

**STANDING COMMITTEE ON  
UNIFORM LEGISLATION AND STATUTES REVIEW**

**Road Traffic (Administration) Bill 2007  
Road Traffic (Vehicles) Bill 2007  
Road Traffic (Authorisation to Drive) Bill 2007  
Road Traffic (Consequential Provisions) Bill 2007  
Road Traffic (Vehicles) (Taxing) Bill 2007**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
WEDNESDAY, 9 APRIL 2008**

**Members**

**Hon Simon O'Brien (Chairman)  
Hon Matthew Benson-Lidholm  
Hon Sheila Mills  
Hon Donna Faragher**

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**Hearing commenced at 10.06 am****MAUGHAN, MR TREVOR**

**Manager, Strategy and Policy, Department for Planning and Infrastructure, sworn and examined:**

**TAMIGI, MR VINCE**

**Project Manager, Compliance and Enforcement Legislation, Department for Planning and Infrastructure, sworn and examined:**

**The CHAIRMAN:** On behalf of the committee, I would like to welcome you to our meeting. Before we begin, I must ask witnesses to take either the oath or affirmation.

[Witnesses took the oath.]

**The CHAIRMAN:** You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

**The Witnesses:** Yes.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants the request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of the public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Would either of you like to make an opening statement to the committee?

**Mr Maughan:** No, I do not think so. We have provided some detailed briefing for the committee in a written format. There is nothing more to add.

**The CHAIRMAN:** On 25 March the committee wrote to the minister seeking information about the relevant intergovernmental agreement and other information. Do you have that information with you?

**Mr Tamigi:** We have copies of it.

**The CHAIRMAN:** We will come to that in due course. Could you please provide an overview of the purpose of this suite of five bills.

**Mr Maughan:** I will commence by looking at the genesis of this legislation. It started back in the early 1990s. It was really a national attempt to provide a number of things with respect to heavy vehicle operation. The first and most important thing was to provide a level playing field for people operating within that industry. There was much anecdotal evidence at the time of individual operators, predominantly small businessmen, being forced by large multinational corporations to commit criminal offences on the road in order to meet unrealistic time lines, carry extra freight capacity and what have you. This was leading very much to what used to be called the road jockeys, who would overload to get reasonable rates and drive excessively long hours at high speed to go

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from point A to point B. This was identified as a real issue. The problem was that unless you could go back beyond the driver to the person who actually caused the offence, there was no real way of addressing it. The driver or the small operator was the bunny who took all the risk, and the large corporation stayed behind the bail. This was an attempt to try to do that. The compliance enforcement legislation was about that levelling of the field, about going back and ensuring that those who cause the commission of the offence are the people who are held responsible for that offence.

That is the policy basis that started this whole suite of legislation nationally. It was about improving compliance rates within the heavy vehicle operations industry. As I said, that legislation took a long time to be developed. It started in the early 1990s. It seems like a lifetime ago now. There was much debate and much involvement at all levels. Industry was involved and farming industries were involved. There were extensive negotiations along the way. The Australian Trucking Association was represented on the legislation advisory panel, on which I sat, which developed most of this legislative framework, as was the Farmers Federation and others. It really was a very inclusive model. Hence, it took from 1990 until 2003 when the legislation was finally signed off by ministers, with an anticipated introductory date of 2005.

In looking at the legislation, it was originally thought that this will be easy, we will take parts of the national compliance and enforcement legislation and put it in the existing Road Traffic Act. On the advice of Parliamentary Counsel, that was not a very clever idea. It became apparent that the more we went into it, there was a need to separate the Road Traffic Act into its component parts. This has presented us with a lot more work than we ever intended to do with it but in the end it will be a far better structure for legislation in Western Australia. Amongst other things, it will allow incoming governments to determine where things should sit administratively within departments and which ministers should have responsibility for particular pieces of legislation. It gives governments a lot more flexibility but that was never the main intent. The main intent was always the implementation of the C & E bill.

**Mr Tamigi:** I have nothing further to add; that was pretty conclusive.

**The CHAIRMAN:** I noticed you brought what I assume are briefing materials with you.

**Mr Tamigi:** Unfortunately, I have not. I did not believe it was sought by the committee. We are effectively here to assist the committee in understanding the proposed legislation.

**The CHAIRMAN:** You mentioned earlier a briefing paper provided to the committee.

**Mr Tamigi:** The paper I referred to was the response that the minister provided to this letter from this committee dated early March. That was in response to a number of questions asked by the committee.

**The CHAIRMAN:** Is that my letter of 25 March?

**Mr Tamigi:** Yes.

**The CHAIRMAN:** I do not know whether we have received that yet.

**Mr Tamigi:** I have copies of the documents that were provided that I am happy to hand out. The letter was signed by Minister MacTiernan but I do not have a copy of that. I am more than happy for them to be tabled.

[10.15 am]

**The CHAIRMAN:** Is that four sets? It is just the one set.

The documents that have just been provided, which we will note as tabled, are an unsigned letter from the minister to myself, reference 02-039737, responding to my letter of 25 March, as a cover for other enclosures. They include a three-page response to the several questions asked. There is also a copy of a briefing note to the Minister for Planning and Infrastructure, ministerial reference

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02-039737 entitled “Request for Information by the Uniform Legislation and Review Committee on the Compliance and Enforcement Road Traffic Bills”.

**Mr Maughan:** Mr Chairman, in respect of that document, I did not realise it was in the package that was handed. I am a bit perturbed about the appropriateness of me tabling a copy of a briefing note that I am not even sure the minister has seen. I do not think there is anything in it —

**The CHAIRMAN:** This is just an internal document. That last item—the briefing note—I will actually return to the witnesses.

The next enclosure tabled is headed “Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport”. There is a document headed “National Road Transport Commission — Road Transport Reform Compliance and Enforcement Bill Regulatory Impact Statement approved by the Australian Transport Council 3 November 2003”. The final document is also under the heading “National Road Transport Commission — Compliance and Enforcement Mass Dimension and Load Restraint Approved Policy Proposal November 2000”. Those documents are taken as tabled and we will examine those separately.

Can I ask, either Mr Tamigi or Mr Maughan, if you could just give an overview for the record of the bills that are in the package, or the suite of bills, and what each of them purports to do?

**Mr Tamigi:** As Mr Maughan mentioned earlier in his address, to facilitate C & E we have had to effectively restructure the Road Traffic Act to do so and, as a result, there have been five bills created. The first bill is the Road Traffic (Administration) Bill, which, in summary, incorporates the administrative-type issues as to delegated authority to the Commissioner of Police and the Director General of Planning and Infrastructure as to responsibilities. It provides general administrative-type issues in relation to delegations and it also provides for overarching powers of enforcement officers. “Enforcement officers” covers people like police officers and wardens who are appointed via delegation to enforce various parts of road traffic law. In the case of mass dimension, that would pick up the Main Roads inspectors who are appointed and given powers to stop vehicles and associated powers necessary to do so. It also provides for general sanctions and court-imposed provisions; provisions for the taking of evidence by way of averments and certificates, which currently exist in the Road Traffic Act, and it provides for new provisions from the model bill ranging from reciprocal powers of officers in two states enforcing similar provisions. It also ranges from the powers of inspection and search—which have been brought in from the model provisions—other powers dealing with directions that inspectors will now have as part of this reform. It also covers administrative-type issues about warrants per se—the nature of warrants and all that sort of thing. It is all effectively the supporting material required to enforce the offences under the road laws that have been amalgamated. It also provides other provisions that are simply being moved from the existing Road Traffic Act to the Administration Act; for example, provisions dealing with infringements. The existing provision has not changed, but the advice from parliamentary counsel was that, given the nature of it, that it fit better in the Administration Bill.

The next bill is the Road Traffic (Vehicles) Bill. Effectively, that bill consolidates all existing matters under road traffic dealing with licensing of vehicles, specifications, and a raft of those sort of administrative-type issues. It also brings in the other part of the compliance and enforcement reforms dealing with offences per se, the structure of the liability of people in the transport chain, as has been touched on. It further brings in the new concept of categories of breaches, which have been brought in from the model provision, and other aspects of the model provision dealing with sanctions and touching on matters like container weight declarations which have been brought in from other provisions. I must just say that as a raw statement, the model provision, or the model bill—the compliance and enforcement bill—effectively has been broken up between the vehicles bill and the administration bill. There are three other bills that I will speak about, but effectively, for the purposes of new legislation, if I can call it that, that is being introduced, it sits within those two bills. I can provide the committee, if required, with marked-up copies of those two bills which

makes it actually easier to identify which provisions are effectively new and identifying those that simply had been moved to facilitate the introduction of the compliance and enforcement reforms.

**The CHAIRMAN:** Before you go on, I think that might be useful advice to have, if you could provide two marked-up bills.

**Mr Tamigi:** I unfortunately do not have copies today, but I am more than happy to do so at a later date.

**The CHAIRMAN:** You can take that on notice and provide those subsequently; that would be appreciated. Please go on.

**Mr Tamigi:** The third bill is the Road Traffic (Authorisation to Drive) Bill. Effectively this bill consolidates all matters dealing with authorities to drive, ranging from the driver's licence to the learner's permit and all other associated issues. As mentioned previously, this does not contain any new provisions from the model bill, but effectively just consolidates all existing provisions and provides a better structure as to consolidating all the various provisions under one act. It also deals with the existing provisions dealing with administrative-type issues, dealing with consequences of disqualifications and so forth.

**The CHAIRMAN:** With respect to that bill, are the provisions simply transferred directly from existing legislation—I think the term we would normally use is “cut and paste”—or are they reworded and redrafted?

**Mr Tamigi:** Just to qualify that—I used the term that it simply moves provisions from the current Road Traffic Act to this new bill. It should be noted there are provisions in this bill that are contained in the Road Traffic Amendment Act 2006 which effectively has been assented to, but has not been proclaimed. Just to clarify, it actually incorporates legislation that has been assented to, but in parts it may not appear in the Road Traffic Act as we speak now. To further clarify your question, by and large, the provisions have been replicated. For example, division 3, clause 25 effectively mirrors the existing longstanding ability for courts to issue extraordinary licences.

[10.25 am]

**Hon SHEILA MILLS:** I wish to ask a question before I go. I am assuming that the TWU was consulted on this legislation.

**Mr Maughan:** The TWU was consulted. In fact, there was a member of the TWU on the committee at various stages of development of the policy.

**Hon SHEILA MILLS:** It had no problems?

**Mr Maughan:** The only problem that had been expressed to me was the delay in introduction.

**The CHAIRMAN:** Mr Tamigi, I refer to clause 25 of this bill, entitled “Terms used in this Division”. The explanatory memorandum states —

This clause replicates the substance of section 76 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause creates the definitions of “application” and “special applications” for the purposes of clauses 27 to 37 (inclusive).

If we use this as an example, is this a direct take from the Road Traffic Act 1974 or has it been reworded?

**Mr Tamigi:** As the explanatory memorandum indicates, it replicates the policy. Nothing has changed in this provision. In the course of Parliamentary Counsel's re-visit of this provision, it has effectively broken up the provisions into more clauses to make it a more useable document. If one looks at this clause and looks at section 76 of the Road Traffic Act, on first glance, one would say that these two provisions are completely different. If one looks closer, the policy and provisions

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have not changed. Parliamentary Counsel has restructured the clause and made it a separate division. It has done so to improve the legislation. There have been no changes. That concept applies in other parts of the legislation. As I reiterate, the policy has not changed. The clauses may look different but whatever is in the current Road Traffic Act has simply been replicated. PCO is part of the general process. There is an obligation on them to make sure the legislation is current and it is appropriate for the time that it has been put forward.

**The CHAIRMAN:** I think there are a very large number of clauses that actually replicate the substance of existing legislation.

**Mr Tamigi:** Yes, that is correct. I do not have the exact number but as part of this disaggregation of the Road Traffic Act to these new bills, in some cases there are more clauses in the new bill than there are in the existing Road Traffic Act but that is simply done more for operational purposes and to make it clear for the purposes of interpreting the various parts of it.

**The CHAIRMAN:** Do you have any further comments on the authorisation to drive bill?

**Mr Maughan:** Just one thing. We have been very careful to not change the bill in any substantive form. One of the major concerns that we had when we looked at this was the vast amount of case law that has been developed in Western Australian courts and nationally over a long period. We did not want to bring in new provisions that would interfere with that case law situation and maybe adversely affect the police service. We were very careful to make sure the substance of the provisions and, wherever possible, that consistency was maintained. There will be changes in all these bills. For example, we can no longer refer to provisions in the existing act when those provisions now sit in another act. Those cosmetic changes need to be made to make sense of the legislative structure.

**Mr Tamigi:** The first of the remaining two bills is the Road Traffic (Consequential Provisions) Bill 2007. As its title suggests, it effectively provides all the consequential amendments to the Road Traffic Act that have been moved and all other acts in the state that reference the Road Traffic Act. It is quite large. Effectively, the concept of road traffic licensing of vehicles is quite generic and used frequently in other acts. That is why there are such a large number. As Trevor said, these are simply cosmetic changes that have been made to make sure that the correct references continue to operate.

Finally, the last bill of the suite is the Road Traffic (Vehicles) (Taxing) Bill 2007. This bill effectively replaces the existing Road Traffic (Vehicles) (Taxing) Bill 2001. This bill needed to be republished primarily because the matters dealing with the issue of vehicle licences are being moved from the Road Traffic Act to the new vehicles bill. It had to be republished to continue the current practice of allowing for registration fees to be issued beyond the cost recovery of issuing a licence. As explained in the explanatory memorandum, that is effectively to fund infrastructure projects for the state.

**The CHAIRMAN:** We note that there is one effective clause in that bill that reads —

To the extent that any charge that the regulations prescribed under the *Road Traffic (Vehicles) Act 2007* section 7(3) may be a tax, this Act imposes the charge.

Apart from the obvious reference to the other act, is that a direct replication of the current situation under the 2001 act?

**Mr Maughan:** Yes. That followed undertakings given to the Joint Standing Committee on Delegated Legislation to pass the taxing bill to validate that.

**The CHAIRMAN:** What sorts of charges would be applied under the Road Traffic (Vehicles) Act 2007?

**Mr Maughan:** The charges that are applied are the vehicle licensing fees, which are fees charged for the use of the vehicle. I will do a two-minute scan of what is contained in the vehicle renewal

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form that we all get. There is a component at the top called the vehicle licence fee. That fee is hypothecated under the Road Traffic Act as it exists now to the Main Roads trust fund. That hypothecation is to pay for the development and maintenance of road infrastructure. Then you have a fee for third party insurance and then you have the recording fee, which is the actual fee to recover the cost of issuing the licence, maintaining the database and all that. In a very theoretical legalistic term, “licence fee” is probably the wrong terminology. It is actually a tax for the purposes of constructing and maintaining road infrastructure. Following that advice, we passed this piece of legislation. They are the only fees that are covered within that, the actual licence fee. It does not cover anything else.

**The CHAIRMAN:** Does the licence fee apply to all forms of road vehicles that are licensed—cars, trucks?

**Mr Maughan:** All of those, with the exception of certain vehicles that are exempt from the licence fee. Those are local government vehicles, government vehicles, ambulances, fire brigade trucks and that sort of thing. A fee is applied to any vehicle that is required to be licensed.

**The CHAIRMAN:** What is the formula used to decide what that licence fee will be?

**Mr Maughan:** I am afraid I cannot help. Those fees are determined by Main Roads and Treasury.

**The CHAIRMAN:** Are you able to advise the committee of other inquiries you might have about that matter such as the quantum collected and so on or would you refer us to those other agencies?

**Mr Maughan:** I would have to refer you to the other agency. There are about 1.8 million registered vehicles in Western Australia but past that, as to the quantum for each of the components of the fee, I am afraid I cannot help you.

[10.35 am]

**The CHAIRMAN:** The sort of things we would be wanting to look at with direct regard to this taxing power of course is how it relates to the uses that it is applied to.

**Mr Maughan:** The expenditure on road infrastructure—I can tell the committee that the expenditure on infrastructure through Main Roads is far in excess of what is collected here, but the extent of that I could not help.

**The CHAIRMAN:** Mr Maughan, is it also a true observation generally that the fee applied for heavy vehicles is proportionately considerably greater than, say, for a family-size passenger vehicle?

**Mr Maughan:** Two things—the fee in respect of light vehicles is determined by each jurisdiction to reflect the amount or to recompense some of the effects of damage to road infrastructure. Heavy vehicles are determined nationally in accordance with an intergovernmental agreement and they likewise are intended to be struck at a level to reflect the degree of road damage caused by those operations. How those fees are determined, I cannot comment on; I am not party to that. However, a regulatory impact study is presented each year to justify those fee increases.

**The CHAIRMAN:** We will make inquiries in other quarters then.

**Mr Maughan:** The National Transport Commission are the people who could best answer that. We are happy to provide, through our wider departmental contacts, any assistance the committee may need.

Mr Tamigi being Mr Tamigi has some of the figures which may help the committee. Licence fees in 2006 and 2007 were \$370.5 million out of a total collection for vehicle licences of \$1.215 billion. So \$370.5 million was the fees that were the subject of that taxing power. The Mandurah bypass I think is in the vicinity of \$500 million, so it gives you some idea of the state’s contribution to that bypass. That includes both light and heavy vehicles.

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**The CHAIRMAN:** We might still seek some further information, but time will prevent us from doing that now. The committee has been made aware of some industry concern about a number of measures in the legislation. One of those is a provision whereby a public officer may order a driver to leave a vehicle on the grounds of the driver's unfitness to drive. The question that is raised is: are there any measures or any recognition of the need to secure and protect the valuable loads on that vehicle and the vehicle itself, if a driver is directed to leave it?

**Mr Tamigi:** The power to order drivers to leave has been brought in from the model provisions and my understanding is because these provisions are similar to a lot of other states, they are enforced by non-police personnel who have been given authority. In the context of the legislation, it is designed to deal with where you have a person who has been pulled over, is uncooperative for whatever reason, the officers need to be able to gain access to the vehicle to run the vehicle's engine and to either weigh or move the vehicle to see whether it is compliant. It is to address the situation where you have a person in the driver's seat who, for whatever reason, is reluctant to comply with the directions or is reluctant to, on his own accord, leave the vehicle. It provides that mechanism where officers can invoke these powers ultimately for the purposes to see whether the vehicle is complying or not. Police officers have other powers under other legislation but, as I said, these appointed wardens or authorised officers, do not have those similar powers; for example, hindering police as part of their investigation. So this provision from my understanding—and Mr Maughan may qualify that from the policy—was to address that situation arising.

**The CHAIRMAN:** Mr Maughan, did you have anything to add?

**Mr Maughan:** That is basically as I understand my recollection of the debate. It was very much about providing the total context in which the inspectors could operate, that would not abrogate a duty of care to ensure the safety of the vehicle or the load. That will remain, but it was to encompass those situations where there was a degree of incapacity or unwillingness to comply with directions.

**The CHAIRMAN:** It is not the intent of the legislation, or any provision, that loads or valuable vehicles be left unattended?

**Mr Maughan:** Never has been and never will be in this state, Mr Chairman.

**Hon DONNA FARAGHER:** With respect to the vehicle or the livestock that might be on there, what would be the requirements that would be placed by the public officer to ensure that the valuables were looked after?

**Mr Maughan:** Let us take two scenarios. The legislation will not allow a public officer other than a police officer to remove a person. The person cannot be apprehended or taken into custody by the inspector, so that the person can remain with the vehicle. In any respect the position would be that the enforcement agency would be expected to contact the owner of the property and say, "We have a situation here"—as they currently do—"this vehicle is grounded, or this vehicle is this, that or something else. You need to send somebody." The custody of the vehicle would be retained until alternative arrangements were made. The same with stock—there is no intention ever to leave a truck stranded at the side of the road with stock on it in 40-degree temperatures. In fact, there are provisions in the act

**Hon DONNA FARAGHER:** It is just helpful in terms of knowing the possible scenarios and how you would deal with it.

**Mr Tamigi:** With the stock scenario, the Animal Welfare Act also places obligations on various parties and my understanding is that the inspectors would have an obligation to a degree to make sure—as Mr Maughan has highlighted—not to simply leave the welfare of the animals on vehicles in jeopardy. Just to clarify: the legislation also provides ability for inspectors—although they may direct a person to leave a vehicle—to then go back in. My understanding is that that is designed for issues of obtaining food that may be in the vehicle, or mobile phones. Again, there are mechanisms

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in the legislation that enables officers to take into account all those facets of making sure the vehicle is not left in a situation where it is vulnerable to damage or theft.

**Hon MATT BENSON-LIDHOLM:** Does that give officers the power in some instances to actually physically drive or move that particular vehicle away, given that sometimes apprehension, for want of a better word, may well occur in a place like Eucla, where in terms of contacting the owner of the stock or the vehicle, the capacity for them to be there is limited? I will go back to the question: does that then entitle officers to actually physically move that vehicle?

**Mr Tamigi:** I believe it does. I cannot find any specifics. The concept is that the reason why officers need to effectively drive vehicles is predominantly, as I mentioned earlier, to determine whether they are compliant or not. The most simple example is Main Roads inspectors use portable scales to determine the weight and effectively the only way they can do it is to drive the vehicle onto the scales. So there is a need to do that. There is also a need to make sure the engine is running, to be able to make sure that the vehicle braking systems and other associated mechanical parts are working correctly. The legislation allows, in part, for vehicles to be moved to avoid danger or risk. I will give you an example of a vehicle that is stopped, it is too wide, and there is a risk to other road users. If the driver is unsuitable or unfit to drive, I believe there is a capacity for the inspector to move that vehicle; the same way police have that general power. In the scenario of the livestock, if the officer is making an assessment that the driver is unfit because of matters that are highlighted—they would, in the normal course, ring the operator and try to make some arrangements. Obviously, their aim is not to leave people high and dry. Vehicles may have a defect but the legislation provides that latitude to provide those remedies if needed.

[10.45 am]

**The CHAIRMAN:** If the driver of a three or four-trailer road train in the Kimberley has to go off a road train route or an RAV-designated route to access the cargo that he has to pick up, possibly livestock, I understand that he would have to break down his vehicle and take one trailer at a time to a station, for example, leaving another trailer or trailers outside on the RAV route. That is the current practice that is prescribed by Main Roads.

**Mr Tamigi:** Exactly. That comes from Main Roads' access to road networks. As you quite rightly point out, it is common practice for trailers of those multi combination vehicles to be left on the side of a road because they cannot enter certain roads because of their size. It happens. We have road train assembly areas in various parts of the metropolitan area. It is common practice for trailers to be left. The point is that this is not bringing in anything new. Those issues are already catered for by industry, and it is widely accepted that those things happen as part of day-to-day transport.

**The CHAIRMAN:** Might you have a trailer loaded with stock left on the side of the road in the Kimberley?

**Mr Tamigi:** With stock, I understand that in a lot of respects they are given a bit more latitude because of the cargo they are carrying. They probably would have access in some aspects greater than general cargo because of welfare of the animal issues. I am not aware of any issues that have come up recently about livestock. As far as I know, livestock have been transported for a number of years now.

**The CHAIRMAN:** A common concern expressed by industry relates to breaches for failure to observe mass dimensional loading requirements in the legislation. I think that has already been brought to your attention. Industry is particularly concerned that no margin for error is allowed when hauling bulk commodities such as mineral ores, grain or sand. What consideration was given to that question in the framing of the policy and the drafting of the legislation?

**Mr Maughan:** A lot of consideration and a lot of debate. There is no doubt that some elements of industry wanted some sort of tolerances provided and that sort of thing. The evidence showed that when those jurisdictions provided the tolerances for error, the operators loaded it to the maximum

of the tolerance—surprise, surprise—because that meant they could get another half tonne or another tonne on. Even though they know they are committing the offence, they are getting some return. The whole concept of the legislation was to take out the profitability for the operators to knowingly overload their vehicles. If we do not do that, we end up with an unlevel playing field where the legitimate operator is forced to load to the maximum of the tolerances. Very clearly, the policy position was that the law is the law so that is the amount operators are allowed to carry. People were not silly either. They said that there would be instances where, because of one thing or another, they cannot get to that. That is why there is the mass —

**Mr Tamigi:** It is called the mass management, or measurement adjustment, scheme. It was adopted nationally. Effectively, the states have come to an agreement or acknowledgement that it is not always ideal to weigh vehicles on the side of the road or in truck bays. There is an agreed position throughout the states that if those situations occur, some adjustments be made to the final readings. I have a copy of a document published on the Main Roads website that reiterates that concept. Effectively, a vehicle is stopped. The legal weight on a certain axle may be 20 tonnes but it is found to be 22 tonnes. Current practice is that that vehicle is weighed in a certain location, which is demonstrated. All enforcement officers throughout the jurisdictions have to take certain measurements off that calculation, which is to acknowledge that the sites are not always the best. Once they do that, they end up with a figure and that is the basis from which they go back to the prescribed limits and say “Okay, you may have been 22 tonnes.” I do not know the exact figures myself but if we say half a tonne is the measurement adjustment, they then work out that the vehicle is one and a half tonne over the prescribed limit and then sanctions and actions will flow from that. That is the current position and has been for some time.

**The CHAIRMAN:** How reasonable is it to expect a farmer, for example, loading a truck with grain to accurately gauge how much he has on board the vehicle?

**Mr Tamigi:** The actual limits are not changing. There has been a perception in industry in the presentations that I have done that all the limits are changing. The limits are not changing. If you overload by one tonne today and you overload by one tonne when the C & E legislation comes in, you are still committing an offence. The legislation tries to create a greater liability on other people in the chain. Going back to the issue of the farmer, yes, I acknowledge that there are issues that have variables on the weight of grain, whether it is the type of grain, moisture content and so forth. Farmers have had to live with those variables for some time, such as whether their truck can carry 20 tonne. That will still continue.

What we have found from advice from Main Roads, which was mentioned in the house by Hon Alannah MacTiernan, is that CBH is running a mass management scheme in preparation for the C & E because the new legislation places certain obligations on it as the receiver. I do not have the figures with me but effectively over the last two grain seasons CBH had a system in place where it turned away trucks that were over the mass requirements. Main Roads has detected a downturn in the frequency of overloaded vehicles. The reason I make that comment is that they can load correctly if they want to. It is a case of what is the desire to do so? Yes, whilst there is acknowledgement that the farmers may have those problems, those factors are in place now. The measurements and adjustments that we have talked about acknowledges that. Vehicles are weighed in certain locations and some adjustments need to be made to take that into account. The general status quo on working out the mathematics of whether a person has committed an offence is not changing.

**The CHAIRMAN:** I will have to interrupt there. It is now five to eleven. There is another committee and another hearing in this room involving one of our members, which will deny us a quorum. I will have to adjourn this hearing for now. We will reconvene at a date and time yet to be determined. For this morning, I would like to thank our witnesses for their assistance. We will be in

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contact to see if we need to come back again. In the meantime, we will also digest the information. I bid you all a good morning.

**Hearing concluded at 10.54 am**

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