make it harder; it is just simply different. Regional towns like Wagga Wagga compared to Orange, they also have their own characteristics as well, for example.

The Hon. WES FANG: Some of the restaurants may provide their own drivers and the like and you just do the ordering system. Is that right?

Mr TEOH: That is true across our entire business, including in the inner city.

Mr BELLING: And the broader industry. That is not isolated to just us.

The Hon. WES FANG: In that instance, you are not obviously responsible for those delivery people that are under another restaurant's, say, employ. You are just handling the ordering system.

Mr TEOH: That is right, yes. We put their content on the website and we make that available to customers, we market to customers on behalf of the restaurant, the orders get placed in the system, we send them to the restaurant and then the restaurant will arrange their drivers to fulfil. We are not responsible for those drivers or that arm of the delivery. We do support the restaurants in that though. We do from time to time provide them with subsidised merchandise or hot food bags. Because we have got such scale to purchase, we provide them with that. We also provide them with safety information and best practice as we evolve it. We share that down to those individual restaurant partners as well so that they might consider their workforce and the safety of their workforce.

The CHAIR: That online booking service was the reason why Menulog was originally conceived, wasn't it? That was your first business.

Mr TEOH: Yes.

Mr BELLING: Yes, it was.

The Hon. WES FANG: Your insurance policy does not cover a regional restaurant that would have their own employed drivers.

Mr TEOH: No, our insurance policy is explicitly for contractors who have engaged with us or their personnel—their delegates.

The Hon. MARK PEARSON: Does the insurance cover anybody who has been delegated a job by another driver?

Mr TEOH: Yes, in its entirety. Yes.

The Hon. MARK PEARSON: How do you know that they are delegating?

Mr TEOH: I suppose through the claims process we would discover that they were not a primary courier, and then the insurance company would have to establish that they were a delegate. We would provide information as to whether or not they were conducting a delivery on the network at the time and place and then the insurance company would have to follow their process with their claim.

The Hon. MARK PEARSON: Have you considered the fact that it is highly likely that the delegated driver is going to receive less of the fee that you would be paying the primary driver?

Mr TEOH: In principle, the primary contractors are supposed to fully induct and onboard their delegates. In practice, to be honest we do not know too much about it because we do not think that delegation occurs. It is not a significant feature of our platform and we are not aware of any issues relating to delegates, whether it is about pricing or induction or other things. If we were aware, we would probably look to remedy those concerns.

The Hon. MARK PEARSON: Nothing has happened like an accident—

Mr BELLING: No.

The Hon. MARK PEARSON: —or serious event to trigger all these inquiries.

Mr BELLING: That is correct.

The Hon. MARK PEARSON: Has there been somebody who has been paid half the price delivering it and maybe not even had a licence or something? It has not come to your attention.

Mr TEOH: I have literally had zero red flags come up to me about delegates. Our system of delegation is still very much as it was when we first began in 2018 and we have not made any enhancements to the way that we engage with delegates because there simply have been no red flags.

The CHAIR: But the opacity around the delegate relationship is one of the reasons why you are making this shift. You said that earlier, that the difference between how you think things would work and how they actually work—delegation is a good example of why you feel like you have to make change. Is that fair?

Mr BELLING: I will give an example of the difference. To Mr Teoh's point, we actually do not think it happens a lot—delegation. Maybe it is a social thing. Maybe it is having someone with you while you are doing the work. But for us, we do not quite understand why delegation actually happens because there is plenty of work out there. There is a lot of work, so why are you not a primary instead of a delegate.

Mr TEOH: There is very little friction to become a courier on our network. It is very easy to apply. We are almost always in requirement of additional couriers. We do not feel like there is a very high motivation for delegation to occur. That is probably why we have not heard anything about it.

The Hon. SHAYNE MALLARD: Thank you, Menulog, for coming in today. Appreciate that I am doing this by Zoom. I am interested in the information you gave us about going down the path of a trial to effectively employ delivery people with your voluntary additional benefits like a bumpy workers comp style scheme and voluntary superannuation contributions and your call for a national on-demand industrial award. How long ago did this transformation occur and what is motivating Menulog to go down this path?

Mr BELLING: I think two things, and I broadly touched on it already. I think we have just learned a lot more—can you hear me okay, Mr Mallard?

The Hon. SHAYNE MALLARD: Yes, I can hear you.

Mr BELLING: We learned a lot as we scaled our business here and then last year at a more global level we merged with another business who have done deliveries under an employment relationship for many years—for five years now. I think we are taking inspiration from that and then we combine that with the learnings that we have seen here. In terms of the path we are going on now, we need to test it out really to understand what is the ultimate financial outcome of this trial. What works today? What does not work today? There is a lot around flexibility. We also agree that flexibility is really important, but the flexibility to delegate, for example, in our view is not relevant. The flexibility to reject is not relevant when you are paid by the hour and not by job. The flexibility to multi-app is not relevant either because I think you multi-app because you are trying to optimise your hourly earnings and if you are employed you are paid by the hour. There is a lot of question marks as to what is actually going to work in employment relationships and what will not work.

We agree that the current modern award system—and they were formed back in 2010 which is before the gig economy probably hardly ever existed and eight years later we joined that industry. If we turn back time 10 or 12 years from now, if the gig economy was a well-established industry at the time, I would think there would have been an award for our industry. There is not one, and that is why we are going down the path of trying to identify one which we want to obviously be sustainable. We are not going to do something that is going to be detrimental to our business. But we have got to learn what is working and what is not working. There is a lot of research out there, a lot of reports, a lot of surveys, but a lot of those questions are also leading, like, "Do you like flexibility? Yes or no." Of course I like flexibility. Who is asking—

Mr DAVID SHOEBRIDGE: I think the question is how much do you like flexibility? If you really want it to lead.

Mr BELLING: Yes, and that is where there is different elements to flexibility. We also think that it is a constraint that there is a minimum shift engagement for example. We think that that could be very challenging for our industry. Let's test it out, right?

The Hon. MARK PEARSON: Sorry, what is that again?

Mr BELLING: Minimum shift engagement.

The Hon. SHAYNE MALLARD: What I am getting at is Menulog is huge. You are the market leader, right? Twice the size of your nearest competitor at least. Correct me if I got that wrong.

The CHAIR: The second market we have established. But, yes.

The Hon. SHAYNE MALLARD: Right. Second largest did you say, Mr Chair?

The CHAIR: I think there is a consensus between UberEats and Menulog that between the two of them they are either the one or two I guess is probably the right way to render the evidence.

Mr BELLING: Right.

The Hon. SHAYNE MALLARD: Are you motivated to see the regulatory writing on the wall in this space? Our inquiry is a good example, but there is the Federal one and overseas pressure. You are on the share market, so the shareholders are concerned around closure. Are you motivated by what you see as "inevitably it is going to happen so let's get ahead of the curve"?

Mr BELLING: No, we are not. We are motivated by the outcome we are trying to achieve, which is minimum standards. We want to make it sustainable for the industry and that is why we are testing it out. We do not think the current modern award systems, if you are going to employ where you get the clarity and the minimum standard—we do not think that they work for our industry, so we are going to test it out and then we are going to apply for an award that we think is tailored to our business, to our industry. That is the plan.

The Hon. SHAYNE MALLARD: I am going to put one last statement to you which might provoke or not. I do not know. If we go down a regulated regime with a national award and structured labour costs, it will wipe out any start-ups or any competitors to a share market listed huge company like yours.

Mr TEOH: Why?

Mr BELLING: I would challenge that. We do not know that. I think most of the players in our industry have exactly the same business model as we have. Why would we have an incentive to go out there and do something that would hurt the industry? Because that is going to hurt us.

Mr DAVID SHOEBRIDGE: We have had the documents produced from the State Insurance Regulatory Authority [SIRA], which is pulling together a forum on the gig economy. I think it is called the Gig Economy Stakeholder Reference Group. I have the list here of people who are invited to attend, and it included Deliveroo, Hireup and a variety of others, but it did not include Menulog. Do you recall ever getting an invitation to be a part of the gig economy reference group?

Mr BELLING: I actually do not know. We know that they are undertaking consultation at the moment, and we are going to put in our two cents as well, but I do not think we were, to my knowledge, formally invited.

Mr DAVID SHOEBRIDGE: But would you be willing to be a part of the Gig Economy Stakeholder Reference Group, who are, as I understand it, the reference point for the State Insurance Regulatory Authority at least?

Mr BELLING: I think what we are doing is going down the path of employment, and in going there the workers will be covered by workers compensation insurance. If we look through those six options I think the first option is not really doing anything other than what we are doing today—maybe putting a bit more scrutiny over it in terms of policies and processes. I think the second option is about minimum standards. We believe we already have a high level of cover, so we would support that. Options three to five, I think, are different variations of workers compensation; we would need to understand the underlying details behind that. And I think option six, basically what we have done is try to extend the workers compensation insurance platform through the gig economy. We still believe that the best way ultimately, not just for insurance but overall clarity and minimum standards, we still think that is through employment. Again, should we not be successful in going down that route, we have got another situation and we have got to look at these options.

Mr DAVID SHOEBRIDGE: But the idea of having a sort of second-class workers compensation policy for gig workers compared to actual employees, direct employees, is not something that you are attracted to.

Mr BELLING: We are supportive of minimum standards; we are just going in one direction and there are other options out there. But we want to pursue the employment—

Mr DAVID SHOEBRIDGE: You want to lift the level to the minimum standards, at least in terms of workers compensation, that apply in employment at the moment. That is your goal.

Mr BELLING: That is correct, yes.

The CHAIR: Are there any final questions that people have? We thank Menulog for your appearance today. You have taken multiple questions on notice, some of which you would like to attach confidentiality to. That will be a request that the Committee will consider. If you could provide the answers in 21 days from the date

of receipt of the transcript that would be most useful, and if you can clearly indicate the answers you would like to keep confidential that would also be really helpful for us as well. Thank you so much.

(The witnesses withdrew.)

VITTORIA BON, Government and Industry Relations Manager, Corporate Affairs, Coles, before the Committee via teleconference, affirmed and examined

The CHAIR: I now welcome our next witness. I invite the witness to make an opening statement if you so choose.

Ms BON: I do not have an opening statement.

The CHAIR: We will proceed immediately to questioning. I might kick off with some preliminary questions about Coles' operations in New South Wales. Coles is now a separately listed company from Wesfarmers, is that correct?

Ms BON: Correct.

The CHAIR: What businesses do you operate in New South Wales?

Ms BON: We operate Coles supermarkets; Coles Express; liquor stores Liquorland, Vintage Cellars and First Choice; and Coles Online.

The CHAIR: Can we just get some preliminary information about how many stores you have across all those sort of businesses in New South Wales?

Ms BON: Supermarkets, we have got 249; liquor, 274; Coles Express, 206.

The Hon. GREG DONNELLY: Sorry, did she not mention Coles Online? The supermarkets and Coles Express, are they differentiated?

The CHAIR: The question is: Are Coles supermarkets and Coles Express differentiated businesses or are they the same?

Ms BON: Coles Express is our convenience store offering, and with fuel also. It is separate to the supermarkets.

The CHAIR: And how many were there?

Ms BON: There were 206.

The CHAIR: Across those four businesses how many people are employed in New South Wales?

Ms BON: We have got around 33,800.

The CHAIR: In New South Wales?

Ms BON: Yes.

The CHAIR: Are you able to break them down by the same business lines as you did previously or not?

Ms BON: I can provide that to you on notice if you like.

The CHAIR: If you do not mind, that would be very helpful. In terms of some other preliminary questions as well, how many of those 33,000 are permanent employees?

Ms BON: The New South Wales permanent full-time are over 60 per cent.

The CHAIR: And permanent part-time?

Ms BON: Permanent is 60 per cent; permanent full-time is 20; permanent part-time is 40.

The CHAIR: And the balance of the 40 per cent is casual?

Ms BON: It is casual and a small number of fixed-term employees.

The CHAIR: Again, perhaps on notice, are you able to identify them by business line?

Ms BON: I will take that on notice.

The CHAIR: Thank you. In terms of your transport and logistics functions, do you maintain distribution centres [DCs] in New South Wales?

Ms BON: Yes, we do. We have four.

The CHAIR: Whereabouts approximately, geographically, are they located?

Ms BON: Our distribution centres—I am just checking. I do not think I have got the locations here but I can provide those to you on notice.

The CHAIR: Great. Are you currently in the process of either expanding or reducing your distribution network by distribution centres?

Ms BON: What we are doing is automating some of our distribution centres. We are bringing online two new ambient, automated DCs—one in New South Wales and one in Queensland.

The CHAIR: Where is the automated one in New South Wales being built?

Ms BON: In New South Wales it is being built at Kemps Creek.

The CHAIR: Is that just the ambient? Are there any in the cold storage or anywhere else in your network that you are currently automating?

Ms BON: We have only two new ones coming online, which are the Kemps Creek and one in Brisbane.

The CHAIR: Yes, but I am asking about your existing networks. Are any of them automating?

Ms BON: No.

The CHAIR: Okay, great. Can you take us through what the automation of that particular DC means?

Ms BON: What it means is we are constructing—you may be aware that in 2018 we announced that we were constructing two ambient automated DCs: Redbank, Brisbane, and, as I have said, Kemps Creek, Sydney. The purpose of building those is so we can increase our capacity—at the moment we have capacity constraints in our network—and also improve on-shelf availability for our customers. And what we will do is we will then close five existing DCs.

The CHAIR: You are consolidating five DCs nationwide. Is that the case?

Ms BON: Correct.

The CHAIR: How many of them will close in New South Wales?

Ms BON: In New South Wales there will be Eastern Creek, Smeaton Grange and Goulburn.

The CHAIR: What are the employment consequences of closing those distribution centres?

Ms BON: At this stage they are not constructed, so we are not clear about exactly what our needs will be. We are still working through our labour requirements. We are keeping our staff informed of where we are up to with that.

The CHAIR: How many people do you have currently working in the New South Wales DCs?

Ms BON: I would have to take that on notice.

The CHAIR: Okay, but the idea would be that you are consolidating a lot of the DCs in New South Wales. Is that an unfair inference to draw?

Ms BON: We are not consolidating. It is actually a new automated ambient DC. We do not have any automated DCs at the moment. The current DCs we have are not automated, which are those three.

The CHAIR: Yes, but you made the point earlier that you are constructing a new one in Kemps Creek and you are planning to shut others. At this point are you unable to identify the ones that you are closing? Or have you identified them?

Ms BON: No, I have told you the ones we are closing. We are closing Eastern Creek, we are closing Smeaton Grange, and we are closing Goulburn.

The CHAIR: I am asking you about those three closures. How many people at those three DCs will be affected by the closure?

Ms BON: That is what we do not know yet because, as I said, we do not know what our labour requirements are yet. They are not built yet. Some construction has started, and in others it has not, so we are still working through what our labour requirements will be.

The CHAIR: Will people in the existing workforces at the Goulburn, the Smeaton Grange and the third DC be offered positions in the new centre?

Ms BON: Again, I am not sure because I am not sure what our labour requirements are. We are actually still working through that, but we are talking to our staff, to our team members, regularly about the next steps.

The CHAIR: But you accept there is a geographic distance between Goulburn, Smeaton Grange and Kemps Creek?

Ms BON: I beg your pardon?

The CHAIR: Do you accept that there is quite a distance between Goulburn, Smeaton Grange and the distribution centre in Kemps Creek that is proposed?

Ms BON: Yes.

The CHAIR: Is it unfair for us to infer that there are at least going to be some people who might choose not to continue on in service if it means having to commute an hour or more than two hours to be able to access the Kemps Creek facility?

Ms BON: I am not sure because I have not spoken to any of the staff directly.

The CHAIR: What is the timetable for all this?

Ms BON: In 2018-19 we said five years, so circa 2023.

The CHAIR: When do you anticipate being in the position to provide advice to your employees and the surrounding communities as to what the impact will be on them?

Ms BON: We are talking to them regularly already. But in terms of numbers of team members required, that will be closer to the opening date.

The CHAIR: Do you have a view as to whether or not this is creating anxiety amongst your employees in those distribution centres?

Ms BON: I am unclear if it is creating anxiety amongst staff members.

The CHAIR: Was there industrial action at your Smeaton Grange distribution centre recently?

Ms BON: There was, but that was not linked to the automation.

The CHAIR: Why do you say that?

Ms BON: Because the enterprise bargaining agreement [EBA] had expired. We were going through EBA negotiations.

The CHAIR: Was there a demand from that workforce for there to be any particular adjustments to the redundancy policies or transitions around Smeaton Grange ahead of the construction of the Kemps Creek facility?

Ms BON: Yes, and what we negotiated was four weeks' redundancy for every year of service capped at 80 weeks, which more than 70 per cent of the team members voted in favour of, which resolved in industrial action.

The CHAIR: Therefore, it is fair to say that some aspect of that industrial action touched on these issues, and you resolved them. That seems to be above the public statements that Coles made at the time as well as the relevant union. I do not think it is particularly controversial that there was an item there that was disputed and they knew there was a resolution. Is that unfair?

Ms BON: There was lawful industrial action taken during EBA negotiations, and 70 per cent of the team members voted in favour of the offer that was made or that was negotiated by Coles and the workers' representative of the union.

The CHAIR: Do you wish to take this opportunity to explain the initiatives and approaches that Coles is adopting when it comes to automation in general and specifically, at least, in your distribution network? As I understand, there are interesting things that Coles is doing ahead of automation in workplace assistance, skills training and others? Do you wish to detail any of that to the Committee?

Ms BON: I can talk about what we are doing broadly in education and training for our team members. I am not sure that I can link it directly to automation. For example, we have a program called Coursera, which is

a leading provider of online learning that offers 2,000 short courses that are fully funded. They are offered by some of the world's top universities and fully funded by Coles. They are in areas of study such as business, data science and information technology. We also have a graduate program. It is a two-year program, and we currently have around 200 graduates on the program.

We are mid-campaign recruiting for next year's intake. We also have a partnership with Deakin University where we offer a mini Master of Business Administration [MBA] in Strategic Category Management. That began in April this year. It is a six-month program. When completed, it provides a credit towards the Master of Business Administration qualification, which is about one-third of an MBA. We have a retail leaders program. In the last financial year about 650 of our team members completed various retail leadership programs. In terms of our suppliers, or not necessarily just our suppliers but small and medium Australian businesses, we have a \$50 million Coles Nurture Fund, which I am sure you have heard of. We launched that six years ago.

Mr DAVID SHOEBRIDGE: I had not heard of it.

The CHAIR: One Committee member has not heard of it. Do you wish to explain what that fund is and what it does?

Ms BON: Coles is investing \$50 million in supporting small to medium Australian businesses to bring new and innovative ideas to market. That is in the form of grants of up to \$500,000.

The Hon. COURTNEY HOUSSOS: How many of those have been expended?

Ms BON: So far 60 small businesses nationally and about \$25 million.

The Hon. COURTNEY HOUSSOS: Do you have an end date for that fund?

Ms BON: No. It is a \$50 million fund, so it is when the fund concludes. We will continue to run one or two funding rounds a year. Any business can apply. It does not need to be a Coles supplier.

The Hon. NATASHA MACLAREN-JONES: Can I jump in there? Of the grants, how much of that is being spent in New South Wales?

The Hon. ADAM SEARLE: My very question.

Ms BON: From memory, I think Victoria and New South Wales have been awarded the most grants. A number of those were showcased last week at beef week in Rockhampton. For example, one farming family is growing grass indoors, so they are drought-proofing their farm. I can provide you the exact numbers on notice if you like.

The Hon. NATASHA MACLAREN-JONES: Thank you.

The Hon. GREG DONNELLY: Through you, Chair. Thank you very much for making yourself available this afternoon. When you went through the education and training list, you commenced with the first item Coursera. I think that is the way it was pronounced.

Ms BON: Correct.

The Hon. GREG DONNELLY: Could you explain where that particular course is directed to in terms of employees of the company?

Ms BON: Basically, Coursera is an online learning provider and anybody in the company can nominate to do one of the 2,000 short courses that Coles fully funds.

The Hon. GREG DONNELLY: Does that mean that within the suite of programs there are some programs or courses available for people who work inside retail stores?

Ms BON: There are training programs available for people that work across our business.

The Hon. GREG DONNELLY: Which includes retail stores?

Ms BON: Correct.

The Hon. GREG DONNELLY: With respect to enrolling in such a course for an employee who works in a retail store, just approximately, what would be the average length of time that they would expend doing a Coursera program?

Ms BON: It would be hard to say the average length because just in this program there are over 2,000 short courses but then we also support people that might self-nominate, out of any of the initiatives that Coles has, that they want to do training in a particular area. That can be anything from a short program or it can be at a university or degree level. So it is very difficult to say what it is on average. But what I can say is that we have, combined with the apprenticeships that we offer, a whole range of programs available to our team members if they would like to develop their business-related skills.

The Hon. GREG DONNELLY: Of course, an employee who is doing an apprenticeship, who will end up with a credential as an apprentice in this trade or that trade, obviously they are paid for their on-the-job training and with respect to their work at TAFE that is also covered appropriately in living away allowances and travel allowances, et cetera, is it not?

Ms BON: I do not know if anyone is living away but Coles funds the training.

The Hon. GREG DONNELLY: I would have thought that in your position you would be aware that, in large States like New South Wales, sometimes apprentices have to travel and live in block accommodation to complete, say, two or three weeks of an apprenticeship because they cannot easily do it in their local town. You would know that?

Ms BON: Yes. But in Coles' case we offer online, so nobody is required to live away from home.

The Hon. GREG DONNELLY: With respect to the Coursera courses or programs, is the training done exclusively online?

Ms BON: Yes, it is, because a lot of the educational institutions are offshore—so, for example, you have got Yale and Stanford.

The Hon. GREG DONNELLY: But there would not be too many check-out operators enrolling in that course would there?

Ms BON: I do not know, because I have not looked into if there are any of our staff in our stores in that position doing these courses.

The CHAIR: How many people are doing Coursera training?

Ms BON: I would have to find out for you.

The Hon. GREG DONNELLY: You could take that on notice?

Ms BON: Yes.

The CHAIR: But do you have a ballpark figure?

The Hon. GREG DONNELLY: On notice, would you be able to identify in percentage terms the number of those employees doing the Coursera courses or programs that are store-based employees as opposed to head office employees?

Ms BON: Yes.

The Hon. GREG DONNELLY: Thank you for that. Just continuing on this theme of the Coursera training, with respect to the online training, where and under what circumstances do they do that? For example, do they come into work on a rostered shift and sit down in front of a screen and do it during paid time?

Ms BON: Yes, it is during work time.

The Hon. GREG DONNELLY: So they would be typically rostered a shift of X hours and they would be told in advance that, for example, they will be able to complete a part of the particular program and will be rostered for part or all of that shift to complete that, would that be right?

Ms BON: I would have to follow that up for you.

The Hon. GREG DONNELLY: But the general principle is that with respect to the Coursera programs and courses, with respect to Coles employees, that is done during paid time. Is that the case?

Ms BON: Yes, as a general rule, during paid time.

The Hon. GREG DONNELLY: Could I press you a little further? What would be the circumstances where it would not fall within that domain or that sort of coverage of the general rule?

Ms BON: I would have to take that on notice.

The Hon. GREG DONNELLY: This is my final question—and, can I say, I compliment the company for having employees, it seems from your evidence, in the main doing the Coursera courses during paid time. Is it the intention of the company looking forward, as it develops more and more opportunities for training and education for its employees both in the store and out of the store, to continue that practice of having it done during paid time?

Ms BON: Well, I do not know why we would change it, but I am happy to—

The Hon. GREG DONNELLY: That was not the question. The question was, as far as you know there is no intention to change that practice?

Ms BON: I am not aware that there is.

The Hon. GREG DONNELLY: Would you mind taking that on notice to check, just in case, and come back to us?

Ms BON: Yes.

Mr DAVID SHOEBRIDGE: Thank you, Ms Bon, for your attendance today. Do I understand that the current broad mix of permanent and casual staff is about 60:40 respectively?

Ms BON: Casual staff, yes, is about 40 and permanent is about 60, yes.

Mr DAVID SHOEBRIDGE: Is that of staff numbers or of hours worked?

Ms BON: Staff numbers.

Mr DAVID SHOEBRIDGE: Do you know what the proportion is in hours worked?

Ms BON: No and I am not even sure that we would have that, but I am happy to take that on notice.

Mr DAVID SHOEBRIDGE: When it comes to the non-casual workforce, does that include a mixture of permanent full-time and permanent part-time?

Ms BON: Yes. As I said earlier, full-time is around 20 per cent and part-time is around 40 per cent.

Mr DAVID SHOEBRIDGE: And casual is the other 40 per cent?

Ms BON: Correct.

Mr DAVID SHOEBRIDGE: Of the casual workforce, are they directly engaged through Coles or do you use labour hire?

Ms BON: The majority of our staff are directly engaged. We have some staff in our distribution centres that we use when we need to flex up in relation to volume. So we have a base of about 85 per cent to 90 per cent who are our staff and, for example, during COVID we had to flex up significantly so we would then bring in an additional workforce through labour hire.

Mr DAVID SHOEBRIDGE: Is "flex up" the term you use for getting more staff?

Ms BON: Sorry?

Mr DAVID SHOEBRIDGE: Is "flex up" a term you use for getting more staff?

Ms BON: Yes, when you have got to be flexible and increase the workforce for a particular period in time.

Mr DAVID SHOEBRIDGE: That means recruiting more staff to respond to demand, is that what flex up means?

Ms BON: Correct and not just demand in the stores but, yes, volume requirements into our distribution centres.

Mr DAVID SHOEBRIDGE: What is the rationale for having such a high proportion of your employees casual?

Ms BON: We offer casual employment because many of those people tend to be school leavers or people doing their first job and we have peak times—for example, Sunday is one of our busier days so we would generally

have casuals and we do not need the same number of staff for some of our during the week days because trade is not as busy.

Mr DAVID SHOEBRIDGE: Yes, but you have been in this business some time and I assume you have a fairly good understanding of what the increases and the decreases in employment needs are. I assume Coles has a pretty close understanding of that?

Ms BON: We do, but over the past 12 to 18 months—and not just with COVID but also with businesses continuing to develop, such as online—our needs are changing. So, by a casual workforce, which is a workforce that volunteers to be casual—they apply for casual work because it suits their lifestyle. But we make no difference between permanent and casual people in the education, training, support and development that those team members receive.

Mr DAVID SHOEBRIDGE: How do you know that people are choosing to have casual work because, in your words, "it suits their lifestyle"? How do you know that?

Ms BON: Because they apply for the job and they tell us.

Mr DAVID SHOEBRIDGE: But if that is the job that is available do they say to you, "Yes, I like the casual instead of guaranteed part-time employment"? Are they telling you that?

Ms BON: I personally do not know because I have not interviewed anybody for any of these jobs and, as you can appreciate, 40 per cent of a workforce of 120,000 people is quite large. But many people in our stores—I do not know everyone—do tell us that that is their preference and they want to do this because it suits their school hours or university hours, or it fits with parenting or other responsibilities such as caring for people.

Mr DAVID SHOEBRIDGE: Have you ever spoken to any of those employees who say, "You know what, I have set hours for university, I have set hours for caring and the uncertainty of casual employment makes it really hard for me."? Have you had any of those conversations?

Ms BON: Not that I am aware of, no.

Mr DAVID SHOEBRIDGE: Is that because they are not invited in Coles, those kinds of conversations that challenge the high proportion of your staff on casual?

Ms BON: No, that would not be correct. As I said, people who work casually apply for a casual role. If you even look on our website today, we have a mixture of permanent full-time, part-time and casual positions. We receive an overwhelming number of applications for casual positions.

Mr DAVID SHOEBRIDGE: Do you know that some of your competitors, ALDI in particular, do not have casual positions and indeed manage to keep their supermarkets operating and the vast bulk of the distribution centres operating without anything like the proportion of casual employment Coles has? Are you aware of that?

Ms BON: No, I am not aware of that.

Mr DAVID SHOEBRIDGE: What is the barrier towards Coles having more permanent part-time employment, particularly for those surges—say, on a Sunday—that are predictable and constant? What is the barrier to having more permanent part-time as opposed to casual employment for those known, predictable surges?

Ms BON: I think it is people's preference; 40 per cent of our workforce is casual and that is their preference. That is why we use that workforce.

Mr DAVID SHOEBRIDGE: Have you got any data that shows whether or not those 48,000 people who are on casual have actively preferred casual as opposed to part-time?

Ms BON: Only that they have applied for the job that we have employed them in.

Mr DAVID SHOEBRIDGE: That might be the job that is advertised in their locality, might it not? Absent any kind of data, you are making a conclusion without any kind of connecting information, are you not? It is a conclusion you are drawing.

Ms BON: No, that is incorrect. We have a People and Culture area in our workforce and they do speak to team members every day. We do talk to them, we do hear from them and we do offer—60 per cent of our work is permanent and 40 per cent is casual.

Mr DAVID SHOEBRIDGE: Can you, on notice, provide us with whatever evidentiary base you have to support your assertion that 40 per cent of your staff are choosing to be casual and positively choosing it?

Ms BON: One thing we can do, is we have a survey that we put out twice a year for our team members, called MySay and that tells us their views on the workplace, so I can provide whatever data I can from that.

Mr DAVID SHOEBRIDGE: You choose whatever data you can to back up the statements you have made, Ms Bon.

The Hon. ADAM SEARLE: Coles is using technology not only in its distribution centres but also in its retail stores quite significantly. In so doing, we are receiving evidence that this has led to the intensification of work for your staff, but also potentially job losses. Can you tell us what Coles is doing to ensure that any productivity gains from automation or the use of technology is actually shared by its workforce? Secondly, what is Coles doing to minimise the negative impacts of technological change on your workforce?

Ms BON: One of the most topical changes is the introduction of the assisted check-out [ACO], which we began to roll out in 2009. There have not been any job losses as a result of that; what has happened instead is that we have been able to grow and support other parts of our business. For example, somebody who may have worked on a main lane register may now be working in the assisted check-out area. We have increased numbers of team members on our floor in our stores so if our customers require assistance there is greater availability of people to ask. We have also seen significant growth of our online business, so we have a number of team members who have gone into there. We have new initiatives such as Click&Collect Concierge, which requires a team member to bring your groceries to your vehicle. So we have not reduced our workforce, for example, since we introduced the ACOs. We have actually increased our workforce.

The Hon. ADAM SEARLE: What about sharing your productivity gains with your workforce? Presumably you are yielding significant financial benefits through automation, particularly in your distribution centres. What are you doing? Is there any kind of structured or strategic way in which you are sharing the improved financial outcomes for your firm with your workforce?

Ms BON: We are, through a negotiated EBA with pay rises and sign-on bonuses, for example. During COVID in particular, team members were recognised financially for the additional hard work during that 12-month period. We are refurbishing and renewing the stores so they are far more modern workplaces to be in, and increasing the training of our team members and the training that is available to them to choose.

The CHAIR: Ms Bon, do you have Coles' *Modern Slavery Statement* with you?

Ms BON: No, I do not, but I am familiar with it.

The CHAIR: Great. I am reading from it. On table one, which is on page eight of your statement, you identify the following risks as present in Australia:

- Bonded labour
- Exploitation of migrant workers
- Deceptive recruitment
- Underpayment of wages

Do you see that or are you aware of that?

Ms BON: Yes, I am aware that is in there.

The CHAIR: What steps did you take to ascertain that these risks are present in your supply chain?

Ms BON: We have team members who are out in the field every day, not just here in Australia but also offshore. We speak to our suppliers again every day, if not multiple times a day. We also have a human rights charter that we signed with the TWU, the Australian Workers' Union [AWU] and the Shop, Distributive and Allied Employees Association [SDA], and that is basically to partner—to pool our resources—so we can ensure that we respond to any exploitation of labour in our supply chain.

The CHAIR: On notice, are you able to provide us with all three of those policies, including the charter that you entered into with those three unions?

Ms BON: Yes, I can send you the media release when we announced it. We also have one with the Transport Workers' Union—a separate one, as well—on standards in road transport and the gig economy.

The CHAIR: We might get to that second one shortly. On notice, are you able to provide us with the actual charters and not the media releases?

Ms BON: I am not sure that I can provide you with the actual charter, but I will take that on notice.

The CHAIR: In your statement you identify the following industries which you think are higher risk: horticulture, viticulture, meat processing, construction, cleaning, trolley collection, security services and labour hire. Are you aware of that?

Ms BON: Yes.

The CHAIR: The specific one that I think has attracted some focus, or is attracting focus, by this Committee is horticulture. Are you able to identify which part of the horticulture industry you think these risks are most present in?

Ms BON: They are most present on farms.

The CHAIR: Yes, I presume that is the case with horticulture; the risk is present on farms. But is it particularly berries or citrus? What parts of horticulture are we talking about?

Ms BON: No, it is not concentrated in any one area. As you can appreciate, in horticulture a farm is not the only aspect. You have packing sheds, you have processing and you have transport, so that is why I said it is particularly on farms, not in those other parts of the chain.

The CHAIR: Some of the evidence which we have received has suggested that this practice is concentrated in berries, specifically blueberries. Are you aware that there are those concerns?

Ms BON: I am aware that there have been concerns raised about blueberries specifically, but in our supply chain we have not found that it is concentrated in that area.

The CHAIR: But it is present in that area, would you agree?

Ms BON: No, I would not. It exists, but I do not agree that it is the majority of—but, yes, it exists across the supply chain.

The CHAIR: Do you want to take us through what steps Coles is taking to ensure that—well, at least how Coles is using its power to stamp out these practices?

Ms BON: One of the things we are doing, as I have said, is we have signed the Ethical Retail Supply Chain Accord with the TWU, the AWU and the SDA. That was signed in 2019 to address issues in the horticulture sector. Our focus there is we work together. We conduct, for example, town hall meetings in various locations to ensure that workers are aware of their work rights. We also have an ethical sourcing policy, which contains ethical sourcing supplier requirements. They basically set out our expectations for suppliers to comply with labour rights, human rights and health and safety obligations. These requirements are built into all of our standard trading terms and conditions.

Our ethical sourcing policy is oversighted by our human rights steering committee. Basically the strategy is to prevent and to mitigate and to remedy if there are any identified issues. We also have a supply chain wages and conditions hotline, which is published, where workers—they are not necessarily employed by Coles but they might be employed by our suppliers. If there are allegations of exploitation they can use that. Obviously you are aware we report under the Commonwealth Modern Slavery Act 2018. We also work with industry bodies such as Fair Farms and Sedex, which are basically where we assess a risk in a workplace and then some workplaces, depending on their level of risk, are audited and then we put remedial action in place.

The CHAIR: I have two questions before I hand to Mr Shoebidge—and I did want to talk to you about the gig economy charter as well. But on this, have you ever stopped purchasing goods, services or products from a company that has been found to have engaged in these practices?

Ms BON: Yes.

The CHAIR: Were any of them in New South Wales?

Ms BON: I do not know if they are in New South Wales.

The CHAIR: On notice, are you able to provide us with that?

Ms BON: Whether they are in New South Wales or not? Yes.

The CHAIR: Yes. If so, are you even confidentially able to identify precisely who, when you stopped buying and what led you to that conclusion?

Ms BON: I think we could provide you with everything except the name of the business.

The CHAIR: That would be helpful.

The Hon. GREG DONNELLY: The types of products.

The CHAIR: The types of products, when it took place, how it was investigated and how it was ascertained—everything but the name would be welcome. If you wish to attach a request for confidentiality the Committee will consider it. Finally, on the supply chain and the modern slavery supply chain aspect of this, do you allow for third-party audit or is it Coles' procurement team, however described, that undertakes the audit function that is contemplated in your contracts?

Ms BON: Sedex, which I just mentioned, and Fair Farms are third-party audits. Coles does not conduct any audits itself.

The CHAIR: Do they do that in accordance with the policy that you list on your website under the human rights section?

Ms BON: Yes.

The CHAIR: On notice, is it possible that you could provide us—we could download them, but we probably need you to provide them so they are tendered—these policies that are applied?

Ms BON: I will happily send you the link to the website, if you like, and they are all there.

The CHAIR: Sure.

Mr DAVID SHOEBRIDGE: Ms Bon, did I hear you correctly when you said that there is some part of Coles that is actively looking to ensure that there is no slavery in your supply chain?

Ms BON: Sorry, could you say that again?

Mr DAVID SHOEBRIDGE: Did you say that there was some part of Coles, either a committee or employees, whose job it is to be actively out there looking to ensure that there is not slavery in your supply chain? Did you say you had some resources?

Ms BON: No, I said we have got a human rights steering committee that oversees our ethical sourcing governance. The strategy to that is to prevent, mitigate and remedy.

Mr DAVID SHOEBRIDGE: Okay. In preventing slavery or slave-like conditions in your supply chain, I presume that it is somebody's job to look for obvious risks.

Ms BON: We do. We have a whole group of team members that are dedicated to that work. Additionally, we have our accord with the three unions—TWU, AWU and SDA—so we are all working together. We have product technologists on farms every day; they are Coles product technologists. We also hold town hall meetings with groups of workers and the unions to ensure that we are aware of any issues that need to be addressed.

Mr DAVID SHOEBRIDGE: And you say, in light of that, you are not aware of any particular issues in relation to the berry industry? That is your evidence?

Ms BON: Nothing that is exclusive to the berry industry, no, or concentrated in the berry industry.

Mr DAVID SHOEBRIDGE: Have you or anybody in Coles read the report entitled *Blue Harvest: Wage theft & other labour infringements in the NSW Mid-North Coast's 2019/20 berry harvest* that was produced in December of last year?

The Hon. WES FANG: By who?

Ms BON: Yes, I am aware of that.

Mr DAVID SHOEBRIDGE: You would be aware that that report, researched by the McKell Institute and commissioned by the Australian Workers' Union, raised significant and real concerns about the conditions in the blueberry industry?

Ms BON: Correct. Any concerns that any workers or anyone else—yourselves, for example—have, we ask you to tell us where they are and we will address those immediately because it is unacceptable to us that workers are exploited anywhere in our supply chain.

Mr DAVID SHOEBRIDGE: Well, that report found that an audit of job advertisements specific to the Coffs Coast blueberry region found some contractors offering pay rates as low as \$60 a day for a day's work. Were you aware of that?

Ms BON: Yes, I am.

Mr DAVID SHOEBRIDGE: And you stand by your evidence that there is nothing specific about the blueberry industry in the conditions of employment and the issues that would arise under the Modern Slavery Act? You stand by your evidence?

Ms BON: The question I was asked is, "Is it concentrated? Is it more in one industry than the other?" and I said, "No, I don't believe that it is. I believe it is across the industry."

Mr DAVID SHOEBRIDGE: What other parts of the industry are offering pay rates as low as \$60 a day for a day's work?

Ms BON: I am not aware that there are any. If there are and it is not in accordance with workplace legislation and it is a Coles supplier, we would like to hear about that.

Mr DAVID SHOEBRIDGE: Ms Bon, I cannot understand your evidence. You say that there is nothing specific about the blueberry industry and yet you acknowledge there is evidence of pay rates as low as \$60 a day. You say there is nothing unusual about the blueberry industry but then you are unable to identify any other industry or any other part of the industry that has similar appalling conditions. How do I square those two parts of your evidence?

Ms BON: First of all, the question that I was asked is, "Is exploitation of workers concentrated in the blueberry industry?" My answer remains no, it is not. I think that is fairly clear. In terms of across the industry, as I have said, if there are issues of exploitation of workers we would be very pleased to hear about them so we can address them, because it is unacceptable to us as a business that that would occur.

Mr DAVID SHOEBRIDGE: Given the evidence in the *Blue Harvest* report, and given that you have a human rights steering committee and, you said, a series of internal resources looking at this, how many blueberry suppliers have you removed from your supply chain to address the concerns that were raised in the *Blue Harvest* report?

Ms BON: I do not know that we have removed any because I do not know if the suppliers are suppliers to Coles. But I am pleased to have a look into that and come back to you.

Mr DAVID SHOEBRIDGE: Have you investigated whether or not any of the suppliers were contracted to Coles? Or is there a gap between the rhetoric and the practice in Coles?

Ms BON: There is not a gap and it is not "rhetoric". We have very rigid policies, and very robust, supported by a large team and endorsed by the Coles board. If there are any allegations about any Coles suppliers we will investigate them.

The Hon. ADAM SEARLE: Just on that, because it is related, you mentioned that you had a hotline or a contact number where people who work in your supply chains could report instances of exploitation. What information has Coles received from that mechanism—how many instances of exploitation—and what has Coles done to respond to that?

The CHAIR: And over what period of time?

The Hon. ADAM SEARLE: Yes, and over what period of time?

Ms BON: I can provide that to you on notice in terms of the numbers, but I do know that we have received some instances and we have investigated them in conjunction with the Fair Work Ombudsman to a satisfactory conclusion for the workers involved. But in terms of numbers, I can come back to you on that.

The Hon. ADAM SEARLE: Thank you. We are particularly interested to know about instances in the State of New South Wales, as well as any national snapshot.

The Hon. MARK PEARSON: Has the human rights steering committee, the board, or any other body or person advised Coles as to whether setting a minimum or maximum price on a product is likely to, or could possibly drive, exploitation or slavery of workers?

Ms BON: Our retail prices do not have any connection with the prices that we pay our suppliers; they are two very different prices.

Mr DAVID SHOEBRIDGE: That is true.

The CHAIR: That is true. I think that is accepted.

The Hon. MARK PEARSON: That goes to the question I am asking. Is whichever body or thing in Coles that needs to know advised if one department of Coles sets a price—say, \$1 a litre of milk, for example—and whether that is likely to cause a provider, a company, a business, to consider exploiting their workers, even though they do not want to? Is that taken into account at any point?

Ms BON: What you have raised is a good example because, as you are aware, the Australian Competition and Consumer Commission [ACCC] concluded an 18-month long report into the dairy industry in Australia and found that there was no relationship between the retail price of milk and the farm gate price paid by processors at the time.

The Hon. MARK PEARSON: You would be aware that that report was seriously criticised. I was on a committee that looked into the dairy industry and these issues, and that report was found to be seriously lacking for various reasons. Are you aware of that?

Ms BON: There was a minority of people who criticised the report. The investigation that the Treasurer asked the ACCC to undertake and the report that they produced was overwhelmingly supported.

The CHAIR: You made reference to a charter that you have entered into with the Transport Workers' Union in relation to the gig economy. Did I hear you correctly?

Ms BON: Correct.

The CHAIR: And that is a distinct charter from other charters that you have entered into that cover other matters with other unions and [audio malfunction]. Is that fair?

Ms BON: Yes.

The CHAIR: What does the charter cover?

Ms BON: It basically covers standards in road transport and the gig economy. We basically commit to work together as two organisations to make sure that we have high standards in safety and fairness throughout the supply chain. For example, two Fridays ago, with the National Heavy Vehicle Regulator and the Transport Workers' Union we launched the Coles "We Need Space" campaign. That is a campaign to protect truck drivers and to educate light vehicle drivers about the way they need to behave on the roads with truck drivers.

The CHAIR: Do you currently have direct relationships with platforms that perform delivery services for Coles?

Ms BON: We have three trials at the moment across our company with three different providers.

The CHAIR: Which providers are you trialling with? What are you trialling?

Ms BON: Menulog, Uber Eats and Drive Yello.

The CHAIR: Are Menulog and Uber Eats for the purposes of doing food delivery or ready-made meals or is it everything?

Ms BON: It is across online, supermarkets, liquor and Coles Express. So it is across the business.

The CHAIR: Is Drive Yello the same?

Ms BON: Yes.

The CHAIR: What are you trialling?

Ms BON: We are trialling it at a small number of sites. Our customers have told us they want it, so we are trialling it in a small number of sites to have a look whether it is successful or not. Also in terms of our work with the Transport Workers' Union, if it is something we choose to adopt as a business, how do we make sure that workers are treated fairly in what is a very rapidly growing area? Part of the reason we have done that is, as you know, it is a rapidly evolving area and government and the industry are beginning to develop parameters. So until

that occurs, this charter with the TWU is a way that we can ensure that appropriate guardrails are put up to protect these workers.

The CHAIR: Obviously for a committee that is inquiring into the future of work and the gig economy, this would be of some relevance to us. Would you be able to provide on notice either the charter or an explanation as to what the standards are inside that charter?

Ms BON: Yes.

The CHAIR: Equally, are you in a position where you could describe how compliance and audit is undertaken in respect to that charter?

Ms BON: Yes.

The CHAIR: Are you also in a position to provide us evidence as to when this trial is going to end and how you are planning to evaluate it?

Ms BON: Yes, I can.

The CHAIR: This one might be of some interest to the Committee as well: What public policy lessons do you think governments should take as a result of your trial?

Ms BON: I do not know if I can help you there. But I note in 2018 the Federal Select Committee on the Future of Work and Workers shared a lot of the same lines of inquiry and terms of reference. They made some recommendations around public policy, so that could perhaps better inform you than Coles, given that these trials are fairly new and they are very small at the moment.

The CHAIR: I appreciate you referring to the Senate committee, which we are aware of, and we will look at it. But we are more interested in whether you support the recommendations that that committee made. It is not so much what the policy is, it is Coles' position that is of interest.

Ms BON: There are 24 recommendations, which I have not looked through comprehensively. So I am not in a position to say whether or not Coles Group supports them. As you know, many of them are around legislation, superannuation, taxation and education in terms of preparing a future workforce. We are not expert in those areas.

The CHAIR: But you accept that you are one of Australia's largest employers?

Ms BON: Yes, we are.

The CHAIR: And you accept that you are also one of the biggest buyers of goods and services in Australia?

Ms BON: I do not know about goods and services but certainly in terms of food and groceries.

The CHAIR: Well, you are certainly one of Australia's biggest retailers of goods and services. Do you agree that you are one of Australia's biggest retailers of goods and services?

Ms BON: Yes. We are about 25 per cent of the market.

The CHAIR: It is therefore striking that—

Mr DAVID SHOEBRIDGE: That is fairly big.

The CHAIR: It is fairly big, therefore we would have an interest in Coles' position as the biggest employer on the future of work, amongst other things.

The Hon. ADAM SEARLE: Is Coles a self-insurer for the purposes of workers compensation in New South Wales?

The CHAIR: Are you a self-insurer in New South Wales for workers compensation?

Ms BON: I believe that we are but I would have to check that to make sure I am accurate.

The CHAIR: I am 99 per cent positive you are.

The Hon. ADAM SEARLE: So am I.

The CHAIR: Have you done any work on or examined the responsibility you would have under your self-insurance arrangements in terms of future of work and the gig economy workers who provide services through Coles?

Ms BON: I would have to look into that. I am not aware.

The Hon. GREG DONNELLY: Returning to what we commenced earlier in our questioning with respect to the two new distribution centres that are on the planning books but not yet built—the one at Kemps Creek and the one at Redbank—we note from our general reading that those will have quite a high degree of sophistication of technology within them. Is that the case?

Ms BON: Correct.

The Hon. GREG DONNELLY: Does that include the widescale application of robotics and robotic technology?

Ms BON: I do not know the scale. I am happy to come back to you on that. But yes, there is certainly robotics involved.

The Hon. GREG DONNELLY: With respect to the employment arrangements—I accept that their opening is some time off; I am not asking for any specificity because 2023 is still a way away—is it the intention of Coles as a general proposition that persons working inside these two distribution centres will be employees of Coles?

Ms BON: Yes.

The CHAIR: We are going to draw this part of the hearing to an end. Ms Bon, thank you for your time. You have taken multiple questions on notice. You will have 21 days to provide answers to them from the date of receipt of the transcript.

Ms BON: Thank you.

(The witness withdrew.)

(Short adjournment)

MEL GATFIELD, Director of New Organising, NSW Secretary, United Workers Union, affirmed and examined **LAUREN KELLY**, Media and Research, Office of the National Secretary, United Workers Union, before the Committee via videoconference, sworn and examined

The CHAIR: I welcome our next set of witnesses from the United Workers Union. Can I invite either Ms Gatfield or Ms Kelly to make an opening statement, if you see fit.

Ms GATFIELD: I think Ms Kelly is going to start us off.

Ms KELLY: Sorry, I am having a little bit of difficulty hearing you. Have I been invited to make an opening statement?

The CHAIR: Yes.

Ms KELLY: Hello and thank you for the opportunity to give evidence today. My name is Lauren Kelly, and I am joined today by Mel Gatfield, who is the New South Wales State Secretary of the United Workers Union. Together, we are speaking on behalf of 150,000 union members. Our submission submitted to this inquiry in August last year highlighted themes that are of particular importance to our members. This includes surveillance, work intensification, automation and the on-demand economy, which is creeping into industries such as care work. The platform intermediaries are typically associated with food delivery and ride share services, and this is certainly where they are most common. Increasingly, however, platforms and on-demand arrangements are bleeding into other areas of work as well, such as the service sector and care work. Further still, issues of algorithmic management, which are essential to the on-demand economy, are becoming more common in standard employment settings such as warehousing and call centres.

In only a decade it has become clear that the on-demand economy will become more widespread in the organisation of work. Although gigs are not new, this particular assemblage of platforms, insecure work and stagnating wages is a contemporary labour issue born from a particular historical context. It is our strong view that today we cannot get to the heart of the on-demand economy without acknowledging the landscape in which it took for it to flourish. Many of the first so-called unicorns of the gig economy, such as Uber, emerged from Silicon Valley in the wake of the global financial crisis and subsequent jobless recoveries. Further deregulation, attacks on unions that have been felt all across the world and overall economic stagnation have been the particular historical conditions needed for the gig economy to be successful. The result has been an economy built on rent extraction and work intensification rather than innovation and new technology that really does drive quality job growth.

Just like before, we look back to the past at models of offshoring, the franchise model and labour hire. Platforms too seek to fissure the firm and shift risk and responsibility away from the firm and onto individual workers whilst maintaining control over the labour force. I think that is really key to understanding platforms. One of the central logics is about outsourcing responsibility but maintaining control. I think just as we have sought to regulate and tame the excesses of these models in the past, we can do the same with the gig economy. In closing, I would say that democratic co-determination should really decide which technologies are implemented in our homes, our workplaces and in our communities. We can and we should ensure that the promises of new technologies and innovations can serve a broad public good. There is simply nothing inevitable about insecure work, and as more and more workers move into low productivity service sector jobs, many of which are in the on-demand economy, it is really crucial we consider what a more democratic and equitable future of work and technology can look like and how we can achieve it.

The CHAIR: Thank you, Ms Kelly. If that was a written opening statement, do you mind formally tabling a copy and perhaps emailing it through?

Ms KELLY: Sure. I would be happy to.

The CHAIR: I am just going to direct the questions to either witness as they see fit. I think there are three matters that we might wish to explore with you. The first is to do with automation of existing work, the second might have to do with some issues in the horticulture industry and the third might have to do with the care sector and the creeping spread of gig work to the care sector. We will start with the automation aspect of it. Do you represent workers employed at Coles?

Ms GATFIELD: Yes. But I might ask Ms Kelly to field this question.

The CHAIR: You represent people in Coles distribution centres. Is that correct, Ms Kelly?

Ms KELLY: That is correct. We do not cover the retail space, but we cover the warehouses.

The CHAIR: One of the warehouses you cover is the Smeaton Grange warehouse. Is that correct?

Ms KELLY: That is correct.

The CHAIR: Was there an industrial dispute in Smeaton Grange recently?

Ms KELLY: There was last year; 350 workers were locked out of Coles when they took a 24-hour industrial action. The cause of the industrial action were disputes regarding automation of that particular distribution centre and the conditions that went along with that. I will just note that they were not on strike; they were locked out by Coles. That is the employers version of the strike. It is not so much that workers withdrew their labour; Coles no longer accepted their labour and they were locked out for I believe four months.

Mr DAVID SHOEBRIDGE: I think I should disclose the fact that I actually went to that picket. Just for the record, I think I probably was not the only one who went to that picket.

The Hon. WES FANG: Did you get arrested at that one?

Mr DAVID SHOEBRIDGE: No, in fact.

The Hon. WES FANG: You are one of the few.

Mr DAVID SHOEBRIDGE: Despite Coles sending in the police and trying to aggravate matters, all the workers there behaved extremely responsibly in the face of that antagonism from Coles.

The CHAIR: Just to be clear, there was a lockout. How long did that last for?

Ms KELLY: Four months. When they sent their first letter of intention for lockout, it was three months. But I believe it went a little bit further than that and approached four months.

The CHAIR: And it affected 350 people at that site?

Ms KELLY: That is right.

The CHAIR: Is that the number of people who work at the site, or thereabouts?

Ms KELLY: That is right. Approximately 350 at that particular DC at Smeaton Grange.

The CHAIR: You say that arose in relation to the thematic of automation. Is that fair?

Ms KELLY: Yes, that is right. More broadly than that, it was about issues with workers being denied the right to be redeployed to the new site, which is a so-called smart warehouse that Coles is opening—or slated to open—in coming years. And also the conditions of the redundancy.

The CHAIR: Is it the case that Coles has notified its workforce that it intends to close that warehouse after its new facility is constructed?

Ms KELLY: Pardon me?

The CHAIR: Is it the case that Coles has indicated it intends to close the Smeaton Grange site after its distribution centre in Kemps Creek is constructed?

Ms KELLY: Yes, that is correct.

The CHAIR: As a result of that announcement, did the workers make certain industrial claims?

Ms KELLY: Yes. Well, the announcement for closure came several years ago. With knowledge that that was going to be their last opportunity to bargain and that all of them would essentially be out of a job, the issue of redundancy became really important to those workers as it approaches the closure date. A lot of the workforce—it is actually quite broad across the generations, but some people have worked there for three decades. They are older now and they will really struggle to find jobs after this one. So they wanted either the right to be redeployed to the new warehouse, or at least a generous redundancy package that would see them somewhat through retirement.

The CHAIR: Did Coles resist that demand?

Ms KELLY: They did. And it became a protracted debate over the amount of the redundancy that they were prepared to offer. My understanding is that Coles did not agree to one of our demands, which was the workers' right to be redeployed to the new site.

The CHAIR: How did the dispute resolve?

Ms KELLY: It was a difficult situation for our members because they were locked out, which meant they were at a serious disadvantage. The kind of pressure put on them in that bargaining arrangement was really unfair because they were not out by choice, they were not receiving any income during that time and they felt like the offers being put to them by Coles were quite coercive. It resolved by basically Coles presenting the same offer again and again and, if I can be kind of direct about this, sort of attempting to starve them out. They had such tremendous bargaining power in that situation because workers no longer had the power of being able to withdraw their labour because they knew that Coles did not want or need their labour anymore. Those kinds of typical industrial strategies that workers would normally appeal to within their unions became sort of redundant for those workers.

The Hon. WES FANG: Effectively what you have just argued is that the union tactic of withdrawing labour was not effective because they did not need your labour and that was a problem.

The Hon. ADAM SEARLE: That is incorrect. They did not withdraw their labour; they were locked out.

The Hon. WES FANG: What I am saying is that she said that the usual tactic of withdrawing labour was not effective because the labour was not required.

The Hon. ADAM SEARLE: I think she said it was not available to them.

The CHAIR: Mr Fang, are you asking to clarify that?

The Hon. WES FANG: Yes, I just find that staggering that a union is arguing that the usual tactic of withdrawing labour was not effective in this case, therefore it is upsetting them.

The CHAIR: I am not sure that is what the argument was, but Ms Kelly can clarify.

Ms KELLY: Sure, I can clarify. I think what I mean is more broadly when we think about automation and how it can impact upon workers, there are established industrial practices in place to try to make that time of bargaining more equitable for workers. One of the strategy that workers had as a very normal part of a democratic industrial relations landscape is the power to withdraw their labour. My sense is that some of those workers felt really at a loss as to how they were able to have any power in that relationship knowing that the site was going to close and the new site that was going to be opened, they were not able to work at. They were also locked out and they were not able to work in that site. I believe they felt disempowered during the bargaining round.

The Hon. ADAM SEARLE: Is that why the union in its submission to this inquiry suggests an independent tribunal should be empowered to hear these kinds of disputes about the contested introduction or use of technology in the workplace, so you could have a less brutal way of resolving some of these discussions between workforce and management?

Ms KELLY: Broadly, yes. I think the goal of an independent tribunal would also be to respond to issues of surveillance, algorithmic management, data extraction and other issues like that that are creeping into all of our industries that at the moment can sometimes slip through the cracks with existing laws and regulations. For instance in the case of surveillance we of course have privacy laws, but sometimes the extent to which those technologies can be used for certain purposes, specifically in the context of the workplace, can be a legal grey area, so it was about responding to some of those current gaps in policy.

Mr DAVID SHOEBRIDGE: This is to either Ms Gatfield or Ms Kelly. First of all, thank you for your submission which I found thought-provoking—in a positive way. One of the observations you make is that currently the productivity gains from technology are largely captured by the owners of the business; capital basically captures all the benefits. You recommend new ways of redistributing the productivity gains, including through universal basic dividend. Did you want to talk to that at all?

Ms KELLY: Certainly. This is quite a blue-sky proposal, and it is trying to get to the heart of some of the issues of when we do have new technological innovation. It is often grounded in a very extractive economic model, which means that any higher profits that are extracted go to a very small group of people. There is a bit of a tension here because obviously if the crux of the profit is derived by people's collective efforts, and in the case

of automation and other platforms and other intermediaries and ways of organising work, if wages are not growing and yet there are certain key players who are able to extract more and more profit from workers via these technologies, I think there is a good argument for having some kind of new redistributive method that is innovative that can seek to return some of those profits back to labour. Because, as I am sure everyone in this room is well aware, for several decades now, productivity gains have been completely de-coupled from wages growth. I suppose that was a bit of an ambitious proposal looking at ways that we can be creative about ensuring that some of these gains in profit, gains in productivity and efficiency gains are actually returned to the people who are driving those gains.

Mr DAVID SHOEBRIDGE: The other method that you propose for redistributing those productivity gains more fairly is to re-empower the industrial relations tribunals, State and/or Federal, to actually provide a better platform to increase wages. Do you see those two things working together?

Ms KELLY: Yes, absolutely. I think it is really important when we talk about some of these technologies and some of the different case studies that are included in that submission and when we speak to the ways in which they have become very coercive, even though it is my view that the technology itself innately is driven by certain logics that are coercive in that they are designed, developed and implemented by employers for profit maximisation reasons. They serve a very narrow interest and there is something innate about the technology itself that is coercive. But even beyond that is the social and industrial context in which the technology is used. There are so many examples I could give, but if we look at warehouses for instance or homecare workers, if the use of this technology is embedded within a very precarious employment relationship, its power to be coercive is really amplified.

We can do a lot to curb the negative and coercive, even punitive, impacts of some of these new technologies by just really basic things like ensuring people have basic security and conditions at work. Because often the technology is enmeshed within other HR practices of work intensifications, KPIs that are very difficult to meet without putting yourself at risk of injury and things like that. If people do not have basic workplace security, they will race to try to meet those KPIs to ensure they get a shift the next day. Insecure work and coercive technologies go hand in hand; they mutually reinforce each other. Although the technology can sometimes be almost dizzying when it is moving very quickly, some of these issues are not new at all and we have a lot of history to draw from in ways in which we can make workers more secure and more able to ensure their workplaces are safe.

Mr DAVID SHOEBRIDGE: Do you see casualisation as one of those threats to workplace security?

Ms KELLY: I do. I would almost go further and say that those kinds of mechanisms of fissuring the firm, be it offshoring, the franchise model, casualisation and labour hire, are almost precursors to the on-demand economy, because they are about creating a system where workers are disposable and on-hand. Often as a business model, if you look at the on-demand rideshare services, they flood the market with cheap labour which creates conditions of underemployment for everyone who is in that sector who is trying to get a shift and it creates competition, perceived or otherwise, amongst workers to fight for shifts. For the example I gave before and how that is embedded within KPIs and coercive management practices, it means that you can push people to their absolute limit if they are in a very insecure working arrangement and fighting to get that next shift.

Mr DAVID SHOEBRIDGE: That is probably most demonstrated in the gig economy at the moment. Would you agree that the most extreme underlying vulnerability and insecurity is in the gig economy at the moment?

Ms KELLY: I think it is definitely very extreme in the gig economy undeniably, but I think there are issues of insecure work throughout our industries and even in conventional employment settings as well. I think even the distinction between the on-demand economy and conventional employment settings is becoming more blurred. I think there are these central guiding logics, if I can call it that, of the on-demand economy. Things like platforms, algorithmic management, algorithms allocating tasks and dictating how and when work should be done. That was really a central feature of the gig economy, but we are seeing that as a management practice in warehouses for instance and in home care as well. I think even some of those ways of organising the work that were really characteristic of the gig economy seem to be spreading out and taking root, even in more conventional employment settings as well.

Mr DAVID SHOEBRIDGE: As those kinds of features of hyper surveillance managed by algorithm rather than human take place in the gig economy, you see them having a corrosive impact in broader employment relations. Is that what you are witnessing?

Ms KELLY: Yes, that is correct.

The CHAIR: We will go to Ms Houssos and then Mr Searle.

The Hon. COURTNEY HOUSSOS: Thanks very much. I, too, thank the United Workers Union for its excellent submission; it was very comprehensive and it gave us some different ideas to think about, which was great. I wanted to talk about two specific areas; one was around care work and the increasing proliferation of apps to provide that work. We have received evidence elsewhere and other submissions about—for example, through the National Disability Insurance Scheme, but also I have heard anecdotally it is starting to creep into aged care—an app that is essentially the gig economy for care workers. I just cannot recall—

The CHAIR: Mable.

The Hon. COURTNEY HOUSSOS: Mable, thank you very much, Chair. Have your workers had much experience with this particular app, and what has been that experience?

Ms GATFIELD: The apps have become more and more prevalent in this area. The example of Mable, it is more like an advertising platform where a care recipient, someone looking for care, can find a care worker and a care worker can advertise their wares, so to speak, on the app. There is no regulation around the wages, the time, anything. But even in the more traditional kinds of homecare areas you are seeing the work being apportioned by an app that people do not have the time to really understand or to use that app properly. Often what happens in most of the providers of in-home aged care is that people will be sent a roster. Normally you would expect to get notice of any changes in your roster or have fair warning about the kinds of hours that you would be expected to do, but what is happening more and more is that people are being asked to make themselves available for huge swathes of time and if workers are working for a variety of different platforms, because they are trying to get work, then you can find workers making themselves available 24/7.

Then you get notified of your roster. You might get a change notified overnight, so your roster can change first thing in the morning. If you are not checking it regularly you might even miss a shift. You then get to your client's house; often you do not get paid for that travel time, you do not get paid for travelling in between your clients and you do not get any remuneration or allowance for using your own vehicle or using public transport. Then the tasks that you are supposed to do in that person's house are kind of dictated to you by the app. The thing that I think we forget in this area is that this is about providing care to people that need it, that are quite vulnerable. They are in their own home and they are opening their own home to let you in to provide that care and you need to take account of what is happening today in that person's house and what they need, and that might not tie up with the instructions that have been given to you to do this for five minutes and then this for 10 minutes. It does not take into account the connection with the person.

The Hon. COURTNEY HOUSSOS: It also shows how incompatible something like care work is with an algorithmic management system. Would you agree?

Ms GATFIELD: Totally. It just does not take into account the person-natured care of this and what is happening for that person today. There are some great things about technology. It can be a really good way of the care worker being able to explain to other health professionals that the client today is not doing so well—something has happened and I need to alert other people in the team or their GP about that. That is fantastic, but what we find is that people do not have the time to put that information back into the app. So our members constantly talk to us about—imagine, it is almost clocking on in the old days. They get to somebody's house—as I say, they have got there under their own time—they will then have to log into their app; they will see that today I am supposed to provide X, Y and Z types of care. I go into the house, something might have changed but let us say I can just do what I have been asked to do. I have to log in and tap each time that I have done the laundry or I have provided the shower or I have got the client up from bed to feed them.

I do those duties then leave the house and log off, because the client is being charged for this time or it is coming out of their package. Then in my own time I might be really concerned and really want to make sure that others in my team know what is happening. So I will sit in my car and do that myself on my own time before I then drive, in my own time, to my next client. So you can see there is a real concern, a mismatch between the wonders of technology that could really make sure that people are getting the best care possible and the exploitation of these people that are providing the care.

The Hon. COURTNEY HOUSSOS: We have just seen a Federal budget which has made significant announcements around home care. Is any of that attached to this kind of new app-based technology? Will any of that be required to be used in that way?

Ms GATFIELD: No. Unfortunately, the budget has provided for 80,000 homecare packages, which will not clear the list of people waiting for home care. I am sure the Committee is aware of this, but we have got an ageing population. All of us want to, as far as we can, age in place—stay in our own homes and get that care that we need. There are currently almost 100,000 people on the waitlist. The funding that has been put into home care is really to provide 40,000 packages this year and 40,000 next year; it does not go into the design of the scheme. There is some funding, a minimal amount of funding, to start examining what a new scheme would look like, but there is a real need for regulation in this area.

The Hon. COURTNEY HOUSSOS: I will move on quickly to one other issue that you raised in your submission, which I think is really interesting—the idea of productivity gains being given back to workers in terms of a shorter working week. We have seen some companies—for example, Unilever in New Zealand, who have introduced a four-day working week, and they found that their productivity actually increased. Are you aware of any other examples, perhaps in your own industries or elsewhere, where something like this has been implemented?

Ms GATFIELD: I am not, but I can tell you that you have got an aged care workforce and a disability workforce. A caring workforce—there is a huge demand for workers and if there was a way that people could get regulated hours and be guaranteed more minimum hours and regular rosters so that they could plan the rest of their life I think more people would be attracted to this workforce. But I might ask Ms Kelly if there are any other examples in the rest of the sector.

Ms KELLY: Sure. I have seen some really interesting research, as you mentioned, coming out of New Zealand. Autonomy, which is UK-based think tank, has some really interesting research that is UK specific, but I do not think there has been anything comprehensively done in Australia. But, as Ms Gatfield said, I think it would really go a long way in trying to balance out the fact that we have got the situation at the moment where some people are working far too much and other people are suffering from chronic underemployment, and redistributing work in that way would be a great way, as Ms Gatfield, says, to make some of those industries more attractive as well. But to my knowledge there has not been a trial of this in Australia.

As we also pointed out in the submission, we have some particular challenges here because enabling a shorter working week does require people to have some baseline security in their work. It is hard to see how a model like that would not fail with very precarious workers. So I think the first step to be taken before we could try to implement a shorter working week would be sort of raising that floor of security for all workers so that everybody is working in a more or less standard employment relationship that is regulated, and then you could go about redistributing the work so that people are not overworked but getting paid the same rate as they would have been.

The Hon. COURTNEY HOUSSOS: We are seeing a real disjuncture in the labour movement in the sense of those who can negotiate are getting some great outcomes, like a shorter working week, but particularly some of the vulnerable workers that you represent are just wanting to have a job in the first place, and that is a real challenge.

Ms GATFIELD: That is right. Just the prevalence of people having to make themselves available.

The Hon. COURTNEY HOUSSOS: Yes, absolutely.

Ms GATFIELD: So restricting themselves from other forms of employment, because I am available for these six hours or these eight hours or these 12 hours, but only getting three hours' worth of work. It was announced only in the last two weeks in the review of the Social, Community, Home Care and Disability Services award, which covers homecare and disability workers, that there will be a minimum start introduced for casual workers. That has not actually come in yet. You are expecting people to make themselves available and just get those limited hours. It is just not good enough.

The Hon. ADAM SEARLE: I would also like to say the submission you made was quite comprehensive. A lot of the issues you speak to are of national consequence, but we are a New South Wales inquiry and we are looking at what we might be able to achieve here. Looking through your submissions, it seems that particularly the working from home or the intensification of work that comes from a number of these changes that are occurring in the workplace do impact workers negatively in terms of their work health and safety [WHS]. Could we make better use of our work health and safety laws at a State level to address a number of these concerns that the union raises so strongly? Could we creatively adapt and use our occupational health and safety [OHS] jurisdiction to address the work intensification issues perhaps?

Ms GATFIELD: Yes, and I am by no means a workplace health and safety specialist. There are plenty of them. One thing I would say is to think about the way that this work is—the worker's experience is often that they do not actually have a workplace. I am talking specifically about care work here. People are providing care in other people's homes. By their very nature, in someone else's home it is hard to regulate those hazards that might exist there. And those hazards could change from day to day, depending on what is happening in that person's life and who is living with them. So one of the things that could be done is to mandate training to make sure that the care workers actually have the skills necessary not only to deal with the client who they are dealing with but to make sure that the workplace they are entering each day—and there will probably be about six or eight different homes that people go into—that they actually have the skills and understanding of how to do that and report that. That would be a really simple thing that I think we could make happen. But I might just ask Ms Kelly if there are other workplace health and safety issues.

Ms KELLY: Just to add to that, we have seen within existing OHS legislation some somewhat creative things done with respect to gender violence and having gender violence recognised as a psychosocial harm and as a harm under OHS legislation, which makes perfect sense. I think there is scope there to expand our understanding of harm even broader and to look at work intensification as a psychosocial harm, as a potential economic harm, and even really invasive uses of surveillance and biodata tracking and things like that as a form of harm as well. I think that would align really strongly with existing OHS laws. I do not have a legal background, so I am not an expert on those things, but I see there is certainly scope to expand our understanding of harm so that they are consistent with contemporary workplace trends. There would be a lot of scope to do things and regulate under existing OHS laws.

The Hon. ADAM SEARLE: Thank you. I note that the issue of workplace surveillance will be explored in the second half of the year with hearings dedicated to that. Your organisation may well be asked to come back to address those. Just taking the point about a deeper and wider understanding of what might constitute psychosocial harm in the workplace health and safety regime, certainly things like work intensification, excessive work hours, things like that, there is no capacity at the moment in either the WHS laws or the industrial system to bring those things to account and to manage them outside of the fairly blunt instrument of a criminal prosecution or the actions of the safety regulator, which I think is notoriously unequipped to deal with psychosocial harm issues. I note that, for example, WHS is one of the matters that is carved out of the Fair Work Act and left to the States. It seems to me, if States were interested, that using those sorts of doorways to greater action would be a possible way of addressing a number of the solutions that you propose in your submission.

Ms GATFIELD: Thanks, yes.

Mr DAVID SHOEBRIDGE: I do not know if either of you had the benefit of hearing Coles' evidence in the prior session.

Ms GATFIELD: No, sorry.

Mr DAVID SHOEBRIDGE: Part of the evidence given by Coles was that its workforce is about 60 per cent either permanent full-time or permanent part-time and 40 per cent casual. Coles' evidence was that the fact that 40 per cent of its workforce, which I think amounted to about 48,000 employees, contracted with them on a casual basis proved that they were choosing to take casual employment because they perceived it as benefiting themselves. I do not know what your experience is in talking to your members about the circumstances in which they find themselves in casual employment and any preference for casual as opposed to full-time or permanent part-time.

Ms GATFIELD: I might just give some general comments and then ask Ms Kelly. I think that what our members want are decent jobs with decent hours. Often you hear that people prefer to work casual. Often it is because it is the loading. It is really about the money and getting a higher rate of pay. What people want is regular work. They want to know when their shift is coming up. The majority of our members do not want to be working casually. Surely, always there are some people for whom it works, but they really are almost like the unicorn when we talk to members. Often the other thing about casual employment that is not realised is that it is a pathway to get permanent employment. People will think that they will get a foot in the door, they will get some experience in the workplace or in that job and then they will be able to get permanent employment going on. I think that when you ask people what they want, they want a decent amount of pay that they can live on, they want regular and systematic hours that they can work around their lifestyle, and that is what our members want. Ms Kelly, do you have anything specific on the Coles situation?

Ms KELLY: Not specific to Coles. I might come back to that. Maybe just to put it in this context of preparing the submission, I spoke to dozens of workers across all of our different industries and I asked them really open-ended questions, probing around technology but really asking them, "What are the issues that matter to you?" Overwhelmingly, people told me they want secure jobs. And that was a much more pressing concern for people than technological change because they saw that they went hand in hand and without a secure job the technological change would just be worse for them in certain ways. So, certainly, insecure work is really, really important to our members across industries.

With Coles specifically I am not sure what they are really referring to there. I do not want, in that case, to be misunderstanding the point that they are making. I think it is the case in the warehouses at least—I cannot speak to the retail situation—that some of the old warehouses from 20, 30 years ago of Coles did have a high percentage of permanent workers. And that was great. That was the norm, and what we are seeing at the moment is this kind of normative erosion of that. It was the case 20 years ago that if you looked at warehouses it would only be 30 per cent casual, 70 per cent permanents.

Now in a lot of spaces—and I am not referring to Coles, but just broadly speaking of warehouses—often the inverse is true. So even some of those industries that were often very secure are being chipped away at. And the use of labour hire is a really big problem for our members. Some people certainly might prefer to have short-term casual work if it suits them for various reasons, but nobody wants to work in a labour-hire arrangement for 10 years. I have spoken with workers in that situation where they leave their shift, they go home, they wait for a text message from a labour-hire agency to come through at nine o'clock or 10 o'clock at night. Some have a shift the next day, and that can carry on for 10 years. It is completely legal. Nobody wants to work in an arrangement like that.

Mr DAVID SHOEBRIDGE: I appreciate your answers. Maybe the way to get a more comprehensive answer to Coles' proposition is on notice. I will get that relevant part of the transcript to refer to you if you have any observations to make.

Ms GATFIELD: Thank you.

Ms KELLY: Sure, thank you.

The CHAIR: In the last five minutes can I talk to you about some of the work that the United Workers Union is doing in the agricultural and horticultural space? Are you active and present currently in those sectors?

Ms GATFIELD: Yes, we are.

The CHAIR: As part of those efforts, are you undertaking any survey work or work that would identify labour that is being exploited?

Ms KELLY: There are always ongoing organising efforts within the farms and horticulture team. As regard to any specific surveys that are underway right now, I am not sure. We have carried out surveys like that in the past and developed those into reports.

The CHAIR: Is exploited labour present in New South Wales in the horticultural and farm work that you are doing?

Ms GATFIELD: Yes, there have been cases of it. Our focus has been in Victoria and Queensland but we do have members that have raised issues in—

The CHAIR: Do you wish to take us through what those concerns are, on notice if you need to?

Ms GATFIELD: Yes, that would be great.

The CHAIR: Specifically, are you aware of some concerns that have been raised in the New South Wales blueberry and berry industry?

Ms GATFIELD: I do not have the specifics.

The CHAIR: Fair enough. We might, on notice, invite you to make any submission you wish to on this matter.

Ms GATFIELD: All right.

The CHAIR: Thank you, Ms Gatfield and Ms Kelly, for your appearances today. As the Deputy Chair has pointed out, there is a reasonable chance you might be invited back to talk about the workplace surveillance

dimension of our terms of reference as the Committee completes that and the second part of its work as well. You have taken some questions on notice to which you will have 21 days to return answers after the date of receipt of the transcript. Thank you again for your time.

(The witnesses withdrew.)

MICHAEL BUCKLAND, Chief Executive Officer, The McKell Institute, sworn and examined

The CHAIR: I welcome our next witness. Do you wish to make an opening statement?

Mr BUCKLAND: Yes. Firstly, I would like to just say thank you for inviting me to address you as Committee members here today. I welcome the opportunity to make the contribution. For those of you who do not know, The McKell Institute leads a significant program of work in the area of job security and economic growth and wages, all of which are relevant to the work you are doing here. I might start by mentioning that the submission made under my predecessor last year continues to be relevant and consistent with what we are doing. As part of that submission we included a report which we put together with Insurance Australia Group Limited [IAG], *Opportunities in Change: Responding to the Future of Work*, which you should have.

I would just like to update the Committee that since then we have put together further reports. One is called *Blue Harvest*, which looks at the issue you raised, Chair, just a moment ago about exploitation in the blueberry picking industry on the mid North Coast. It is, I think, an example of what happens when job security and workplace conditions deteriorate to a very negative point, which is something I think we want to avoid in the instance of technological change. The final report I would like to mention, which I can table for the Committee, is *Insecure Work & Portable Entitlements: A Solution for Australia*, which examines our relatively mature portable entitlements framework, particularly in some industries like the construction industry, which I think is particularly relevant and offers a chance of, I guess, a positive way forward that the Committee might want to examine. I can table both of those for the Committee.

Other than that, I might just reiterate a couple of key points from our submission before we get started and I would welcome all of your questions. One of the things that has not kept up but also has not been part of the debate entirely as we talk about technological change has been the role of our education system. Our education system is not built for being able to adapt to constantly changing work environments over the course of someone's life. Further to that, things like our welfare system are not suited to regular temporary unemployment and our industrial relations system has also not kept up to the changes that we need. I want to mention in regard to the horticulture industry in particular, it is an example and not all farmers are doing the wrong thing. In fact, I think fighting exploitation is fighting those who are seeking to undercut the farmers who are doing the right thing. Further, those who are giving the industry a bad name are driving away the workforce they all need.

But while traditional economic theory might have us assume that worker shortages would result in better pay and conditions, what we have actually seen is an environment in which the power imbalance has meant that that has not occurred. So it is important to consider that there is a power imbalance between workers and employers—or whoever engages them, depending on whether they are contractors or so on—in industries and that is going to become particularly so if you have further automation and digitisation without the appropriate regulation to back it up. Finally, I just make the point that portable entitlements represent a positive Australian example of policy reform to address ongoing cyclical work and a regular change of employment, and I would urge the Committee to look at that. The final thing I might just mention, if I could pick up on a question asked just before about Coles, is that the national average is about 60 per cent for full-time employment versus 40 per cent for contractors and casuals. So I do not think that having a workplace that has 60 per cent full-time employment, which is just consistent with the average in Australia, is necessarily evidence of anything.

The Hon. WES FANG: Other than being normal.

The CHAIR: Mr Buckland, you said you were tabling some reports. I think now is the appropriate opportunity to table such reports. Thank you. You speak about an education system that is not fit for purpose to cope with workers who are going through technological change. Why do you say that?

Mr BUCKLAND: I look at mostly adult education and training. Most people will take significant time off to engage in education and training when they first finish high school and they are starting a career. Beyond that, the welfare system does not provide the same level of support to people taking breaks out of employment for training. Further, if you look at the scholarships available to TAFE, for instance, they are overwhelmingly for people who are either made redundant or who are training for the first time. They are not available to people who choose to be retraining to adapt to, say, a workforce environment. That is not every single one. There are obviously exceptions to some of these, but it is not there and people do not take the time out for that. There are also a whole lot of other issues that prevent people from undertaking ongoing education and retraining. That looks at child care and access to all sorts of different support. So I would say that the system has overwhelmingly catered for people to undertake training at an early age—well, in their early adulthood—and that is what they do.

The CHAIR: So is it a fair summary that a person who has to re-educate themselves has to do so at their own expense and that involves not earning income in the labour force?

Mr BUCKLAND: Overwhelmingly—absolutely overwhelmingly. The majority of workplaces do not necessarily provide the amount of workplace entitlements for retraining or ongoing training that you might want.

The CHAIR: And they do not provide the income replacement?

Mr BUCKLAND: Certainly not the income replacement.

The CHAIR: Do you think the Committee should recommend that action be taken in those respects in order to facilitate the retraining, given that it is part of our terms of reference?

Mr BUCKLAND: I think you should look at the retraining. I think it is also wrapped up heavily in job security. If an employee has a secure job then the employer has an incentive to provide ongoing training or ongoing professional development. There is a link there because they are getting an ongoing benefit. So I would say you should be looking at both of those measures in equal measure.

The Hon. WES FANG: Mr Buckland, thank you for coming. Playing devil's advocate here, why should companies provide assistance for retraining given that historically, going back hundreds of years, when people lose their job it has been typically on a person to find alternative work? Why now would we look to further that situation where it is on the employer to be incumbent for the retraining?

Mr DAVID SHOEBRIDGE: Interesting view of history, Wes.

The CHAIR: To be fair, Mr Buckland, did you say it was on the employer or did you say that additional training needs to be provided?

Mr BUCKLAND: I think additional training needs to be provided. I think it will be more often provided by the employer if you have a—ongoing professional development is more often likely to be provided by an employer if you have an ongoing, secure job with them. I would make two points because I appreciate the chance. The first is that work is changing substantially, requiring substantially more training, and the jobs that we keep saying are going to be created and replace existing ones are overwhelmingly higher-skilled work. We have already acknowledged that it is not on individuals themselves; that is why the Government provides primary school and secondary school and HECS and access to TAFE. They do that because they recognise that there is a public good in educating citizens and helping them find meaningful, productive work. I look at it—it has already gone in that direction. I think that if employers are going to increasingly look at wanting specialised skills then they are going to have to be involved in skilling their workforce, whether they like it or not, especially as the nature of work changes.

The Hon. WES FANG: Because effectively that really makes the employer another educational institution. Do you see where I am going with this?

Mr DAVID SHOEBRIDGE: Have you ever heard of apprentices, Wes?

The Hon. WES FANG: No, I understand that, but usually their education is provided by—not the employer. It is provided by a third party. What we are talking about now is where the employer is also now a training institute.

Mr BUCKLAND: I mean, employers can provide time off for people to study, to provide ongoing training. If an employer takes advantage of automation, for instance, and makes a huge productivity gain by making a section of their workforce redundant, let's say through automation—which is the changing nature of work and what the Committee is examining—then I think that employer should absolutely have an obligation to provide some sort of benefit to those workers or some sort of support for those workers as they make that transition. After all, the employer is receiving the productivity benefit of the transition, so they should be able to provide the employee some of that benefit for retraining.

The Hon. WES FANG: But what about if a worker was perhaps in a role that is not going to translate into a new, automated regime? They may not have the skills or the temperament to conduct another type of role. Why is it then still incumbent on the employer to be involved in that?

Mr BUCKLAND: This gets back to the other point, which is that it is only one aspect of it. I think in certain circumstances, of course, there is always change in the workforce. That is why we have TAFE. That is why we have adult education facilities. That is why we have universities. But overwhelmingly postgraduate education costs a lot more money; it is not covered by the same benefits. TAFE as well. I can speak from personal

experience that the fee-free places which this Government has provided are not always available for those, unless they are either retraining or are young people.

The Hon. WES FANG: There are plenty of offers out there, but I will cede my questioning to the Chair.

The CHAIR: Mr Shoebridge, actually.

Mr DAVID SHOEBRIDGE: Mr Buckland, I think you started by making an observation that the split of employed part-time permanent, permanent and casual in Coles of 60 to 40 reflected the general trends across the employment market. Is that right?

Mr BUCKLAND: Yes. From my recollection—I think it is contained in one of these reports—about 66 per cent of the workforce are full-time; therefore, an approximate amount would be part-time and contractors.

Mr DAVID SHOEBRIDGE: Coles' evidence was that 20 per cent of their workforce was full-time.

Mr BUCKLAND: Oh, right. Sorry, I did not hear—I was going off just what I heard.

The CHAIR: Permanent full-time.

Mr DAVID SHOEBRIDGE: And 40 per cent was permanent part-time and 40 per cent was casual. Does that reflect the national—

Mr BUCKLAND: That is not consistent with any national—

Mr DAVID SHOEBRIDGE: Indeed, of the one-third of the workforce across the country that tends to be in casual employment, do you have any research that shows whether or not that is by choice or by circumstance?

Mr BUCKLAND: We have limited research on specific industries that we have conducted. It is mostly anecdotal. We find that if we look particularly at the blueberry report, we find that people are choosing employment based on legal requirements for regional work and based on what is there, and other factors. It is not always a choice and certainly not something we would find that even the majority is a choice.

Mr DAVID SHOEBRIDGE: Yes, so people are not choosing insecure work. They are taking the work that is available and sometimes that is insecure work.

Mr BUCKLAND: That's right.

Mr DAVID SHOEBRIDGE: Can I take you to the *Blue Harvest* report?

Mr BUCKLAND: Yes.

Mr DAVID SHOEBRIDGE: That was released at the end of last year, I think.

Mr BUCKLAND: Yes, in December.

Mr DAVID SHOEBRIDGE: Have you had any engagement with any major retailer since the delivery of the report?

Mr BUCKLAND: I have not personally—

Mr DAVID SHOEBRIDGE: The McKell Institute?

Mr BUCKLAND: —and I do not believe we have, but I can take that on notice to see if there has been anyone else.

Mr DAVID SHOEBRIDGE: Are you aware of whether or not any major retailer has responded to those findings by removing certain suppliers?

Mr BUCKLAND: I am not aware, no.

Mr DAVID SHOEBRIDGE: I might just now give you a Dorothy Dixier to ask you—

The Hon. WES FANG: What were the other ones?

Mr DAVID SHOEBRIDGE: —what were the key findings from your *Blue Harvest* report, in terms of technological change and insecure work?

Mr BUCKLAND: We found that people were being paid as little as \$3 an hour over the course of their employment. The average pay was \$6.60 or so an hour. We found that largely it was a result of power imbalances

but that it was not limited to the regional work visa requirements and it was affecting local people who had that as well.

The CHAIR: When you say "local people" do you mean Australian citizens?

Mr BUCKLAND: Australian citizens were experiencing it just as often—well, not just as often, but—

The CHAIR: As visa holders?

Mr BUCKLAND: As visa holders. And so, while we would certainly contend that some of it was a result of regional work requirements and people exploiting their legal obligation to work in the regions, it is something that has just become a business model in the industry.

Mr DAVID SHOEBRIDGE: You had some specific findings about the Coffs Coast around the blueberry industry there. Given it is within New South Wales and it is a significant part of the blueberry supply—in fact, the dominant part of the blueberry supply, at least for New South Wales and probably for the country—do you have any observations about what is happening on the Coffs Coast?

Mr BUCKLAND: We looked at the coast and we found it incredibly prevalent. It is very hard to get data, especially on things like wage theft; this required our team of researchers living in the community and working to uncover this kind of behaviour. I think that shows that you are going to need more resources if a regulator is going to enforce these kinds of measures. But I would also suggest that it means that this is probably a problem in many other locations, not just limited to Coffs Harbour, and that further research would find that it was similarly hidden.

Mr DAVID SHOEBRIDGE: You did an audit of job advertisements, which seems to be a pretty solid basis to understand what the kind of prevalent pay rates are. Do you want to expand upon that at all and what that showed?

Mr BUCKLAND: Yes. We took job advertisements and worked out from piecemeal rates and other rates what average work—and that helped expand our datasets. We were surprised that it was so blatant that people were being paid less than minimum wage. Again, I would say it is further evidence that it is going to be present elsewhere and that for researchers looking to uncover it, you can find it.

Mr DAVID SHOEBRIDGE: When you were in that space, did you see any evidence of either State or Federal workplace regulators having any role or any visibility in terms of protecting standards?

Mr BUCKLAND: Our team did not have any interaction whatsoever with any regulator.

Mr DAVID SHOEBRIDGE: When you spoke to people on the ground, which I assume you did, did they talk about any contact with State or Federal workplace regulators?

Mr BUCKLAND: All the examples we had were people saying it was reported for the first time to us.

The CHAIR: Can I just ask: Why did McKell do this?

Mr BUCKLAND: McKell looks at wage theft, predominantly, as a major stream of work for McKell. We also work with many of the unions and industries that are major employers in New South Wales and Australia.

The Hon. WES FANG: Was it a request from a union to do this?

Mr BUCKLAND: I think it might have been sponsored, but I am not sure—this started before my time so I will need to take that on notice. But the—

The CHAIR: Just to be clear, one of the reports you have tabled here has IAG's logo on it.

Mr BUCKLAND: Yes.

The CHAIR: That is Insurance Australia Group; is that correct?

Mr BUCKLAND: That is right.

The CHAIR: So it is the case that McKell undertakes these in partnership with both unions and industry, as you say; is that fair?

Mr BUCKLAND: Yes. In fact, the majority are with corporate stakeholders and others are with unions. We take pride in working with a diverse range of stakeholders and industry experts. We chose this particular place because it had been reported as one that had failings. In fact, that is not a secret; it was published well before our

report. We know that there are industry shortages in the area. The Berejiklian Government announced, I think, that they were going to reduce quarantine costs for workers from the Pacific Islands to be able to go to harvests, so I think they are also seeing the problem.

The Hon. WES FANG: But that is across the State. That is not just for the blueberry industry.

Mr BUCKLAND: No, that is right. But it came up as worker shortages in the industry. Anyway, so we looked at the area in conjunction with unions and other stakeholders.

The Hon. WES FANG: In that instance, would a shortage of workers not actually drive up the labour cost?

The Hon. COURTNEY HOUSSOS: That is not what it found.

The Hon. WES FANG: That is what I am saying. That is my whole point, that it is actually—

The CHAIR: I think you addressed it earlier, Mr Buckland, but why do you not explain it.

Mr BUCKLAND: Yes, I mentioned just briefly in the beginning, so it is worthwhile taking some more time on it. Traditional theory would have a worker shortage resulting in better conditions as people are competing for those workers. In this industry you have a very opaque system of employment, to start with. You are talking about regular subcontractors, sometimes subcontractors of subcontractors. You do not have several major employers. You have lots of farms—some big, some small—with most using different hiring arrangements. You then also have a very disparate group of workers: some who are local residents, some who are Pacific Islanders who are coming, and some from other areas as well. Then you also have people who are working or holidaying in Australia who, according to their visas, are required to work in a regional area. The logical place to do that if you are a person holidaying in Australia is to go in during a harvest.

But all those things mean that you do not have an ongoing workforce that might potentially organise to fight for their rights on a long-term basis. Some of them are not citizens; some of them do not know their rights. Ultimately it comes down to a power imbalance in the industry. That is where the link comes to, I think, technological change. If we are talking about digitisation opening up a greater field of collaboration and also automation—automation and digitisation will affect power balances in the workplace. I think it is going to be important for government and civil society to make sure that that happens only to the benefit of working people and not at their expense.

The Hon. WES FANG: I just wanted to dive into this report a bit more. It was requested by a union that you look at this issue. You have generated the report. Has there been any further interest in what the findings were—that is, from regulators and the like—as to where you got your evidence and what has happened with that? Can you elucidate on that?

Mr BUCKLAND: It gained a lot of Federal attention at the time. I will just preface all this by saying I had not started employment with the McKell Institute at this time, so it was a little bit before my time. The Government had announced that they would look into it and conduct an investigation, and that it was very serious. The Federal Minister said that at the time; I think it was the agriculture Minister. Certainly we welcomed that, and we have reached out to continue to find what the next steps are but we have not heard anything yet.

The Hon. WES FANG: In light of that, do you think it would be advisable for a committee like this one to go to Coffs Harbour or the Coffs area and look at the blueberry industry again? Or do you think you have actually done a reasonable job with that?

Mr BUCKLAND: I always think that we have done a reasonable job to get it started, but I think this Committee seeing it firsthand is very important. I hope you do get a chance to do something like that. I think you will find it particularly insightful. If I look at the way the industry is headed I think—you will see in our report that we use a large number of case studies. We are providing, through the report, direct feedback to what we have been given. We are not aggregating it into—we provide some particularly with respect to looking at job vacancies and so on, but we are often providing the feedback direct from people who were there.

The CHAIR: You are showing people's payslips, are you not?

Mr BUCKLAND: I think we have graphics of people's payslips. We have text messages from employers that are borderline abusive. I think we have documented that well, but I think more areas will have it and this Committee will benefit from that.

Mr DAVID SHOEBRIDGE: I think for the record, though, Minister Littleproud's response was:

The Government at this stage doesn't believe that a Royal Commission is required or warranted.

...

But it's important to recognise that the vast majority of farmers do the right thing by their workers.

The Hon. WES FANG: I guess I am trying to tease out—

Mr BUCKLAND: Thank you, David.

The Hon. WES FANG: Sorry, I will just let you guys have the love-in. But I guess what I am—

Mr DAVID SHOEBRIDGE: No, I thought it was important—you asked what the Federal Government is doing. That is what Mr Littleproud has said.

The Hon. WES FANG: I appreciate that.

The Hon. ADAM SEARLE: It is not doing a lot, it would seem.

The CHAIR: Mr Fang has the call. Mr Fang, would you like to ask questions?

The Hon. WES FANG: Thank you, Chair. I guess what I am trying to tease out here is that in effect you have had investigators on the ground for a number of days, weeks—quite a while, certainly—deep-diving into this industry. I guess you were well funded by the unions to generate the report.

Mr BUCKLAND: We could be better funded.

The Hon. WES FANG: As could we all. You have a well-funded, well-generated report—and this Committee is going up there for a day. What is it that you think that we might find that you have not found in all the time that you had people on the ground there looking at this? At the moment has any prosecution come out of your report?

Mr BUCKLAND: No, not that I am aware of.

The CHAIR: Mr Fang—

The Hon. COURTNEY HOUSSOS: Point of order: Mr Buckland has a wealth of interest and experience of which he can inform the Committee, but it is really not fair to put to him whether the Committee should be doing its activities or not. Ultimately that is a decision for the Committee; that is not a decision for Mr Buckland. We should be asking him questions about his reports that he has tabled and provided to us.

The Hon. WES FANG: And I am just wondering if maybe there is something that they did not do that we might be able to address, and I am asking—

The CHAIR: Perhaps I can rule on the point of order this way: I uphold the point of order. It is not possible for the witness to respond on behalf of the Committee, which is what you are inviting him to do. Perhaps the way you might wish to rephrase the question is: "What additional lines of inquiry do you think can be pursued by this Committee, and do you think one day is enough time to do that?" That might be the thrust of what you are trying to ask, I believe.

The Hon. WES FANG: Thank you, Chair. I appreciate your guidance and wise counsel on this matter. Mr Buckland, do you think you might be able to provide us some lines of inquiry? Do you think one day might be enough for us to be there, or should we camp up there and deep dive much like your organisation did?

Mr BUCKLAND: To start with we could produce a list of 10 or 20 places, depending on how far you want to go, but I would love to say that—you have heard from me and you will hear from plenty of experts and people who have done a lot of work in this space, but I do not think anything prepares you for hearing from the people who are affected. Certainly that was our experience. I think that if you can get a taste of that from your one day, then that will be successful. But, by all means, if you ever want advice on extra places to go or more places to see, we have plenty.

Mr DAVID SHOEBRIDGE: If you have any suggestions about some of those contacts, we would treat them in confidence. Excellent idea, Wes.

The CHAIR: On notice, do you mind providing us with a list of those sites and contacts? You may wish to do so in confidence. Is that fine, Mr Buckland?

Mr BUCKLAND: We have made a deliberate effort not to identify publicly both people and businesses affected. I will take that on notice and provide what I can provide.

The Hon. GREG DONNELLY: Thank you for making yourself available, Mr Buckland. I have some questions about a very helpful report and I would like to hear from you further about the two additional reports that have now been published. What I am about to put to you has detail and substance to it that you may not have been prepared to answer, so feel free to take these questions on notice. But if you have a general response or preliminary thoughts, let us know. With respect to training and education, we have had some companies come before us and speak in, dare I say, glowing and positive terms about training and education done by their employees effectively via a computer over the internet whereby they log in to a website, presumably one that is domained with the company or maybe a third-party provider, to complete training modules.

In fairness, we have not got into significant detail about the content of the modules, but my impression was that they are self-learning exercises. Do you have any general comments or has the McKell Institute through its previous work and reports done any reflections on making a distinction between information gathering and informing oneself as an employee about company practices, procedures, guidelines and what have you, and the education and training of substantial content that we are generally familiar with when we talk about education and training? Is that something that you may have covered in the past or would be open to on notice having a think about and come back to us on?

Mr BUCKLAND: I would make two points on that, the first being that the workplace health and safety model code, I believe, is reasonably clear about the need for employers to make sure that their employees are well versed in those requirements, whatever their processes and procedures are. I think that is something that is well established and most employers take that very seriously, which is very positive—but obviously there are always some that do not. The other point that I will make, and I will take some of what you have said on notice if I can—

The Hon. GREG DONNELLY: Yes, of course.

Mr BUCKLAND: Adult principles of learning are very different to the way you might teach young people or people learning for the first time. There is a huge body of work around this. It is an aspect I did not cover at the beginning: The difference in the way you might design a lifelong learning program is literally in the curriculum and the way you teach as well, not just the money or the opportunities. I would say also that most employers and good workplaces are increasingly trying to provide their workers with professional development, and that generally has a benefit for that employer as well. I will take the rest of what you have said on notice.

The Hon. GREG DONNELLY: Linked to that, one feature that can be asserted about company-specific training is that it may not—I do not say it will not or it must not be—be rooted in more detailed, concrete elements of the industry and matters that are important to that industry as opposed to very company-specific matters. In other words, one could imagine a person working for a company and going through a number of company computer-based modules, units and what have you but they may not necessarily have a broader, more detailed understanding of training matters relevant to the industry. In times gone by there were training structures in this State and federally that were tripartite in nature and that were quite robust. It is a fair observation that there has been a bit of a decay of that over the last few years. Once again, feel free to take this on notice, with respect to training which articulates into lifelong training and outcomes, is it important that there be some integrity around the content that is offered by companies to meet some sort of minima to ensure that the material offered is not just company-specific but also transferable, as the person may move between other jobs?

Mr BUCKLAND: There is a huge amount of work that has started to occur but also is ongoing and needs more work in qualification alignment, making sure we have many different ways to assess qualifications by State and federally. I think there was some alignment a few years ago. Making those more robust is only positive if the average—if one in five employees changes their employer every year, then we are increasingly going to need to have non-workplace-specific education around the industry.

The Hon. GREG DONNELLY: And content.

Mr BUCKLAND: If we are going to have less secure employment, then does it not make sense to have a greater degree of knowledge to be able to apply what you have learned? Specialisation and insecure work are not always the best to go hand-in-hand, yet economic theory would have us all believe that being specialist in something is better.

The Hon. GREG DONNELLY: Or sub-specialist.

Mr BUCKLAND: Or sub-specialist. But if our employment does not reward that and if our information retrieval system is not backing that up, then it is not useful for an individual.

The Hon. ADAM SEARLE: When you were doing your investigations that led to the *Blue Harvest* report, you said that in many instances the revelations to you, or to the McKell Institute, were the first time these things were being reported. How can that be improved? If people do not have an awareness of their industrial rights, I guess that is one thing that talks to the need for better education. It is quite well known that regulators do not have the resources they need. I think the former Fair Work Ombudsman said you could double or triple her budget and she still would not be able to get to grips with the phenomenon of systemic non-payment of wages and with conditions across the economy. How can we better come to grips with that?

Mr BUCKLAND: You really have two choices: either to have greater enforcement, and maybe that is double or triple, or to have an incentive that is so great to make the risk not worth the while for businesses. At the moment the reason why it is so open and obvious for all to see—David Shoebridge mentioned the job advertisements—is because no-one is being prosecuted.

The Hon. ADAM SEARLE: There is almost no chance of getting caught at the moment.

Mr BUCKLAND: It is not a case of—you cannot catch all of them, sure, but we are not catching any of them. That is what is happening, so it has become a business model. It is entrenched and it drives down wages for everyone. To be honest, it undercuts the people in the industry who are doing the right thing.

The CHAIR: Of course, you meant to refer to Mr Shoebridge as Mr Shoebridge.

Mr BUCKLAND: Sorry.

Mr DAVID SHOEBRIDGE: No, I am okay with that. I took no offence.

The CHAIR: I am used to upbraiding members for not referring to Committee members by their proper title.

Mr DAVID SHOEBRIDGE: I was perfectly comfortable with it.

The CHAIR: It is the first time I have had to do it with a witness.

Mr BUCKLAND: Apologies, this is my first committee hearing.

Mr DAVID SHOEBRIDGE: For the record, I did not mind.

The Hon. WES FANG: I feel they are very familiar with each other.

The Hon. ADAM SEARLE: In relation to technological change, your report talks about there being some winners and losers, obviously depending on which industries you are in. But much of the technological change that we have been hearing evidence of is largely through the creation of non-standard forms of work using platforms and the like where there is not even a theoretical legal minimum set of wages and conditions. That can lead to not just to "precarious employment" but also very poor socio-economic outcomes for people deriving most of their work. Leaving aside the issue of enforcement, which looms large, nevertheless there is the need to make sure that there are legal minima that apply to all forms of work. Would you agree that that is a reasonable proposition?

Mr BUCKLAND: I would strongly agree with that. I think Australia has a strong history of being able to apply these minimums to different forms of work as they are defined. But I very much agree with that.

The Hon. ADAM SEARLE: Hence, I think, the McKell Institute's interest in things like portable leave entitlements to sort of try to address the periodic engagement of workers.

Mr BUCKLAND: As much as we love to uncover the problems, we sometimes like to propose some solutions. This is one that is staring us in the face. It can be adaptable to many different forms of entitlements and many different industries. It has been done mostly in the past on an industry-by-industry basis. There is no reason that it has to be done that way in the future, but it could be. If we are looking at, for instance, the platforms are overwhelmingly dominating certain industries. Portable leave entitlement schemes are a good method by which to apply to perhaps the industries most affected.

The Hon. ADAM SEARLE: Earlier today we had evidence from Menulog that they are looking at a portable leave entitlement arrangement for their workforce.

Mr BUCKLAND: I might just mention on that that McKell talks to a large number of stakeholders in the industry on employers and employee representatives and businesses and industry themselves. I think that there are some people having constructive discussions around those things. I hope that that continues.

The Hon. COURTNEY HOUSSOS: I thank you for your time and for your very detailed submissions. It is going to be helpful for the future work of our Committee. Can I just ask you some questions, and I am happy for you to take these on notice. These have been issues that I have been pursuing in the inquiry around paid parental leave [PPL] and also around flexible work. There was more research that came out over the weekend that after 10 years of Australia's paid parental leave system being in place it actually has not changed any kind of gender norms when it comes to who is taking paid parental leave. You talked about international examples and the way other countries have done things in your future of work report. Have you done anything around that in terms of paid parental leave around the world or some ways we can improve paid parental leave?

Mr BUCKLAND: There is a lot there to unpack. There are a lot of good international examples of where that has happened. What we have found is that by and large when it comes to gendered takes on many different government or employment entitlements—not that PPL is, but anyway you understand—is that there are huge cultural factors at play and historical factors. Often that is reinforced by a workplace rather than the individuals. We have done research in the past that has found that a large number of particularly fathers want to take more time off as part of parental leave but they do not feel that that is as acceptable for them in the workplace as it is for, potentially, mothers.

The Hon. COURTNEY HOUSSOS: We can do things with our paid parental leave that sends messages about the need for a partnership. In some Scandinavian countries they say, "We are going to pay this proportion that can go to the primary carer"—usually the mother—"and then this proportion that we are going to pay, but it is only available to the father or to the other parent." In Australia we have got two weeks. In other countries it is several months. It actually gives fathers an opportunity to have a meaningful period with their children.

Mr BUCKLAND: I would agree with that very strongly. I will also say that there is an amount of—often it is wrapped up in wages that are paid.

The Hon. COURTNEY HOUSSOS: Absolutely.

Mr BUCKLAND: Therefore, the employee entitlements to paid parental leave versus the government-paid parental leave is also relevant. Often that is where a greater discrepancy will exist. I know that, for instance, NSW Health nursing awards is far more leave for women rather than men—or primary carer, I should say, compared to another carer.

The Hon. COURTNEY HOUSSOS: And what the research found on the weekend was that it predominantly is the mother, right? But I think your example of a portable leave scheme is a way that the Government can actually intervene and say, "Well, this is actually how we are going to support positive change in the future of work." The other thing I wanted to ask you about was around flexible work. Again, I am happy for you to take this on notice. Business Western Sydney came out today and talked about the need for more remote working hubs—the idea that the way that we are working can change. Have you done any research around that or are you aware of, for those who can negotiate flexible working, how that can look going forward?

Mr BUCKLAND: I might mention two pieces of actual ongoing research that are relevant to what you have just said. The first is in the space of transport that finds overwhelmingly that people do want those options and that we should be looking at that. So I think there is certainly a need. But I would also say that there is a secondary—largely, the pandemic has allowed a large group of the workforce to have greater flexibility on their terms, not the kind of flexibility you might have from say insecure employment but flexibility on their terms around working from home or different hours of work and so on. There is still a large number of workers who cannot work from home.

You cannot work at Coles from home, you cannot be a nurse from home, teaching—I guess you could increasingly look at screens, but it is not there yet. I think that there is a risk here that the entire public debate looks at—not that I do not think we should still be talking about it. But there is a risk that the entire public debate talks about workers as though that is a choice for them. I think that there a large of amount of the workforce of which that is not a choice. They are increasingly being called essential workers during COVID. I think rather than trying to hold other people back, rediscovering ways to encourage flexibility for them on their terms is an emerging piece of work that we are very interested in.

Mr DAVID SHOEBRIDGE: This is a State inquiry. One of the obvious places where you see big gaps in coverage is for work injuries—contractors, gig-economy workers and so-called independent contractors not having workers comp coverage. Do you think there is a case for additional measures to rope in those workers into the Workers Compensation Act?

Mr BUCKLAND: Yes. I think the workers compensation scheme should be at the very minimum what is provided to all workers, especially on these independent contractors on platforms, or some other scheme that is equally valuable or has minimum standards.

Mr DAVID SHOEBRIDGE: In the spaces left to the State because of the so-called Fair Work Act, there are two spaces we could move immediately. One is the workers comp entitlements and the other would be long service leave provisions. Do you think they are areas that we should prioritise? Can you suggest others?

Mr BUCKLAND: I think workers comp absolutely should be a priority based on the industries that are currently affected most by this disruption. They are some of the most dangerous industries in transport, and I think they account for the majority of fatalities. But I would also say that sick leave should be on there as well—would be the other one that I would definitely mention.

Mr DAVID SHOEBRIDGE: Lastly, the State Government has put out a discussion paper suggesting a form of workers compensation coverage for gig-economy workers. Have you seen that? If you have not, if we gave you a reference to it would you be able to respond on notice?

Mr BUCKLAND: I would be able to respond on notice. But I believe that I am aware—is this the SIRA discussion paper?

Mr DAVID SHOEBRIDGE: Correct.

Mr BUCKLAND: There are some problems with the workers compensation scheme, as everything can always be improved.

The CHAIR: Just a few problems.

Mr DAVID SHOEBRIDGE: You are pushing against an open door there.

Mr BUCKLAND: I guess the point I would make is that a lot of what I saw in that was talking about the means to an end. I would say that certainly there needs to be some sort of minimum requirements and that we should be arguing over what is the minimum requirements for the coverage of employees and how do you then deliver that. That can be a debate for others. I think that so long as the workers are getting the right coverage for their type of work, that is what is important.

Mr DAVID SHOEBRIDGE: Do you think that there is a different minimum for gig workers as opposed to paid employees? Because that is the option being put forward. Do you think that should be explored or should we be trying to say the basic statutory minimum that exists should be rolled out across the board?

Mr BUCKLAND: I think we should be saying that the basic statutory minimum should apply to people regardless of their category of employment.

The CHAIR: Mr Buckland, we are a strict work-to-rule Committee here and we are three minutes beyond.

The Hon. GREG DONNELLY: You are working us overtime.

The Hon. ADAM SEARLE: Not that strict.

The CHAIR: I need to fend off the overtime requests. They are clearly coming. Thank you very much for your appearance. I have two issues which I wish to raise with you.

The Hon. WES FANG: I expect a report on this—three minutes.

The CHAIR: Firstly, you have taken a bunch of questions on notice. In addition, we have undertaken to provide you some further information for you to respond. You will have 21 days to return answers after the date of receipt. Secondly, you promised to table the *Blue Harvest* report, but you have in fact tabled two copies of the future of work report—which is great. We appreciate the extra copy. But we would still like the *Blue Harvest* report formally tabled.

Mr BUCKLAND: They were so popular I do not have the hard copies, but I can provide a soft copy.

The CHAIR: I am sure we could otherwise find it, but it would be better if you—

The Hon. WES FANG: I am sure it is downloadable.

The Hon. GREG DONNELLY: Wasn't it *Blue Harvest* and another one? There was a total of three.

The CHAIR: There is three. There is the future of work and there is the insecure work and portable entitlements. We have got copies of those. We just need the third, which is the *Blue Harvest* report.

The Hon. ADAM SEARLE: The trilogy.

The CHAIR: Thank you very much for your time today. We will come to an end and go into a very short deliberative as soon as Mr Buckland departs.

Mr BUCKLAND: Thank you very much.

(The witness withdrew.)

The Committee adjourned at 17:02.