REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE

INQUIRY INTO REVIEW OF THE ELECTRIC VEHICLES (REVENUE ARRANGEMENTS) ACT 2021

UNCORRECTED

At Macquarie Room, Parliament House, Sydney, on Wednesday 17 June 2026

The Committee met at 10:00.

PRESENT

The Hon. Abigail Boyd (Chair)

The Hon. Mark Buttigieg
The Hon. Scott Farlow (Deputy Chair)
The Hon. Dr Sarah Kaine
The Hon. Sarah Mitchell

The CHAIR: Welcome to the first hearing of the Committee's review of the Electric Vehicles (Revenue Arrangements) Act 2021. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today or watching us online. My name is Abigail Boyd and I am Chair of this Committee.

I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants, and I encourage Committee members and witnesses to be mindful of these procedures.

Professor Emerita ANNE TWOMEY, Professor of Constitutional Law, and Director, Constitutional Reform Unit, University of Sydney Law School, sworn and examined

Associate Professor LAEL WEIS, Associate Professor, Melbourne Law School, University of Melbourne, affirmed and examined

The CHAIR: I welcome our first panel of witnesses. Thank you very much for taking the time to give evidence this morning. Would either of you like to make an opening statement?

ANNE TWOMEY: Given that I haven't made a submission, I thought I should probably say something so that people have an idea of where I'm coming from. I should also note, by the way, that I've got a bad frog in my throat, so if you hear various throat clearings, it's not significant of anything. It's not a passive aggressive reference to anything; I've simply got a bad throat. I thank the Committee today for the opportunity to speak about the Electric Vehicles (Revenue Arrangements) Act. While the Act has commenced, it's not operative, as you would know, until the earlier date of 1 July 2027 or when the Minister is satisfied that the sales of battery electric vehicles will be 30 per cent of new vehicle sales—so it hasn't become operative yet.

As the Committee is also aware, the Act was enacted before the High Court's judgement in the Vanderstock case in 2023, which struck down an equivalent statute in Victoria on the grounds that it was an excise and therefore breached section 90 of the Commonwealth Constitution. The High Court's judgement in Vanderstock is a 4-3 split judgement with very strong minority judgements. The majority judgements have been widely criticised as wrong on a number of levels. They've been panned by economists, by tax lawyers and by constitutional lawyers. They defy long-established precedents, they defy constitutional history and they defy logic. They create enormous uncertainty. All up, the result is a complete mess of the court's making.

On the basis of the precedent in Vanderstock, this New South Wales law, if it becomes operative, would be struck down as invalid if challenged on the grounds of it being an excise. This would be because, according to the majority in Vanderstock, it would depress demand for electric vehicles. However, the person buying a vehicle would be aware that they would pay much less in running an EV than they would pay for running the only other practical alternative, being a petrol or diesel vehicle. So, in reality, the charge would not depress demand. It would only do so in the theoretical world imagined by the majority in Vanderstock.

According to that majority, somehow this alleged depressing of demand for buying a good would magically turn this law into an excise. Clearly, in my view, it doesn't, but this is the flawed reasoning that lawyers are going to have to grapple with in future litigation on this issue until such time as the judgement is overturned. However, since the judgement was handed down, one of the majority has retired, and that means that the current position in the High Court is a 3-3 split with a new justice who would hold, effectively, the deciding position. Given the level of criticism of the Vanderstock judgement, its illogical reasoning, the absence of any reliance upon it and the deep uncertainty that it's caused, there would be good grounds for arguing that it should be overturned.

If one were to go down that route, however, it would be better, in my view, to alter the New South Wales law so that it can be more easily distinguished from the Victorian one, because this would make it much easier for the court to back away from its earlier reasoning. One could, for example, alter the focus of the law so that it's not a tax upon the consumption or usage of vehicles, but rather a payment for the repair of roads and bridges based upon the damage caused to them by a vehicle, calculated by reference to its weight and other factors that cause damage to roads. The money could be hypothecated to road and bridge maintenance, with some of it also going to EV-charging infrastructure to encourage greater uptake of electric vehicles.

But I imagine that what's really going on in the background here—and I have no knowledge of this, but this is what I'm assuming is happening—is that there are intergovernmental negotiations for the enactment of a nationwide Commonwealth road user tax, which would apply to all vehicles. This would be more equitable because it would apply to all vehicles that damage roads, regardless of the energy source, and it would entail the removal of petrol and diesel taxes. The problem is that the effect of the Vanderstock case, in pushing this kind of tax into the hands of the Commonwealth and away from the States, will most likely be that the revenue will not all flow back to the States to ensure that roads and bridges are properly repaired.

The other problem is that, given the current problems with fuel supply, no government is going to want to embark on tax reform in this area at the moment, even if it does make things fairer. Hence, there is likely to be a significant delay pushing any reform past 1 July 2027, which is obviously a problem for this law. My assumption, therefore, is that this New South Wales law will not come into operation in its current form, and that the Commonwealth will delay national tax reform in this area. The consequence will be that the significant backlog in repairing roads and bridges in New South Wales will become greater until something catastrophic occurs. Then there will be demands for a royal commission to investigate why things were not done earlier—and we're at "earlier", so we should probably be considering it now.

LAEL WEIS: I'm appearing in my capacity as an expert on constitutional law, and specifically issues related to section 90 of the Constitution, the High Court's 2023 decision in Vanderstock, and possible implications of that decision for this Act. I thought it would be helpful to begin with a brief overview of that constitutional context, and then I will briefly address each term of reference. Time permitting, I have also prepared some comments on alternative options that the Committee may wish to consider. Prior to Vanderstock, it was assumed that taxes on goods past the point of sale—taxes on the use or consumption of goods—were not an excise. On this assumption, Victoria's zero and low emissions vehicle charge would have been valid. It was a tax on the use of a good: driving these vehicles on public roads, calculated based on the kilometres that were driven.

But, by a majority, the High Court held that an excise is any inland tax on a good, regardless of what stage in the life cycle of the good the tax is imposed. On that basis, the charge was found to be invalid. The resulting view of section 90 from Vanderstock—the key upshot of that case, for the purpose of this Committee, is that section 90 gives the Commonwealth exclusive control over the taxation of goods. Turning to the terms of reference, the first question is whether the policy objectives of the Act remain valid. The Act, by its terms, has a broadly revenue-raising purpose, which suggests that the charge is a tax. This is confirmed by the second reading speeches, which—again, emphasis is placed on revenue raising for the purpose of supporting road infrastructure and providing a more efficient form of tax to support funding road infrastructure than, for example, stamp duty.

There's nothing invalid about this. Revenue raising to support road infrastructure is a constitutionally valid purpose. The issue is whether the means of advancing this revenue-raising purpose are valid. Is it a tax on goods? This goes to the second question in the terms of reference, which is the terms of the Act question. This has been framed as a question about whether the means are appropriate to the policy objective, but this is really a question of validity. The Act's current method of calculating the charge is distance based, calculated based on kilometres driven on public roads. Given the similarity of this method of calculating the charge to Victoria's charge in the Vanderstock case and the breadth of the ruling in that decision, I agree with Professor Twomey that it's very likely to be characterised as an excise and therefore found to be invalid. However, as I mentioned at the outset, there are other options that you might wish to consider to potentially avoid invalidity, but I do want to be guided by your questions and whatever is most helpful for this inquiry, so I'll go ahead and stop there.

The CHAIR: Those introductory statements are really good for setting the scene for this discussion. Thankfully, we do have an hour with you, so I will try not to hog all of the questions, but I will start. What we have in New South Wales is a government that is budgeting for this tax to come in from 2027. When I've asked the Treasurer about this, they are basically saying that they're going to push ahead, regardless of the Vanderstock case and the uncertainty, which seems quite punchy to me. I guess there's a couple of options here for them. One is just going ahead with it and waiting for someone to take them to the High Court again.

ANNE TWOMEY: Which will probably happen pretty quickly.

The CHAIR: Yes. The other, I guess, is trying to adjust the legislation to make it more likely that when they bring it in, it's not held to be invalid. Is there a third option? This is probably a silly question from your perspective but is it possible for the Government itself to bring a test case to the High Court and try to get clarity on this issue?

ANNE TWOMEY: It can't do it to the extent that it's trying to get an advisory opinion, so it has to be a real case. I don't know; it would be quite difficult to challenge your own legislation. Look, the reality is that people who would oppose this tax—organisations et cetera—are well resourced enough to bring the litigation, if they want to. I would imagine that litigation would happen pretty quickly if this legislation came into effect. It will happen anyway. I don't think they'd need to do that.

The CHAIR: That's very useful. Then we do just have the two options: You either take it as it currently is, or you try to make some changes to make it sufficiently different to Victoria's tax.

LAEL WEIS: Correct—or, I guess, the third option is you scrap it entirely.

The CHAIR: The third option is you scrap it, yes. Professor Twomey, you were talking about potential changes—that instead of distance based, you could have it based on the cost externalities of driving the vehicles or the weight. Some of the submissions have suggested it should also include things like the environmental and health costs of that particular vehicle and other externalities, whatever it happens to be. Both of you also mentioned this kind of revenue-raising purpose of hypothecation. I understand that the hypothecation idea, at least at a Federal level, is a bit of a miss in that it does just go into general revenue.

ANNE TWOMEY: Indeed. In fact, they can't hypothecate at the Commonwealth level. It's not permitted because of the Constitution. New South Wales is different because we can do that.

The CHAIR: Is that critical then in terms of, if that change was to be made for it to be weight based or, even if it's not, is that a critical feature that this actually has to be hypothecated for revenue-raising purposes in New South Wales, or does it not matter?

ANNE TWOMEY: I think it'd be more a case of just adding little extra layers to try to support your argument, so to say that what we're actually doing here is to say if you are arguing that we're not taxing a good, it doesn't relate to the good of the car, what we're actually trying to do is to charge people for the effects of what they're doing—charging them for damage of roads, the environment, all those sorts of things. We want to get it away from being the vehicle itself. Then if you say, "Well, we're doing this to have the money to repair the roads", whatever hypothecation will show—at least give an indication that that is precisely what this is about. This is a charge for the purposes of fixing the roads. The money gets hypothecated for that purpose. It adds to the—

The CHAIR: It just makes it neater.

ANNE TWOMEY: Yes. Having said that, I haven't gone back to check—and Lael might know—was the Victorian one actually hypothecated or not?

LAEL WEIS: It was not, to my knowledge. To add to what Professor Twomey has said, it's important to understand that an excise is an inland tax on goods. For a charge to be an excise, it has to be a tax, then the tax has to be on goods. One of the core features of a tax is that it has a revenue-raising character. In reality, most taxes have a regulatory function in addition to that revenue-raising function, but that's the primary function. A key indicium of whether a given charge has this revenue-raising objective is whether it goes into consolidated revenue. But it's one factor among others; it's not determinative. I do think it's important to note the tax issue is an issue that was not raised in the Vanderstock case. It was conceded that the ZLEV charge was a tax. The High Court did not consider that aspect of the charge in the Vanderstock case.

The CHAIR: In that case the majority talked about, I understand, the idea of an impost on the—I don't know if that's the right term, but basically over the life of the goods rather than just the initial sale. Professor Twomey, you were quite critical of the judgement. How would that then apply to all of the other things that people have bought that then attract some sort of levy or tax? What other types of State excises—or levies, taxes, whatever you want to call it—would also be at risk if we accept the Vanderstock case?

ANNE TWOMEY: That was raised by a couple of the judges in the minority in that case. Justice Edelman said that there are all sorts of other things that could potentially be affected by this judgement. He gave examples of payroll tax, industrial land tax, inheritance tax, taxes on the sale of a business, taxes on services and fees for licences, because he said that all of those things could affect a market for goods by decreasing demand for them in one way or another. There's a whole lot of stuff here. There's also odd things like taxes on second-hand goods. There's risks, potentially, to some of your other charges in relation to vehicles—your registration charge, for example, stamp duty. Stamp still exists on vehicles, doesn't it?

LAEL WEIS: It does.

ANNE TWOMEY: All of those things potentially—it's interesting that none of them have actually been litigated and decided yet, so we don't really know for sure. But the reality is, in practical terms, it doesn't affect the demand for goods because if all vehicles have to be registered then the registration fee is not going to be suppressing demand for the vehicles because you've got no other choice. But that just goes to the whole reason of why the judgement is silly to begin with. You're trying to argue with something that just doesn't make sense to begin with. Ultimately, it would be preferable to overturn it. But, having said that, as you said, it would be a bold move to just rock up to the court and say, "Well, your judgement was rubbish. Have another go." It's been done in a number of cases but, for the most part, that kind of approach does not succeed.

As I said in my opening statement, probably a better way is to try and just shift the focus of the law, because ultimately, in the end, what it is actually intended to do is raise the money that's needed to repair the roads and build the bridges and all those sorts of things. If that's the case, we just need to try and shift it away from this perception that it's about taxing a vehicle and say instead, "No, what it actually is doing is you're paying for the roads." Some roads you pay a toll for because they've been provided by the private sector. But the rest of the roads—they all get damaged too by vehicles. It doesn't matter whether your vehicle is a petrol vehicle or an EV; depending on the weight, they're both doing damage to the road. You could just reconfigure it to say we're paying fees for the usage of the roads to account for the road maintenance, bridges and all the rest of it. If we can just shift the emphasis that way, it would probably give the court some more wriggle room to say, "This is different from Vanderstock. Therefore, we're just putting that to one side and this is okay."

The CHAIR: Is housing good for these purposes? Taxes on housing—would that be part of the capturing of this decision?

ANNE TWOMEY: Not being a tax lawyer, I'd say no.

LAEL WEIS: It's real property.

ANNE TWOMEY: It's real property, so it's land. That's different.

The CHAIR: The new justice—do you have any inkling as to what their decision might be if it was brought to them?

ANNE TWOMEY: The short answer from me is no.

LAEL WEIS: Same.

ANNE TWOMEY: I don't know.

The Hon. SCOTT FARLOW: I'll pick up on that segue, because it does seem to be an approach in New South Wales. We heard at budget estimates that the court has changed, so if anything was brought to the court it is a live decision. With your experience of the High Court, is that a reasonable assumption to make—that it would be a live decision?

ANNE TWOMEY: Yes and no. There's a couple of things going on here. Sometimes if a decision has been made reasonably recently by the High Court and then there is a change in the composition of the court, there is a reluctance to overturn a decision simply on the basis of the change of composition of the court. In fact, in some cases—particularly on the more conservative side—conservative judges have actually changed side to maintain an existing precedent because they support the longevity of precedents and those sorts of things. Sometimes that's the case. Other times, however, a judge has said, "I haven't had my chance to say. My oath is to do justice according to law. This is what I think the law is, and this is why it is this way." Therefore, it will change. It really depends on the circumstances. Sometimes it doesn't work, and occasionally it does. If I was running odds on it, though, it's more common that a court does not like changing a recent decision simply because of a change in composition of the court, but it's not by any means unprecedented.

The Hon. SCOTT FARLOW: The other argument that is run is that there is potentially a difference between the New South Wales regime compared to the Victorian regime, and the court may distinguish from that. Excepting your proposition as to how we could better distinguish, do you see that there is a real distinction between the New South Wales arrangements compared to what existed in Victoria?

ANNE TWOMEY: I'm going to pass this to Lulu, because I think she's looked at them more than I have. I couldn't see an obvious one.

LAEL WEIS: I don't think that they're relevantly different. The person who is liable to pay the charge is the same. The types of vehicles that are susceptible to the charge are the same. The roads that are included, the specified roads—that definition is the very same. I think the fact that it is a distance-based charge would probably, in any event, be sufficient. Given the breadth of the court's ruling, I don't think that there is a relevant difference between the two Acts.

The Hon. SCOTT FARLOW: Associate Professor Weis, Professor Twomey outlined some of the things that she thinks could distinguish the New South Wales regime and potentially have it outside of the Vanderstock decision. Do you concur with those views? Do you have any other alternatives you'd like to suggest to the Committee?

LAEL WEIS: Broadly concurring—as I mentioned before, the tax issue was not considered in Vanderstock. If there were ways to make this fee look less tax-like, so it wasn't about revenue raising but it was, for example—two things that are not considered taxes are licence fees. Those are a fee paid; it's usually a small flat fee for a privilege to do something. Similarly, a fee for service is generally not a tax. That is a charge that is imposed on a cost-recovery basis. That would be the example of some kind of charge based on damage to roads or something like that. Those would be two possibilities that you could consider. I just note, also briefly, that I did a quick search to see whether there were any applications of Vanderstock to road-use fees. I found two cases in Queensland decided by the District Court that considered the application of Vanderstock to road tolls. In both cases the toll was distinguished from the charge that was held to be invalid in Vanderstock on the basis that it was not a tax.

The Hon. SCOTT FARLOW: There's $200 million or so booked in the forward estimates, according to the half-yearly review, from the road user charge. I take your point, Professor Twomey, that if we were to hand this over to the Federal Government, we wouldn't necessarily see all of that revenue back. Do you think it is a better move for the States to go it alone, so to speak, in an ideal world, and to be able to levy their own charge, rather than to have it go to the Federal Government and come back to the States in a system whereby, like the GST, we get 82¢ in the dollar?

ANNE TWOMEY: Yes, as a federalist, I'd much prefer it to be something done at the State level. I think there's a real problem in trying to distinguish EVs from petrol and diesel vehicles, and part of the problem of this is that the petrol and the diesel vehicles—due to a previous High Court judgement in Ha, that ended up with the Commonwealth as an excise. At the moment, you've got a situation where the Commonwealth is taxing there. Not all of the revenue from that comes back to the States, so that's a problem. That revenue is diminishing significantly for two reasons. One is that petrol and diesel vehicles are becoming more efficient so that there's less petrol and diesel being used, which, by the way, is a good thing. Nonetheless, it means that there's less revenue coming. The revenue is diminishing significantly because of that, and it's also because of the growth of electric vehicles. I should say—this might be helpful to the Committee—a few years ago, I was appointed to a committee.

The Hon. SCOTT FARLOW: The Federal Financial Relations Review.

ANNE TWOMEY: That would be the one, yes. The New South Wales Government had a Federal Financial Relations Review committee. We looked at the issue of EV road user charges. We received quite a lot of evidence from different people. The thing that stuck in my mind and one of the reasons I was so agitated by Vanderstock is that, first of all, we have a massive backlog—at least we did then; I'm assuming we still do—in terms of repair of roads and bridges. That can get to a catastrophic level, so that is a really serious problem. We need the revenue to deal with that. The second point that was made to the committee was that the reason for reluctance to buy EVs has got nothing to do with charges on their operation. It's got to do with two things. Initially, it was that the price of buying an EV was much higher. That's beginning to diminish. But the key thing is the ability to charge them when you're travelling distance—the concern that you're going to run out somewhere along the way.

That's why I thought that the Vanderstock case was particularly ironic: On the one hand, you've got the High Court saying that people aren't going to want to buy electric vehicles because they're going to have to pay a small amount, in comparison to the large amount they'd otherwise pay in relation to a petrol vehicle, when part of the revenue—I think for the first three years—was for the purposes of creating the infrastructure for EV charging. So what you actually did was whip out the one thing that would encourage people to get EV vehicles in Victoria. All the money that was going to go to the creation of the infrastructure for charging, which is what would encourage people to get an EV, was knocked out by the High Court. The notion that this judgement was environmentally good and was encouraging people to get EVs—it was, in fact, the complete reverse. It had the opposite effect in Victoria because it meant there was less money for charging infrastructure, which was likely to discourage people from having electric vehicles.

The Hon. SCOTT FARLOW: Does that mean that a distance-based charge that applied to all vehicles wouldn't come under this decision from Vanderstock? Was the idea purely because it was distance based and charged on a particular type of vehicle? If it was a road user charge that applied to everybody equally, based on distance, then that wouldn't have offended the court.

ANNE TWOMEY: It's hard to say because the reasoning is so obscure in the judgement, but it's certainly an argument that one could put. The difficulty with the judgement is that they don't seem to be actually comparing in a market. They just seem to say, "If there's a tax on something, it's going to discourage people from buying it. There's a tendency for this to happen and that's the end of the question." The obvious thing in relation to Vanderstock itself was that, yes, if there's a tax of this much—a small amount, for Hansard. If there's a small tax for an EV and a much larger one on petrol and diesel, then the High Court seems to still think that that's somehow going to discourage people from buying the EV. Manifestly, it won't, if that's what the market is. Sure, someone could say, "Well, because there's a tax on electric vehicles, I'm going to buy a bicycle instead," but it's unlikely.

If you're comparing like with like, you've really only got a choice of the electric vehicle, or some kind of hybrid of that kind, or a petrol or diesel vehicle. If that's the choice, then you would say that, look, frankly, there isn't a difference. You're in the same market, therefore you're not suppressing the value of it. The judgement is mad to begin with, which makes it very, very hard to see how that kind of argument would run. But having said that, if people finally recognise that the judgement was mad to begin with, it would give you a good way out of it because you could just say, "We can put that to one side because, in this case, we're taxing all vehicles regardless of their source of energy. We're doing so in an equitable fashion, and we're doing it for the purpose of fixing the roads. It's not suppressing the value of the goods, and it's being done after the goods have entered into the ownership of the person. Therefore, it's not an excise." That's at least an argument you could run.

LAEL WEIS: Yes, that analysis seems plausible to me. Following Vanderstock, the two touchstones on whether a tax is a tax on goods and therefore an excise—the first has to do with, basically, the connection between the tax and the good as opposed to, for example, some activity related to a step of bringing the good to market or selling it or even using it. The second touchstone is the general tendency of the tax to affect the market for goods. I think what Professor Twomey's comments brought out is that depends on how you characterise the market. If the market is for vehicles and then maybe you have a distance-based charge on all vehicles, that doesn't have an effect on demand. So maybe that's not a market effect, but if the market is defined more broadly—there's a bit of uncertainty about that. It's not a sure case. But I think something that were to tax vehicles across the board as opposed to singling out a particular type of vehicle within that market would be a bit safer, but there's no certainty about that either.

ANNE TWOMEY: Of course, the one problem with doing that, by the way, at the moment is that you've still got the Commonwealth fuel excise. It would be absolutely, devastatingly unfair to petrol and diesel users to be required at the Commonwealth level to pay that excise and then to also pay a road user fee at the same time, which is why the State effectively couldn't do that unless it got agreement for the Commonwealth to drop the fuel and diesel excise.

The CHAIR: So if you had a sort of a highly complex road user charge in New South Wales that applied across the board, but perhaps it—

ANNE TWOMEY: Discounted for petrol.

The CHAIR: That's right, discounted to take into account what was being paid under the Federal tax, but then also potentially included other things like the cost impact of emissions and those sorts of things. Would that still look constitutionally safer if it applied in a different way to different people but across the board, regardless of what kind of vehicle you drove?

LAEL WEIS: I mean, potentially. Again, it's the method of calculation that I think matters here too. Small flat fees are generally not considered to be taxes and therefore cannot be excises. If you were to do something, for example, like increase the registration fee slightly or increase road tolls or something like that—I think once you start calculating based on usage, it starts to look like it's a tax on the consumption or use of a good. Then, also, if you start differentiating between the type of good, it looks like it's going to affect the market for those goods.

The CHAIR: Right. So the danger is in it taxing the usage of the good as opposed to the service of using the road.

LAEL WEIS: Correct, exactly. And licence fees often sit inside a regulatory regime. For example, the registration fees that you pay to drive are attached to driver licences and things like that. They have more of a regulatory kind of character, where the idea is that the revenue that gets generated is put back into the regulatory regime as opposed to going into general State revenue raising.

The CHAIR: If there were different categories of road user charge levying—for example, if you were to introduce perhaps that only commercial users of roads paid a certain road user charge and not residential users, or if you exempted a whole bunch of people who were using their vehicles for primary production uses, does that impact on the character of the fee?

LAEL WEIS: Absolutely. In some ways, that's kind of going more down the fee for a service where you're trying to recover costs for the provision of some type of collective or public good. I think one of the challenges there is that there would actually be a practical difficulty in how you actually calculate what the cost is of providing whatever the relevant collective—so assuming for the sake of argument that the relevant collective or public good is roads within New South Wales, then how do you actually calculate the cost recovery for that and then allocate it between the different types of vehicles that are using it? Or do you broaden cost recovery where it's not just about wear and tear on roads but environmental costs as well? Obviously, the environment is also a type of public good. You can see there are different ways that you might do that. But I do think there are some practical challenges in just kind of figuring out how you calculate that. But that's me speaking as a constitutional lawyer too. That's definitely beyond my expertise as to how you would go about doing that kind of thing.

ANNE TWOMEY: That also came up in the New South Wales Federal finance review. One of the reasons for applying this road user charge in relation to EVs is they all now have the equipment in them to actually be able to calculate and provide that information really easily. If you had someone with a very old petrol vehicle, for example, that doesn't have the equipment in it to provide those sorts of answers, then it is difficult. This kind of road user charge is really more directed at newer vehicles that are capable of easily measuring these sorts of things. That's one of the reasons why distance of travel is used for the purpose because it's just a proxy for damaging roads and all those sorts of things, but it's a measurable proxy. It's much, much harder when you start trying to measure other kinds of things, particularly if the vehicle itself isn't providing you with the answers to it.

The CHAIR: One of the issues that was raised when we first were debating this bill back in 2021 was this idea of—take a user, for instance, who lives in a border town, so say they live in Albury, and they're driving between Victoria and New South Wales on a constant basis. Is it possible for the New South Wales Government to then charge them for the amount of time or for the distance that they're travelling outside of New South Wales? Does that change the character of what this is? Putting aside the logistical difficulties of working out from that individual user how much of it would be Victoria and New South Wales, is it feasible for us just to charge them based on how much they're driving, regardless of which State it's in? Or does that then take us further away again from this idea that it's about the service rather than the usage of the car?

LAEL WEIS: Correct. If it starts encompassing driving on roads generally, as opposed to driving on roads specifically in New South Wales, then the cost recovery argument is a bit harder to make. I agree that those border towns cause a problem. You would have to think of some way of thinking about basically how to ensure that you're only recovering costs from driving on the New South Wales roads to some extent I think, which could be very difficult.

ANNE TWOMEY: I think in practice what they do is it just works on the basis of where the car is registered. If you're in a border town between Victoria and New South Wales and each one has their own road user charging system, it would be ridiculous if you had to deal with both. The New South Wales one certainly—I presume also the Victoria one, but I haven't checked. But the New South Wales one is based on basically where your car is registered. If your car is registered here and you're sort of zipping to and from either side, it sort of is going to work itself out because you don't have to pay the Victorian charge, and it would probably come out evens. That's a pretty rough-and-ready way of doing it, but it's probably the only practical way of doing it.

The CHAIR: But when Victoria doesn't have a charge, if we do have a charge, how does that impact on the characterisation of the road user charge?

ANNE TWOMEY: I think this particular Act says something that it does have extraterritorial operations.

LAEL WEIS: It does, and the Victorian one did as well.

The CHAIR: From a constitutional perspective, and from the Vanderstock debate or discussion, should we be leaning towards trying to exclude that or should we be trying to get—some people are talking about having a GPS tracker that has an exact idea of when you're in the State and when you're not, which brings up a whole bunch of privacy concerns. That's a different issue. Do we need to know that we're not charging people when they're travelling around Australia?

LAEL WEIS: I think from a purely section 90 constitutional point of view, the more that it is just charging for the actual use of roads in New South Wales—and there's some effort that's made to quantify that, acknowledging that it's probably going to be imperfect—would be helpful.

The CHAIR: I understand. So it's okay if there's a little bit of bleed and it's not perfect, as long as it's about charging people who live in the State.

LAEL WEIS: That's right, yes. It goes to the general character of the law. That's the thing the court focuses on. Does this law have the character of a tax? Is it revenue raising or is it just a fee for some type of privilege? Is it a fee that's charged on a cost recovery basis to provide some type of public good? If it is a tax, is it a tax on goods? It's more the general character of the law that is the focus. The fact that it imperfectly does the thing that it's trying to do—it's the general character that it has, not necessarily that it perfectly executes what it is trying to do.

The CHAIR: Understood. That's really useful. The other exemption that I think made its way into this Act was in relation to the primary producer or the farms. The argument at the time was that if you're driving primarily around your own property then that distance is not creating any damage to the roads or you're not using the broader road network for that, and so you shouldn't have to pay.

LAEL WEIS: Yes, there is the same exact exemption in the Victorian Act.

The CHAIR: Which again brings up these issues of how do you actually monitor that.

ANNE TWOMEY: There are practicality issues.

The CHAIR: But that doesn't take away from the character of it.

LAEL WEIS: Correct.

The CHAIR: If we take the suggestion of moving away from distance based and having more based on other issues to do with it, like the weight and the emissions and things—

ANNE TWOMEY: I don't think it's so much a problem with the distance. It's not necessarily the problem of measuring distance itself. That can still be part of the factor, because distance is obviously impact on road. It's not the distance per se. The question is whether what it is that you're charging people for is the repair of the roads that have been damaged by the vehicle, as opposed to the usage of the vehicle. It's trying to distinguish those two things.

LAEL WEIS: The distance based—it's a proxy for calculating the cost of providing that public or collective good.

The Hon. SCOTT FARLOW: So that then is distance and weight.

ANNE TWOMEY: Yes, exactly. The weight is obviously very relevant to that. I was going to say that it's something that's not as well done by petrol and diesel things, but I guess it is, to an extent, because the tax on petrol and diesel is how much you put into your vehicle. That's a proxy for how far you travel. It's also a proxy for how you drive. For example, you might spend more. But it also has a relationship to the weight of the vehicle as well, because the heavier your vehicle, the more petrol or diesel you're going to need. That's why that has been used as a proxy in the past for damage to roads, and you need to be able to do that for EVs as well.

The CHAIR: A lot of people point to heavy trucks as being a flaw in the argument that this is all about repairing roads, because if we were to do that then the amount of damage done by those trucks would require them to have a far greater levy on them.

ANNE TWOMEY: It would.

The Hon. MARK BUTTIGIEG: Just a couple of quick ones. What have other State jurisdictions' attitudes been to all this? I know we've been focusing on Victoria and New South Wales vis-a-vis the High Court ruling, but what are other jurisdictions' commentaries on this?

ANNE TWOMEY: I don't know, personally. I haven't looked. But my understanding is that there have been some intergovernmental negotiations going on to get the Commonwealth to do this anyway, so my guess without any actual knowledge is that most of the other jurisdictions are holding off to see how the intergovernmental negotiations turn out, because if the Commonwealth does take over and impose a road user charge on EVs or impose a road user charge on everybody and gets rid of the fuel excise, then that's going to mean that the States aren't going to be players in it, except to the extent that they can influence how the Commonwealth proposal is developed.

My guess, for what it's worth, is that that's where attention is at the moment because, of course, at the State level, you have the problem of getting over Vanderstock. That's a big problem. Probably, none of the other States want to go it alone on that at the moment. The more obvious solution is to have some kind of an intergovernmental agreement and Commonwealth legislation to give it effect. I think the real issue, though, is at the moment that's probably just not going to happen in the short term because of the politics of the world and the effect on fuel and the cost-of-living crisis and all of the rest of it. The delay in that is going to butt up against this 1 July 2027 date.

The Hon. MARK BUTTIGIEG: So your commentary during your evidence about Vanderstock being crazy—

ANNE TWOMEY: Not him, personally, just the case.

The Hon. MARK BUTTIGIEG: No, the decision being crazy, the High Court being crazy—which is a concern in itself, given that they're governing the land with laws. At some level, then, does it make sense for New South Wales to maintain this legislative approach, given the madness of the decision? I'm wondering what your view is on that.

ANNE TWOMEY: I think it is worth having another go in the High Court to try to get a more sensible or at least a refined version from them. Now they've seen the criticism, it might well be that the second go, even if it says you still can't do it, is more narrow—and that would be helpful—or gives more clarity that would be helpful. I guess the real issue, and this would be a matter for government and government lawyers to discuss, is the timing of doing that. There are real issues about this, because on the one hand if you do it too soon after the other judgement and they say, "Well, this is a very recent judgement. You're only doing this because of a change of composition of the court. It's inappropriate to change", that can be a problem. But if you also wait too long and the decision has become entrenched and people have relied upon it and it's been used in various cases, then that's a problem as well.

The uniform tax cases, for example—it happened during the war, the first uniform tax case says, "Oh well, war, defence power, therefore we'll uphold this", and they didn't challenge it again until quite a long time afterwards. At that point, the court just said, "Too late, it's already become part of our structure of a financial system. We're not overturning it." So there's a political issue about timing as to when you move in relation to that, and I think people would want to think quite carefully about the politics and the optics and the best time to make a challenge. But I think it is important to do that at some point. Whether or not just after July 2027 is the right time or not, I don't know.

LAEL WEIS: On the timing question, as well, I do recall in the joint reasons in Vanderstock, Commonwealth plans to take action in this area were seen to be relevant to the court's decision. At the moment, the Commonwealth lacks a mechanism to collect road user charges, so I think if they started taking steps in that direction, again, the decision would become more entrenched, as Professor Twomey says, and it would become harder to challenge.

The Hon. MARK BUTTIGIEG: Part of that timing would be influenced by the point you made prior, Professor, regarding the example you gave with conservative judges, even just based on wanting to uphold precedents, being fresh in their memories about the recent decision. You said it's a balance between that and those other considerations.

ANNE TWOMEY: Yes, there are a whole lot of different factors at play. Sometimes courts do feel inclined to sweep the board clean and start again with something else. That's sort of what they did in Vanderstock. They did sweep the board clean and they came out with this new radical decision. They're probably less likely then to move away from it very shortly afterwards. But a lot of this is just reading tea leaves.

The CHAIR: How much did the case cost the Victorian Government? Do you know?

ANNE TWOMEY: I don't know the calculation, no.

The CHAIR: Have you got an estimate?

ANNE TWOMEY: No.

The CHAIR: I might need to look that up. It's also not without cost, of course, in terms of preparing for something like that, in terms of the amount of money spent within government agencies to set everything up.

ANNE TWOMEY: To implement and then to pull it all out again.

The CHAIR: Yes. But we can ask the Government about that. You've given us a lot to think about. Were there any other points you wanted to raise that we've not covered?

ANNE TWOMEY: No, I've had my rant, thank you.

The CHAIR: I've loved your rant. I was a fan before your rant, and I'm more of a fan afterwards. Not that I like the road user charge one little bit, but I think the impact of that decision on the State's ability to raise other types of revenue—I might end up sending you some questions to try and tease out exactly what the changes that we should really be focused on would be if we were to try and make it a little bit more resilient for a High Court challenge. But to the extent there are supplementary questions or questions that were taken on notice, then the Committee secretariat will be in touch. That concludes our time with you today. Thank you very much.

(The witnesses withdrew.)

(Short adjournment)

Mr JACK THROWER, Deputy Research Director, The Australia Institute, before the Committee via videoconference, affirmed and examined

The CHAIR: We now welcome our next witness. Would you like to commence with a short opening statement?

JACK THROWER: I'll keep it short; we have sent in a submission. The Australia Institute has done a fair bit of research into areas related to this review, particularly on transitioning the transport sector to low and zero emissions vehicles and, relatedly, on the proliferation of larger vehicles, such as utes and SUVs, what has caused that and the risks that poses. On this specific piece of legislation, the Australia Institute has the concern about this being a distance-based road user charge exclusively targeted at EVs and plug-in hybrids. Essentially, to paraphrase the co-CEO of the institute, Dr Richard Denniss, economics 101 says that we should tax things that we want less of and subsidise what we want more of. This is essentially a tax exclusively on the use of EVs, and it dampens the incentive to transition the vehicle fleet towards low and zero emissions vehicles.

Meanwhile, we have a bunch of tax and regulatory settings that have allowed and encouraged the proliferation of more highly emitting vehicles which are also dangerous for other reasons, such as SUVs and light commercial vehicles. The Department of Climate Change, Energy, the Environment and Water, in one of their recent reports, explicitly listed the increasing popularity of diesel-powered sports utility vehicles as one of the causes of growing diesel consumption in Australia, which was related to high and persistent transport emissions. Essentially, we're going in the wrong direction in general, and this specific tax on EVs is not going to help.

The CHAIR: One of the rationales for the road user charge from way back has been this idea that the fuel levy at a Federal level is notionally supposed to be paying for the impact that cars have on roads, although I must admit, growing up, I always thought it was because of the emissions and other things that you got out of that fuel. If we take that idea that it's not fair that electric vehicles should be allowed to use the roads without paying the same kind of taxes, what other externalities are we missing out on considering, and what should we be considering when looking at the impact of car use?

JACK THROWER: First of all, I will note that the fuel excise is not tied to road consumption broadly. That's a bit of a myth. There is a relatively small component that is related, which is only the indexation, since they unfroze the indexation several years ago. Essentially, fuel tax just goes into general revenue. It doesn't fund our roads. On the externalities of cars in general, there are a few, particularly things like congestion—like the fact that you do want to discourage people being stuck in traffic because it's basically a waste of everyone's time and that is economically harmful. In terms of use of roads, if you want to do something which would charge for roads without decreasing that incentive to go across to an EV, then you could just have a road user charge on all vehicles. That would mean that it wouldn't lessen that incentive. I'm sure all sorts of people would have all sorts of problems with that. But, if we want to charge people for roads, we can charge people for roads. But this is not what this piece of legislation does; it charges EVs for roads and nothing else.

The CHAIR: I was reading your submission and the attachments to the submission. I think the last one of those, which is the oldest one, from 2022—the submission to the national EV strategy—comments:

> The charge should include all externalities of motor vehicle use including air pollution, road damage, congestion and greenhouse gas emissions.

Have you seen that concept taken up anywhere else, either in Australia or other jurisdictions in the world—the idea of not just including the impact on roads but also, presumably, on health and other things?

JACK THROWER: I'm mostly familiar with the Australian context. The ACT does, if I recall correctly—the registration fees are associated with emissions, which is not a perfect proxy for things like particulates and damage to air quality, but it's sort of related. Various jurisdictions, including New South Wales, do it by weight. I'm not aware of anywhere in the country that taxes them all. You could include all these things in things like registration, like how much damage they're likely to do to the roads, how much damage they're likely to do to human health, things like congestion. Then there is also, related to these—and it's also related to the proliferation of larger vehicles I talked to before—the road safety component, which is usually more of a regulatory issue than a taxation issue, just because larger vehicles are a lot more dangerous and a lot more likely to cause severe injury and death. Usually if something is dangerous then we regulate it away or we regulate it to minimise that risk, as opposed to charging people a little bit more tax in order to have the right to drive a dangerous vehicle.

The CHAIR: This is the work that—again, in the attachments around the subsidies and things that SUVs get, I think I read a quote in there about the increased risk. Basically, if you get hit by an SUV, the damage that is likely to be felt, particularly by a child, is significantly more than if you get hit by an non-SUV. So if we're looking at the types of vehicles that we're taxing and how we tax them, is the argument that really we need to be considering a lot more than just the impact on the wear and tear of the roads?

JACK THROWER: Yes, exactly. There's a lot of these impacts which are undertaxed externalities. Because these people aren't paying the price of those externalities, it's encouraged the proliferation.

The CHAIR: One of the criticisms of the road user charge or ideas of that kind is that it's a bit punitive on people who have no choice but to drive. Whether you're a person who is living an hour and a half away from your job and has to drive all that way just to get to the next available workplace, or you are living in an area that just doesn't have public transport, you're being penalised for those aspects when you put in a usage-based charge. Is there an argument that in what I would hope was our more progressively taxed system, everyone really should be taxed on their income and wealth, and then that amount should be put into taxation for the upkeep of all of these roads and other infrastructure? What's your view on the idea of a user-based charge versus a more progressive tax system which enables enough revenue to be funding these things properly?

JACK THROWER: It depends what you're trying to do. If it is a revenue raiser, then focusing on that ability-to-pay principle is really sensible. There are all sorts of ways that we can actually tax people who are better off, as opposed to using proxies. We can tax people based on their wealth, we can tax people based on their income, or we could have progressive land taxes and things like that. In terms of those big revenue raisers, it does make sense to rely on those who are more able to pay. In that regard, if you want to charge people to use roads, you can, but it will have some of those differential effects, particularly on people in regional communities.

If we wanted to have a broad road user charge on everyone—which is not something that we're specifically proposing—and if you wanted to remove the disincentive to transition to electric vehicles, then that's what you'd do, but it would affect people who drive more. From the revenue perspective, it does make sense to just focus on progressive taxation. In terms of those other taxes though—such as on emissions, particulates and things that harm human health—whether you use it by taxes or you use it by regulation, we are actually trying to discourage some of those activities, less from a revenue perspective, but we want the air to be cleaner and we want emissions to go down. Then there is a role for taxes and regulations to bring those things down.

The CHAIR: That has really crystallised it in terms of—I remember this from when I was studying tax law—this concept that you have taxes for general revenue raising or even specific revenue raising. But the other common type of tax is, as you said at the beginning—economics 101—where you tax the things that you want less of and subsidise things you want more of. Which is this? It's touted as being a revenue raiser, but it is targeting particular usage in a way that may discourage the uptake of EVs.

The Hon. SCOTT FARLOW: Thank you very much for your virtual attendance today and for your submission. I'm interested in the alternative. I take your point that fuel excise hasn't necessarily been used entirely for road use and maintenance. What would the Australia Institute propose as an alternative system to support the maintenance of roads across New South Wales?

JACK THROWER: We don't have a specific proposal on funding roads. As I said, if you want to fund roads through a user-pay principle, then you can have a general road user charge that applies across the board and doesn't disincentivise EVs. But there's nothing about fiscal rules or macroeconomics or anything that means that we need to fund roads through road-related taxes and things like that. Whichever revenue proposals are being considered by the Government, whether that's things like land tax or fees on other things—it could be funded by, essentially, any of the options. We would be more supportive of more progressive taxation that is based on things like income and wealth—so no specific proposal, but it doesn't have to be road related.

The Hon. SCOTT FARLOW: The argument at the moment is that, when it comes to road use, fuel excise works as a funding mechanism in itself and that there is, with that, a correlation with the impact on roads by use of fuel. If you were to have an increasing EV fleet, that would be a diminishing amount of money and revenue coming to the Government. Some have argued—and I think this was the position of the Electric Vehicle Council when this legislation was implemented—that there needs to be a certain time for the uptake of electric vehicles to get to critical mass, which is why that 30 per cent threshold of new vehicle sales was incorporated as part of the legislation. Is that a view that the Australia Institute shares, or do you think that at no point should there be a road user charge at all for electric vehicles, even if they were 50 or 100 per cent of the fleet?

JACK THROWER: If they were 100 per cent of the fleet, we wouldn't really be talking about incentives to transition the fleet anymore. It's worth noting that, despite the recent upswing in EV sales, Australia's fleet is very small. I think it was only a couple of years ago that we had more EVs than horse floats. There's a long way to go in terms of actually transitioning the fleet. At the same time, we are seeing things like diesel consumption rising. In terms of whether there's a place for road user charges in general, I think there is some role when we are significantly advanced on the transition, but we don't have a specific threshold as to when that would be. I'd also note that it's not just the road user charging. There is also, as we mentioned before, things like congestion charging, which probably wouldn't be the same magnitude of revenue raised but is actually getting at one of the biggest costs of car usage, in addition to damage to roads. Relatedly, actually, if we're talking about damage to roads then it's not really cars that are doing the lion's share of that. It is heavy vehicles.

The Hon. SCOTT FARLOW: With respect to Victoria, following the Vanderstock decision, have you got any overview as to the Victorian Government's approach, subsequent to that determination, and what has happened in terms of electric vehicle infrastructure programs or the like, particularly with charging infrastructure?

JACK THROWER: No, I haven't specifically looked at their framework post-Vanderstock.

The Hon. SARAH MITCHELL: Thank you, Jack, for being here. I just want to ask a question that is a little bit off what others have raised, but I am interested in the part of your submission where you talked about why utes are so popular in Australia. I'm kind of picking up a little bit on what the Chair just said. With some of the tax settings you were talking about which basically incentivise people to buy utes, I just wondered whether you'd put that rural and regional lens over that work that you've done, or any policy insights. I live in a country town, and farming communities and not-great roads and a little bit of rain can cause people really to need their utes and their SUVs in the four-wheel drive capacity. I wonder whether you've done any work in that space around the different settings that could apply based on people's geography and a genuine need for those sorts of vehicles.

JACK THROWER: I guess most of our analysis has been broad, but the focus here is on what appear to be unnecessary utes. I ran some numbers on the number of light commercial vehicles against all tradespeople and farmers, and we've gone up from 1.7 light commercial vehicles for each tradie and farmer to nearly two—1.9. The key concern here is not around those regional and rural communities, but particularly city-based vehicles that seem to be purchased—even if allegedly for commercial reasons—for personal consumption, and how those are clogging up the roads, leading to higher emissions and things like that. We haven't had specific recommendations regarding rural and regional communities but, in terms of the broad analysis, I'm not sure whether there's anything in there which would disadvantage rural and regional communities. If there was, I don't think that carve outs or specific systems to ensure that people in those communities are able to access those vehicles would be particularly problematic, simply because—when we're talking about the size of these populations.

The Hon. SARAH MITCHELL: Yes. You could do some sort of an exemption or something that recognised—I appreciate your point. I just thought it was making that distinction between—when I come to Sydney and I see those vehicles, I wonder about the necessity of them. When I'm driving down the main street of Gunnedah, I don't, because I understand why people need them, but I was just curious about that point. Thank you, that's clarified it for me.

The CHAIR: When this legislation was introduced, as you know, there was a stamp duty cashback or exemption—I think it was $3,000 or whatever off your stamp duty at the time—that was seen as the carrot and the stick. You'd have your stamp duty exemption, but then you'd know that the road user charge was going to come in. There was, as you mentioned, that intention that there would be 30 per cent, hopefully, of new car sales by July 2027 anyway that would be NEVs. We'd have transitioned, I think was the grand vision, or be well on our way. Given that we haven't got anywhere near that 30 per cent and we still have a relatively small fleet of electric vehicles, do you think that there is a need, particularly if we're going to bring in this road user tax, to have other types of incentives and subsidies given to electric vehicles at this time?

JACK THROWER: Yes. Essentially you can have policies of various different effectiveness and efficiency. People talk about "additivity" a lot in this space—as to whether you're just giving something to someone who is going to buy an EV anyway. The thing I'd stress here is that—it's great to have those things and you don't want to just be throwing money at people that were going to make a decision anyway. But, noting just how much ground there is to cover in terms of transitioning the vehicle fleet, I do think that there are roles for incentives as carrots and—it depends on how you define "stick", I guess. But there's a role for all sorts of policies that will encourage the transition of the fleet, and not just the fleet of passenger and light commercial vehicles but also things like heavier vehicles.

The CHAIR: At the moment the luxury tax doesn't apply to utes, but it does apply to electric vehicles. For instance, we could look at carving out EVs from the luxury car tax and other types of incentives like that.

JACK THROWER: Yes. Closing what we call the luxury car tax loophole would help. It would reduce the incentive to buy things like your Rams and things like that instead of electric vehicles. Whether or not you exempt EVs from the luxury car tax entirely, I'm not sure that these days, with things like BYDs—there's a lot of EVs that fall under the threshold anyway. Whether we need to also incentivise really expensive EVs—probably not. There are probably more effective and equitable ways of doing it than just exempting EVs entirely.

The CHAIR: That's a really good point. Maybe it's more about coming back to that idea of the stamp duty exemption—perhaps even just under a certain sales value and applying it to second-hand as well as new sales and trying to increase the accessibility of electric vehicles for more people.

JACK THROWER: Yes, and then all sorts of public infrastructure and encouraging the charging stations and assuaging a range of anxieties and concerns and all those sorts of things.

The CHAIR: Thank you so much. We are likely to have some supplementary questions coming to you. The Committee secretariat will be in touch in relation to those, but that does conclude our time with you today.

(The witness withdrew.)

Ms HEIDI RICHARDS, Member, Australian Electric Vehicle Association, affirmed and examined

Mr MICHAEL DAY, Board Director, Australian Electric Vehicle Association, sworn and examined

Ms JULIE DELVECCHIO, Chief Executive Officer, Electric Vehicle Council, affirmed and examined

Mr AMAN GAUR, Head of Policy and Advocacy, Electric Vehicle Council, affirmed and examined

Dr SIMON JACKMAN, Independent expert witness, Electric Vehicle Council, affirmed and examined

The CHAIR: I welcome our next panel of witnesses. Thank you very much for your attendance. I'll give you the opportunity to give a short opening statement, if I can start with the Electric Vehicle Council.

JULIE DELVECCHIO: Thanks for the opportunity to speak with you today. I want to start by saying that the Electric Vehicle Council supports road user charging and agrees that drivers should pay their fair share of funding our roads. The model of road user charging that we support is based on three principles: firstly, it's a phased approach introduced only once EVs reach a level of market maturity, around 30 per cent of the national fleet; that it's universal, so it's applied to all vehicles and not just EVs; and that it's differential—that is, that EVs should face a meaningfully lower charge per kilometre than higher-emitting vehicles.

The New South Wales proposed road user charge fails on all three fronts. We consider it to be the wrong model at the wrong time. It's the wrong time because EVs allow families to avoid petrol price volatility and save $3,000 a year in fuel and maintenance costs. It's the wrong time because EVs currently, while they are growing, only represent 2 per cent of the national fleet. It's the wrong model because research shows that a visible charge of around 3¢ per kilometre would deter 28 per cent of likely EV buyers; the wrong model because outer suburban families, who drive the furthest and benefit the most from EV fuel savings, would be hit the hardest; and the wrong model because, under the proposed New South Wales rate, an EV would pay around 60 per cent more road tax per kilometre than a petrol hybrid.

In short, our view is the debate is not whether electric vehicles should pay a road user charge but rather exactly when and how that charge is designed and implemented. We're asking ourselves the question, why is the New South Wales Government penalising drivers who are trying to avoid petrol costs and improve Australia's fuel security with a tax that can leave them paying hundreds of dollars more than a driver of petrol vehicles? To understand what's at stake, I want to briefly touch on where the EV transition is in Australia. There is no doubt that the fuel crisis has accelerated interest in EVs. For the first time, in May, an EV became the highest and best selling vehicle in Australia.

In May, EVs accounted for almost 30 per cent of new car sales. That means that when petrol prices surged, initiatives like the electric car discount and the NVES—the New Vehicle Efficiency Standard—helped create the conditions so that Australians had an alternative when petrol prices soared. Our strong view is that a crisis is a salesperson but not a strategy. The EV transition is far from complete. EVs represent only 2 per cent of the national fleet. We know that eventually the circumstances around fuel prices may change. When they do, harmful policy settings will matter even more. What we do now in the policy space will determine whether or not Australia achieves its goal of five million EVs by 2035.

Finally, I just want to touch on the fact that you don't need to own an EV to benefit from one. Making EVs affordable isn't a climate policy; it's a cost-of-living policy. We know that EVs save people $3,000 a year. It reduces freight and transport costs across the economy, and it reduces the health impact of vehicle emissions, which cost an estimated $6.9 billion each year. Given the shortcomings of the current State-based approach, we urge the Committee to recommend against the Act and defer consideration of road user charging until there is a nationally consistent Commonwealth-led process.

MICHAEL DAY: The Australian Electric Vehicle Association is a volunteer-run, not-for-profit organisation dedicated to representing electric vehicle owners and promoting electrification in Australia. Established in 1973, AEVA is the world's oldest continuously operating electric vehicle society. We regularly run surveys of our members to identify their concerns, and these insights are reflected in our public policy, which is available on our website. For over a decade, AEVA has established a well-defined stance on road user charges through extensive consultation with both industry and professionals. We oppose this particular EV tax. Instead, we advocate for a system where all motor vehicles are subject to distance- and weight-based charges. To ensure consistency, these charges should be established at a Federal level rather than by individual States. We strongly recommend that the New South New South Wales Government repeal or defer this flawed EV tax legislation introduced by a previous administration.

I would highlight the following points. Introducing a new tax on households striving to do the right thing during a cost-of-living crisis is ill-timed and counterproductive. Sound tax policies should encourage positive behaviours and discourage negative ones. On this basis, the New South Wales EV tax contradicts the State Government's own EV strategy. According to that strategy, each EV brings approximately $300 in health benefits from reduced air pollution and delivers over $10,000 in climate benefits thanks to lower emissions. Research from the Australia Institute and others shows that an EV tax would discourage people from adopting electric vehicles. The recent negative outcomes in New Zealand underscore this concern. The idea that an EV tax is necessary to fund road maintenance is a misconception. Fuel excise is not directly linked to road user expenditure, for example, and EV owners already contribute to road maintenance via existing fees and taxes which fund the bulk of transport infrastructure.

A road user charge that ignores vehicle mass is inherently inequitable. For example, at 3¢ per kilometre, an EV motorcycle pays the same as a three-tonne SUV. Moreover, at a flat rate of 3¢, an EV would pay more per kilometre than a comparable petrol hybrid at just under 2¢ per kilometre—a perverse outcome where hybrids would be the least taxed vehicle on New South Wales roads. A fairer approach would be a formula based on tare mass and distance, set at a low initial rate and increasing annually. The proposed New South Wales EV tax is administratively complex, highlighting the need to wait for a broad-based Federal framework. Finally, it's almost certain that the New South Wales EV tax will be challenged on legal grounds, as has happened in Victoria.

The CHAIR: Firstly, I was really interested in the study that I believe Dr Jackman did in relation to the response—effectively, how many EVs people might buy if this was introduced. Can you talk us through what that study was and what you found?

SIMON JACKMAN: This was a novel piece of survey research where, in the early part of the survey, we initially assess interest in an EV being the next purchase or lease of a motor vehicle. We then expose survey respondents to what a road user charge for them would be, keyed to the number of kilometres they have told us they're driving. Each person is presented with a hypothetical road user charge keyed to their own personal circumstances. Then there are a few other questions and, towards the end of the survey, we then re-ask the question about the likelihood of an EV being their next purchase or lease. Each person, if you will, serves as their own control. I get to observe how your response, now that you've been apprised of the likely road user charge you might face, changes your purchase intention. What happens is that, among the group of people, about 38 per cent of respondents initially say they're likely or very likely for an EV to be their next purchase or lease. Seventy per cent of those fall off once they've been apprised of the road user charge that they might face.

The CHAIR: Seventy per cent of them?

SIMON JACKMAN: Of the 38 per cent. That's right. Moreover, we can dig in harder. What we find is that the people who are most likely for their purchase intention to fall off from an EV—downshifters, if you will—are the ones that are reporting cost as being one of the reasons they are attracted to EVs in the first place; or cost being one of the reasons they're hesitant about an EV in the first place; or people that are saying things like it's government rebates and incentives that are one of the drivers that makes an EV attractive to them in the first place. The picture that emerges is one of acute price sensitivity. Even though the road user charge you're putting in front of some of these respondents is in the order of $300 to $500, $600—perhaps not a big sum, on the face of it—this next wave of EV adoption, people are right on the cusp.

We're not talking round one, in suburbs perhaps east of here or north of here, where EV adoption round one took place. This acute price sensitivity and the impact of this, on its face, relatively small cost seems to be having its biggest behavioural impact on that next wave of would-be adopters that, again, aren't in postcodes to our east or to our near north but in postcodes in Western Sydney, where the driving distances are larger. The role of the car and the choice of a car and the household budget is of way more consequence than it might be to other postcodes where buying an EV in round one was far less of an impost on the household budget. That's the nature of the study.

One of the big takeaways for me was, time and time again, looking at the data that we got back, that picture of that next wave of adopters being acutely price sensitive. Anytime they had an opportunity to tell us what were the dispositive factors in their choice, it all sheeted back to things to do with cost, either in the purchase of the vehicle or things around the margin that government is doing or not doing that are impacting the purchase price and the total cost of ownership of the vehicle.

The CHAIR: Intuitively and, I guess, anecdotally that makes sense to me. I live on the Central Coast. I know that now we have this influx of models that are cheaper on the whole but also go a lot further before they need to be charged, we have a lot more people, it seems, on the Central Coast wanting to go and buy your BYDs or whatever. I have two questions. How many people did you survey, and when was that? Was it pre-fuel crisis or post?

SIMON JACKMAN: Yes. Fair cop, this was all pre. This was December of last year. We didn't see the Persian Gulf crisis coming at the time. But, by design, it was a very large survey, to the extent that it was 3,000 people nationally. It gives us a fair amount of statistical power to tunnel into and make these demarcations between round one adopters and yet-to-adopt segments of the population and do some mapping of where that sensitivity to road user charges is most acute.

The CHAIR: Do either of the groups here have any data on what that take-up now looks like with this round two, as you put it? I'm particularly interested in those areas that don't have very good public transport or that are not as wealthy areas. What sort of data have you got?

MICHAEL DAY: The uptake of electric vehicles in general?

The CHAIR: Yes.

MICHAEL DAY: The banding we're seeing is very much in the suburbs—people that can park, people that can have solar and are aware of their energy usage, and they've got a commute. They have realised that they can save money. The biggest uptake of our membership is in those ring suburbs up around Rouse Hill or Carlingford or out further—Rhodes and those sorts of areas—and down to Liverpool. Those ring suburbs are where we're seeing the biggest uptake.

AMAN GAUR: Graphically, you could describe that as: In the first round it was very much the inner city of Melbourne and Sydney, and now the rates of growth are higher in the middle to outer suburbs than they are in the inner suburbs, and that's because, as you mentioned, Chair, with the vehicle efficiency standards, there are now over 10 models that are available under 40,000, and those people have less access to public transport. The rate of growth is now stronger in the middle and outer suburbs than in the inner suburbs.

The CHAIR: Another issue that came up when we were debating this Act back in '21 was the creep towards technology that might impact on people's privacy. There was talk at the time that in the US they were playing around with tech that sort of sat in your car and could increase the amount you were being charged depending on whether there was a lot of traffic in the area you happen to be in, even if normally at that time it wasn't, and this kind of real-time changing of how much you were paying per kilometre based on what was happening around you, and some horror stories coming out of the US. But we were talking at the time with Treasury around what they were planning in terms of how they would work out how many kilometres you'd gone and, if there were exemptions for driving on your own farm, for instance, how you would then prove that you shouldn't be charged for that. Have any of those privacy concerns come up from members or from any of the surveys that you've been doing?

AMAN GAUR: From our perspective—we have worked in road user charging now for the better part of a decade—we look back to the Victorian example where you had to put in a reporting of your odometer; that was the proposal. That had significant privacy concerns, and we think that has only been heightened given the change in the zeitgeist about privacy issues and the distrust that we have towards institutional holding of data. In terms of dynamic pricing that you're describing where pricing changes as you use a product but also real-time reporting of that data or later time reporting that data, we think that the New South Wales model, as we understand it's currently proposed—where you would report your distance driven and then if you fell outside of what you had driven, you would face another penalty—would face quite significant pushback in terms of confidence in where that data was being held and how it was being reported. That's another factor that we think would reduce uptake. Uptake is, at the moment, affected by vehicle prices. EVs still cost more than petrol cars. That's the first thing. A second one is a concern about charging, and we think one of the issues that falls underneath that is the way that a road user charge would be implemented and the privacy concerns around that.

HEIDI RICHARDS: If I could add, the EV Association has been looking at this issue of privacy and cybersecurity recently, and we've actually just put out a policy position, which is on our website, and I'm happy to provide that to you. But we feel like it's actually not an EV issue really; it's a connected car issue. There are some fairly significant privacy issues that we think, from a policy perspective, need to be getting more airtime. We've put out this position to try to kickstart that discussion. AEVA agrees in principle with a distance-based road user charge if you're going to have one, but it's administratively quite complex, and the way that this New South Wales law is written is it sort of seems like you need to prepay an estimate and then you need to kind of be constantly checking your odometer and topping it up. There's no infrastructure that we're aware of to actually do that, and there's less than 12 months now to actually put that in place.

SIMON JACKMAN: We surveyed on this as well in the study I was just speaking to, and the option where the vehicle is reporting either to the manufacturer or directly to the Government your kilometres driven per year ranked three out of five possible options we gave, none of which are especially liked by the way. The most preferred option only by 41 per cent—and that's as much enthusiasm as any of these options got—was where you take a photo of your odometer and send that in, say, once a year accompanying a rego payment or something like that. But the option of it being on autopilot and being reported either back to the manufacturer and then on to the Government or to the Government directly—if they had to pay a road user charge, only 20 per cent of respondents selected that as an option they'd be happy with.

JULIE DELVECCHIO: Just to round that out, when you think about the obstacles to EV uptake around cost and range and charging, if you add obstacles like taking photographs of your odometer, it is going to make things so much more difficult for the next wave of adoption. We think that the road user charge in New South Wales could materially or will materially harm EV uptake in New South Wales.

The Hon. SARAH MITCHELL: We're obviously looking at the components of this particular action, the focus on the road user charge. I don't know whether it's in any of the work that you've done, Dr Jackman, but we're anecdotally hearing about access to charging stations and whether the Government needs to be doing more of that. How much of that do you think is an impediment to EV take-up versus what may happen with the road user charge, or does it all combine?

SIMON JACKMAN: When you ask current non-EV users about EVs, the initial cost is the single most important. They're more expensive than a petrol car. That's reason number one, although quickly following comes range anxiety and charging. Among existing EV owners, range and charging are number one. They've already borne the cost; they're in. We're talking about people for whom perhaps they were less price sensitive to begin with. They're more likely to mention range and charging. It's certainly in the mix. I think the picture that emerges is one of "Wait a minute. I don't know. I've got these other qualms and now this other road user charge comes in." We're starting to attack one of the reasons the next wave of adopters is interested: "Over the life of the vehicle, me and my family might be better off if we went down this pathway, even if we had a bigger up-front cost." That matters on the margin, I would say, for the next wave of adoption. It is material, but it is pretty clear that the data sits behind cost as a material concern and as an impediment to getting into an EV.

JULIE DELVECCHIO: Particularly up-front cost.

SIMON JACKMAN: Yes.

The Hon. SCOTT FARLOW: For both of your organisations, do you see any great difference between the New South Wales arrangements as compared to what existed in Victoria?

AMAN GAUR: We have done some preliminary work with some partners about the constitutional question that you're asking. Initially, we do not believe there is a significant difference between the New South Wales charge and the Victorian charge.

The Hon. SCOTT FARLOW: With that answer, have you considered taking any legal action if the New South Wales charge is to be commenced on 1 July 2027?

AMAN GAUR: I know that partners and friends of ours are considering that and are well advanced in that fashion. We would probably have standing to join that challenge. That's something we'll consider once it develops.

The Hon. SCOTT FARLOW: Did you join the challenge for Vanderstock?

AMAN GAUR: It was before my time at the EVC, but I would say yes. I'll take that on notice.

MICHAEL DAY: It was AEVA members that were part of that. We know quite a bit about it. We haven't considered what would happen from an organisational perspective but, likewise, we know that there are people that are interested in it.

The Hon. SCOTT FARLOW: It has been proposed before the Committee today of potential changes to be made to the New South Wales regime in order to have it come outside, potentially, the High Court's determination in Vanderstock. Some of those, I think, pick up some of the suggestions you've had through AEVA as well, like a weight consideration. If there were to be changes made to the New South Wales arrangements, is that something that you would consider positively, or would you still think that the time is not right or the arrangements are not necessarily right?

MICHAEL DAY: I still think it's not right, though it's a little bit too early. In our policy, it's a percentage of vehicles in the fleet. There's still a bit of time until we get to that point. But in principle, yes, we agree with the road user charge, just in the right fashion.

JULIE DELVECCHIO: To add to that, our view is that the Federal Government is actively exploring a national road user charge. That work is progressing and underway. We think a national approach is the right approach and a State-by-State approach is not the right way forward. To amplify, we are still at 2 per cent of the overall fleet. We think that a road user charge that's introduced before we hit 30 per cent of the fleet will mean that we may not meet our five million EV target by 2035. Our preference is that a State-by-State approach is just not the way forward.

The Hon. SCOTT FARLOW: In terms of that national approach, from your discussions or engagements, how soon do you think that could potentially be up and running?

JULIE DELVECCHIO: I know that there is a taskforce in Canberra currently working on this. One of the things that the Electric Vehicle Council has been quite focused on, and we were very pleased to see, is that at a meeting of State and Federal Treasurers in September of last year, there was an agreement by all of the Treasurers that the nationally designed road user charge would be "designed to not harm EV uptake". So the Treasurers have committed that any national charge will be designed such that it won't harm uptake. How soon? The work is currently happening. I think it's progressing relatively quickly. I would guess that it would be within the current term of government—certainly within the next two years. I think that the Federal change is upon us.

The Hon. SCOTT FARLOW: In terms of that national road user charge not harming EV uptake, would that, from your perspective, be a differentiator where there was a cheaper charge for EVs than there was for internal combustion vehicles?

JULIE DELVECCHIO: We think there's absolutely scenarios where you can design a road user charge that makes it easier for people to get into EVs, to access the savings that come from switching to EVs. Also, importantly, the thing about electric vehicles which I think is sometimes overlooked is that you don't need to own one to benefit from it. Even if you don't drive an EV, the benefits of switching to an EV accrue not just to the individual but to the broader community. We know that something like $6.8 billion is the cost to the health budget from air pollution. The more we switch to electrification, the lower those costs will be. So when we think about this, we can't just think about a benefit that goes to an individual consumer. These are benefits that accrue in a much broader way. When we're thinking about a well-designed road user charge, can one be designed so that we are encouraging the sort of behaviours that deliver benefits to communities, neighbourhoods, environments, and deliver savings to consumers? Absolutely, and the proof will be in the pudding in the design of the national road user charge.

AMAN GAUR: Can I just pick up one point, because your question was around pricing between ICE and EVs. The absurdity, I think, of this charge is that it will potentially price battery electric cars at up to 60 per cent more than petrol hybrids, which are the domineering form of car now. That just doesn't make sense. Because it's a flat charge, it doesn't differentiate on the type of vehicle you're driving—the type of battery electric car—whereas the amount of fuel tax you pay changes based on what type of petrol hybrid you're driving. For example, a RAV4 hybrid, one of the most popular cars in Australia, has a fuel efficiency of effectively 5½ litres per 100 kilometres. But you can get a more efficient petrol hybrid, which is a Yaris, which is 3½ litres per 100 kilometres. The amount of tax you end up paying, by how much petrol you buy, changes.

I've done the sums on this, and you can effectively be paying hundreds of dollars more for driving a battery electric car than a petrol hybrid—which is, in my opinion, insane, because you're effectively making us hostage to what happens overseas when we have to import that fuel, noting that we import 90 per cent of our fuel. But also, the poorest Australians aren't able to switch away from petrol. The poorest Australian in Australia spends, proportionally, six times as much of their income on transport costs as rich Australians do, so the decision of parliaments to keep us on a trajectory of being dependent on petrol makes poorer and lower income Australians dependent on a fuel source they can't substitute away from.

The Hon. SCOTT FARLOW: I find that an interesting argument to get my head around, in a sense, but I guess the contra to that is that the poorest Australians are probably not driving a hybrid and are probably driving an internal combustion engine car that may not be the most efficient at the moment, and might be paying an excessive fuel excise compared to an EV, which at present is being charged none. I drive an EV so I've done the figures myself—on 20,000 kilometres a year, probably $600. If you were doing the same on a comparable internal combustion engine car, you're probably looking at about $1,000 in terms of fuel excise over that period in equivalent on a 2,000-kilo car. This is the challenge that we're trying to grapple with as to how you have a fair and equitable system for everyone across the market. In terms of the proposal of what would be a road user charge, what would that look like for everybody, from your perspective?

AMAN GAUR: If I can just answer the two points you made in that one. First of all, if you go back, the average car in Australia is usually about a 12-year-old car at the moment. The 12-year-old car that was the most popular was a Toyota Corolla hybrid. So the average person is usually driving a hybridised car; that is now the most popular type of car. It's like a petrol car that has a small non-rechargeable battery. That's what was most popular about 12 years ago. Secondly, I'd love to have a chat about those facts and figures in terms of what the cost comes out to be. The numbers that I looked at were, if you drove a RAV4 hybrid, you'd be paying roughly about $300 per year in petrol tax. If you're driving a SUV battery electric car, you'd be paying about $400 on 13,000 kilometres, which is the BITRE average for what Aussies drive. Obviously these things vary depending on what car you're driving and what efficiency you have, but those are the numbers that I calculated based on popular cars.

The Hon. SCOTT FARLOW: I guess we have the challenge of real world as well, which is the same for range with electric vehicles or the same with fuel efficiency in ICE vehicles—the real world doesn't go with the sticker plate that you get as well.

AMAN GAUR: Yes. Turning to your main point about what's the ideal one, in our view—and this will probably differ slightly from our distinguished friends over here—we think it has to be equal. When we say universal, it has to be universal in the way it's applied. There's a lot of research out there that if you have a very salient tax, one that's very apparent to someone, and the method of following it is also very onerous in terms of behavioural changes, you're going to reduce the uptake of that good. There's a lot of behavioural research around that. At the moment what you have is a hidden fuel tax at the bowser—which no one really knows about, we're all realising—and it's very easy to pay as well. The New South Wales charge, much like the New Zealand charge, is one that is very visible. Everyone will know about it because you have to log on to a website to pay it, and it has behavioural change in it as well. Those things are not universality. That's the first thing.

The second thing in terms of what we think would be ideal is, as Julia has mentioned, just very broadly a charge that was applied on top of registration. It was part of your annual registration fee and it was differentiated. So it was emissions inclusive and there was a lower charge for a battery electric car, noting the externalities that you're trying to positively affect there. It could be theoretically $50 per year for a battery electric car and you pay $100 for petrol excise. I just put those numbers out there because the thing I want to finish on is we've all got to this point because fuel excise is dropping. Fuel excise is not actually dropping. The forward estimates in this year's Federal budget say that fuel excise will increase over the forwards. That's the first point.

Secondly, fuel excise is only dropping in a net way once diesel fuel tax credits are accounted for. So fuel excise itself is a bit of a misnomer in this conversation—it has been a bit of a strawman for the start of this conversation—but those facts don't stand. Secondly, when it comes to fuel excise in terms of why it may be, in a gross sense, dropping, it's also because petrol cars are using less petrol, and therefore they're paying less tax. I think that's a pretty easy sort of logical thing to get to. But a lot of this debate around what is the ideal tax for EVs is built on unstable foundations of fact.

MICHAEL DAY: We have a position and that is that a road user charge will be phased, federally implemented, simple for the consumer to understand and respond to, universal across all vehicles—not just electric vehicles—mass multiplied and distance multiplied. They are the basic factors of a road user charge.

The CHAIR: There's a bit of discussion about this in the Electric Vehicle Council submission. Obviously the context of this is that in 2021, when this was introduced, there was the stamp duty exemption and this kind of carrot and stick being presented. I know from the discussions I had with the council but also with others at the time that that was a really key part of this—that if we weren't going to damage the uptake of EVs, we really needed to supercharge the incentives to begin with. That was then removed. Given where we are at the moment, if we were to introduce a road user charge, should we be looking at trying to put some incentives back in? What can you imagine? If there was a stamp duty exemption or other exemptions, do you have any data or research on how that might impact on the take-up and the negative impact of the road user charge?

JULIE DELVECCHIO: I might just answer that at a broad level and, Aman, you might want to support it with some more specifics. When you think about 2021 and where we are today, so many things have changed since then. Obviously, there's the fuel crisis and the agreement of the Treasurers that it will be designed to not harm EV uptake. There has been so much change since then. We also know that State and Territory governments have pulled back significantly on their incentives in recent years. We believe that in order to encourage EV uptake, those things need to be reintroduced. We know that in other countries—for example, in New Zealand—where they've introduced a road user change, we've seen demand fall off a cliff. While one option would be to work with the New South Wales Government to make this particular proposal or this particular Act more balanced, our strong view is that a State-based approach is not the preferred approach and that it should be a national model. Aman, I don't know if you want to add to what's changed and what incentives might need to be put into the mix.

AMAN GAUR: Yes, so 2021 feels like decades ago, really, in terms of both the EV market and what has happened globally. What we have now is a market that's more competitive, but there's still an EV price premium. EVs cost roughly $9,000 more than a comparable hybrid. Take the Hyundai Kona. To go from the petrol to the electric version, you're paying $10,000 more. That's a very available mid-sized SUV for Aussies. That price premium is the first thing you need to address. We still believe that's why the FBT exemption was the right thing to do. One of the things we're pushing on now is how do we help lower income Australians and essential workers into EVs. As I mentioned earlier, it is those people who are least able to shift away from petrol and are the most exposed to petrol price volatility. We're looking at policies and those targeted welfare programs that would help people to get away from old, inefficient petrol cars and into safer, cheaper to run green cars. That's the first type of carrot that we think should be considered.

Needless to say, more investment in charging infrastructure is essential, whether you're from the country or you're from outer suburban Australia, where there's an over-reliance on people being able to charge at home. We need more visible charging. We need faster charging. Charging everywhere all at once is kind of the answer. There's a lot to be said for carrot and stick, which is why we said at the start that we support road user pricing. We want a good, well-designed road user charge so that EVs contribute to the goodness of our healthcare system, our roads and everything else that it goes towards. But you need to design it well and you need to have carrots so that you continue that transition—that S-curve—up to 100 per cent EV adoption in years to come.

JULIE DELVECCHIO: I do also think that for EV drivers, when a road user charge is introduced, there is an expectation that that investment will also go into things like charging infrastructure so that they're seeing the benefits of that.

MICHAEL DAY: What frustrates potential EV owners is the changing landscape. When we change policy regularly, it confuses the market and makes a buying decision even more complicated. What we'd prefer is good policy, but consistent policy, so people know what they're buying into. That's one decision that's off the table. It also paints a picture for the industry at large. I know we amble and take three years to plan out a vehicle, or something along those lines. When we change policy within those cycles, the business decisions change. We like good policy and we like incentives in the right place, but we really need consistent policy so we can have a market that understands that Australia is open for business for electric vehicles.

SIMON JACKMAN: One small addition that dovetails off the findings I was reporting out of the survey—thinking about that next wave of adoption, paradigmatically, the EV adopter now can charge at home. That's brilliant, particularly if that same person has got solar panels. They're in a very sweet spot, having borne the capital costs of the panels and the car and whatnot. It's time to think about what the second EV in the household looks like, where they may not be able to park off-street, or people who are living in apartment complexes, units and whatnot. That provision of public charging becomes really important as you think through what does the socio-demographic profile of the next wave of adoption look like. It is not necessarily the person who is parking off-street and running a cord off a seven-kilowatt charger off the solar panels. Again, in suburbs to our east and to our near north, there are a lot of households that look like that, and we all know them. It's time to start to imagine the charging challenge that faces that next wave of adoption, where the parking situation and the household arrangements aren't quite set up the same way as the cases that we know and are familiar with now.

The CHAIR: Five years ago, we talked about one day having a thriving second-hand market for EVs. It's a very broad question, but how is it going? In particular, I hear that people are reluctant to buy older EVs because they have the shorter range, and the technology has advanced so quickly that, anecdotally, I hear people say they'd rather get a second-hand petrol vehicle. What's the differential looking like? What are the incentives looking like?

MICHAEL DAY: What you're talking about is the older vehicles, the gen-one and gen-two vehicles, which are generally being pushed out of the market. What we're now seeing in the second-hand market is the gen-three and gen-four vehicles, which don't have those considerations. The kinds of things that are an issue in the second-hand market are battery life, the health of the vehicle—the kinds of things that our tradesmen aren't really aware of. They're used to petrol vehicles. They're used to diesel vehicles. They understand those things. They're a little bit hesitant to get involved in electric vehicles. They just don't understand the technology in the second-hand market.

In saying that, there are some really useful tools out there that are being used, like Manheim, Pickles—the auction houses where they do battery health checks. An electric vehicle measures its battery health every few seconds. It knows exactly what the life of that battery is like from birth to death. When we start to see more of those sorts of things in the market, then you've got confidence, when you're buying a second-hand car—and of stock available for second-hand cars in the market because of FBT and where we are today. It's a changing market and there are certain things that we can do to encourage more vehicles in the second-hand market, and the kind of tests that can prove the health of a second-hand car.

JULIE DELVECCHIO: Just on that, one of the things that we know is that, as a result of the NVES, we're seeing a whole lot more second-hand vehicles enter the market.

The CHAIR: What's NVES?

JULIE DELVECCHIO: The vehicle efficiency standard, which basically has increased the supply of EVs in the Australian market. Now, three years on, we're seeing those cars hit the second-hand market. The supply has increased. We're at a really critical point where there are more second-hand EVs on the market. People were quite concerned about depreciation. We're starting to get more data on that front. It's still a story that's being written. But we are certainly seeing—and this could be a part of the fuel crisis—that resale values of EVs are quite resilient and performing quite well. Certainly there's more road to run on that. But there are second-hand EVs available for purchase that didn't exist before. For consumers that are weighing up whether or not they buy a second-hand EV for, say, their second car, a road user charge is just another obstacle in that decision-making chain.

The CHAIR: I wonder what we can do—if there are other tax settings or other settings to try to help that uptake of the second-hand market, on the assumption that that then helps with the primary market and that it leads to people having more confidence that they'll be able to sell later on if they need to.

JULIE DELVECCHIO: The thing that we think about a lot at the Electric Vehicle Council is that it's not just individual policies; it's how they work together. If we've got emissions goals and we're encouraging the switch because it leads to lower prices, supports our freight industry and delivers all of these benefits on the one hand, but then, on the other hand, government is creating obstacles, then policies are pulling in different directions. For example, there are no incentives that I'm aware of that specifically target second-hand vehicles. We think that there are certainly policy measures in that area that could really encourage second-hand EVs and, with things like the battery testing, growing consumer confidence around how the EVs perform over a more extended period of time, because they've been on the road for over three years.

MICHAEL DAY: The second-hand market is bigger than the new car market.

The CHAIR: It's a bit off topic, strictly, from this Act, but how realistic is the idea of having a future where we have the same car shell, if you like, but with an upgraded battery in it? Is it something we're seeing in other—

MICHAEL DAY: Skateboards. They are particularly useful—here I'm on my hobby horse—particularly in industrial vehicles or commercial vehicles, those sorts of things, where you've got a vehicle that you repeat and create many of them. The consumer vehicles have got lots of different manufacturers that do things differently—size, shape, colour, all those sorts of things. In those kinds of consumer vehicles, skateboards won't be such an impact. It'll be more the commercial vehicles where you can rinse and repeat.

JULIE DELVECCHIO: One thing I will say that I have found quite interesting in this role is that we are learning a lot more about EV battery life. There are businesses that have emerged that are basically getting EV batteries from cars that have been written off, and they are using them for other productive purposes.

MICHAEL DAY: A second life.

JULIE DELVECCHIO: For example, they're using these batteries to run evacuation centres when there are emergencies. EV batteries tend to perform quite well and potentially better than the industry potentially thought at the beginning. There are a lot of opportunities around second life for EVs. From an equity point of view, those batteries could be used in social housing or other alternatives. There are businesses that are emerging that are looking at that specifically.

The CHAIR: One of the other things that seems to worry people when they're buying an EV is around the mechanics costs and availability. Do you have any data on the difference in servicing costs and—I guess this is a more general question—do we have enough electrical mechanics?

MICHAEL DAY: Yes; and no, we don't. We need to encourage more of that kind of thing. There are programs out there to do that and focus on those sorts of things. Training for people to manage and maintain electric vehicles—yes, that's got to be a growing thing that we need. I can't remember the first question.

AMAN GAUR: Servicing costs.

MICHAEL DAY: Servicing costs, yes. At the moment, they are relatively higher, but they tend to be the newer, the up-spec, the more advanced vehicles. They tend to come at a bit of a premium. That's changing as we get the different ranges of vehicles through the market, not just the premium but also the mid and small tier. It's changing, but it has been, thus far, on the high side.

The CHAIR: Dr Jackman, that has not come up as a thing that would discourage people in the survey that you did in terms of mechanics costs or availability?

SIMON JACKMAN: No. If anything, existing EV owners—and, again, this may reflect just where they sit economically—I mentioned lower running costs as an advantage.

MICHAEL DAY: Running costs over maintenance costs, more definitely. It's much cheaper to run and maintain an electric vehicle. It's when you have a problem, that's when we get into problems.

AMAN GAUR: The nuance there is when you have an ICE vehicle, though, if you have a 10-year-old ICE vehicle you take to a mechanic, it's got so many moving parts that if one breaks down, the cost of those is going to be much greater. I think, yes, servicing is always different, because it depends on what grade issue you have and how many parts you need, and how you need to get that into the country. ICE vehicles—I used to own an ICE vehicle. You'd go out to the mechanic. It was an eight-year-old car and it would cost me sometimes $2,000 to service for that year. You have that annual servicing as well, whereas for EVs it's a two-yearly servicing, with fewer parts that need replacing. Servicing is a complex one when it comes to EVs, but certainly we do need more people out there providing that service so that people can get it done quickly.

JULIE DELVECCHIO: Can I add, just as an aside, we talked a bit earlier around what's changed since 2021. I want to just briefly touch on the concept of vehicle to grid, because there has been so much change in the market since 2021. What we are seeing literally today, there are consumers that are using their electric vehicle to power their home and not only save money on their electricity bill but also earn money. The opportunities that come from electrification of home vehicles when it comes to overall good investment are the savings that consumers can make, making that available—and easily available—to a broad consumer base. These were factors that were not, I don't believe, in play at all in 2021.

The technology's improving. We've got more and more manufacturers who have product offerings and we know that there are people today who are actually making money from their electric vehicle. Just for the benefit of the Committee, an electric vehicle has about six times more energy storage than a home battery, so the potential is really significant. In terms of deferred investment in infrastructure and some of the challenges that go with building transmission lines, this more decentralised model of batteries and charging does open up other opportunities, not just for, as I said earlier, people who drive EVs but the broader community.

The Hon. SARAH MITCHELL: Can I just ask one question going back to something that you spoke about already—I'm sorry if I'm rehashing old content—when you talked about wanting to have a national approach being driven by Canberra and the issue of how people will report what their usage is. I think you said people had privacy concerns about how to do it, and only a percentage wanted to take a screenshot of the odometer and the like. If you were to do this at a national level, you're still going to have to come up with a solution to that reporting. Do you have any suggestions as to what that would look like?

MICHAEL DAY: Through the registration process that we have today, which is State based. Through the registration, or re-registration, process that we already have. They already take your odometer as it is.

The Hon. SARAH MITCHELL: Rather than add an additional layer, just have it as part of that.

MICHAEL DAY: Most definitely.

AMAN GAUR: This is a really broad statistic, but the average person pays about $600 per year in fuel excise. That's accounting for everything, so it's a wide range. If you take that as the median of what you're trying to recoup in terms of revenue, noting that a lot of that revenue then goes into diesel fuel tax credit, it's not a real amount of how much you're trying to revenue raise. What we'd probably like to see, as mentioned by AEVA, is it going onto the State-based registration amount. Then you can, as many States do, break that into quarterly payments so it becomes easier for people to pay. Two, it's not an up-front cost in the sense that you have to pay it straightaway and it's immediately apparent to you. If it's done in that way—and this is probably where there is a bit of space between us and AEVA—it's not done on a per-kilometre basis.

Our disagreement with per kilometre is that, generally, people who live in the outer suburbs or in the country have to drive more because they don't have three forms of PT that they can stumble into outside their home. Trying to bring in a bit of equity actually goes the other way, we believe, when it comes to road user pricing. That would bring universality, because that could apply to both ICE vehicles, EVs and plug-in hybrids. One of the things we've found really difficult in explaining to both bureaucrats and the public is that there isn't just an ICE vehicle and an electric vehicle; there are now four types of vehicles on our roads. There is your pure petrol car and diesel car; your petrol hybrid car, which is still a petrol car but with a small non-recharging motor; your plug-in EV; and then your battery electric car. Trying to find differential rates is going to be so complex and so difficult. It is just a much simpler way of doing it.

The Hon. SARAH MITCHELL: Set it at a national level but have the collection through the State registration processes.

MICHAEL DAY: Yes.

JULIE DELVECCHIO: I think there's a bit of road to run in that we've outlined what we consider to be the principles of a well-designed road user charge. We'll be working with the Commonwealth on what that looks like in practice. There is more work to do.

The CHAIR: Do you have any data on the take-up outside of the cities in terms of that, particularly regional and rural, now that we have models of utes and other things?

MICHAEL DAY: We do. We get information from the department that looks after registrations. It tells you exactly where the cars are. We don't necessarily have them here, but we do have that information, yes.

The CHAIR: We can ask the Government as well.

MICHAEL DAY: Yes, it's available.

The Hon. SCOTT FARLOW: Or you could take it on notice as well.

MICHAEL DAY: Yes.

The CHAIR: It's interesting to see. If we just rewind again, in 2021 we thought that by 2027 we would probably have a 30 per cent uptake in new cars being electric. If you were to reset the clock now and plan a road user charge for a particular time, when do you think we'll get to that appropriate level?

AMAN GAUR: To go back to your wording, I think it really depends on the fleet. It's not new vehicle stock. New vehicle sales is like taking the temperature on a particular day. If you're from Melbourne, where I'm from, that changes every hour. It's not really a sensible way of trying to design future policy.

The Hon. SCOTT FARLOW: On that point, what is it at the moment? Is it about 20 per cent, in terms of new vehicle sales?

AMAN GAUR: Battery electric cars in the month just gone was 20 per cent.

MICHAEL DAY: Yes, 20 per cent.

AMAN GAUR: But if you were to go back six months, it wasn't anywhere near 20 per cent. That goes to my point. It is not the right barometer to put in place a policy of such significance. You've got to take a fleet-based approach.

MICHAEL DAY: A fleet view.

AMAN GAUR: Exactly. Julie's point was 2 per cent of the fleet is what battery electric cars are right now. You need to be thinking in terms of fleet. Good countries who have done this well, like Norway and Scandinavian countries, have taken a fleet-based approach, not a monthly sales approach. Just to put that into context, we have roughly 20 million cars on Australian roads. We sell about a million cars per year—100,000 per month, obviously. Even at 30 per cent of new vehicle sales, which is the cumulative plug-in hybrid and battery electric, that's still only 90,000 cars out of 20 million cars. It's a very drop in the ocean type comparison. We'd say that you should consider the fleet metric when you consider when the right point to be, which goes back to Julie's point that we need to be thinking about 30 per cent of the fleet rather than 30 per cent of new vehicle sales, because that will change on a monthly basis.

JULIE DELVECCHIO: I think it is fair to say that our view is that States have withdrawn—particularly demand-side—incentives too early. To answer your question on when we think we'll be at 30 per cent of the fleet—it's a great question. It's one that we think about a lot. I think it's fair to say that we need to keep all of the supportive measures that are currently in place, and we need additional measures to be able to close the gap between where we are and where we need to be. Hindsight is a wonderful thing, but we're not where we thought we would be in 2021. We're making great progress, but the work is far from done.

The CHAIR: Can you hazard a guess?

JULIE DELVECCHIO: A lot of it depends not only on the individual policies but also on how they fit together. There are specific mechanisms, and the EVC has a range of policy asks which go to things like the obstacles that consumers face. We know that education is a huge challenge. There are consumers who are very EV curious, and when they go to buy an EV they get caught in the consideration cycle. They get basically stuck in the middle. They get really confused. Some consumers don't quite understand the technology, so they do nothing or they just go back to a petrol and diesel car. We think that the right policy settings that help those consumers who are positively disposed to considering an EV to understand what those benefits are will drive uptake. The extent to which we can get there and how quickly depends in part on the policy configurations and how they come together, so I would be guessing.

The CHAIR: If we just carried on, though, as we are, and if we're at 2 per cent now—

AMAN GAUR: I think it's very difficult to see us reaching 30 per cent of the fleet anytime soon, with the current situation, because of the fact that EV price premiums still apply. There aren't enough subsidies in terms of lower income Australians. Support has been withdrawn at all State and Territory levels. The very rosy picture that was painted in 2021 was when all States and Territories were doing things in this space. There is no existing support now apart from one singular demand-side mechanism, which is the electric car discount. It's really hard to say when we'll reach a future trajectory when, almost every year, it feels like there's a pullback of support rather than an encouragement of support.

MICHAEL DAY: Can I give a personal opinion? We're decades away. We're easily a decade away from those sorts of numbers.

The Hon. MARK BUTTIGIEG: I've been listening to a lot of the evidence. A lot of these things are what I would characterise as a tailor-made function of some economic modelling. In other words, should you have a negative externality like road damage directly hypothecated to a road user charge and then use the tax system to influence market outcomes—all those sorts of things we've been discussing. Has anyone commissioned any economic modelling on this? Has Treasury done any economic modelling? I am just curious to know if there's been a hard approach to this.

AMAN GAUR: If you look at the CCA, the Climate Change Authority, they did a projection based on what the emissions reduction targets are for 2035 and what level of EV adoption you would need to meet those emissions reduction targets. That's where a lot of the target of five million EVs on the roads by 2035 comes from. A lot of that is based on the ISP, the integrated system planning, that AEMO has put out. That looks at what level of uptake there is and what level of uptake there needs to be in order to meet the level of adoption. I think that is a good piece of data points, I suppose.

The Hon. MARK BUTTIGIEG: I guess I was more interested in, if you've got a target that you want to meet, what's the means to meet that target? I can see there's an argument to say I've got one vehicle here which is petrol/diesel and one here which is battery-operated EV. If they're causing proportional damage to the road network based on weight, then the road user charge is valid. Then, if we want to reach that target, we should put tax incentives in place to reach that target elsewhere. I just want to know if there are any studies that have addressed that.

AMAN GAUR: Not in Australia, to my knowledge. Obviously that kind of approach has been taken more so in Scandinavia, where there have been taxes put onto fossil cars and fossil fuels to make that externality very visible in the pricing, and reductions in pricing, for electricity for cars and battery electric cars. But in Australia I'm not aware of such a comprehensive analysis of the market mechanisms required.

HEIDI RICHARDS: Actually, the New South Wales EV strategy document, which I think just came out in April, has estimates of externalities, including health costs and climate-related costs relative to EVs versus ICE cars. I think that cited other research that had been done.

The CHAIR: I think we're out of time. Thank you so much. This has been a really useful discussion. To the extent there were questions taken on notice or supplementary questions coming from Committee members, the Committee secretariat will be in touch. That concludes our time with you. Thank you very much.

(The witnesses withdrew.)

(Luncheon adjournment)

Mr ROBERT GILTINAN, General Manager, Public Affairs, Policy and Community, National Roads and Motorists' Association, sworn and examined

Mr WAL SETKIEWICZ, Principal Adviser, Infrastructure and Economics, National Roads and Motorists' Association, affirmed and examined

The CHAIR: We now welcome our next panel of witnesses. Would you like to commence with an opening statement?

ROBERT GILTINAN: Thank you to the Committee for allowing us to appear and to give evidence today. The NRMA represents more than 3.6 million members, and for more than 10 years we've been actively supporting Australia's transition to electric vehicles. We worked closely with the New South Wales Government in the development of the State's first electric vehicle strategy, including the policy settings that underpin the Electric Vehicles (Revenue Arrangements) Act. Importantly, we've also invested directly in delivering the transition. The NRMA has built the largest regional fast charging network in the country, with a strong focus on New South Wales, to support motorists, to improve regional connectivity and to give consumers the confidence to make the switch to electric vehicles.

At its core, this inquiry is about how we fund and price the road network into the future. The current system, based primarily on fuel excise, is becoming increasingly unsustainable as vehicles become more efficient and electrify. It's also a regressive model that is largely hidden from the consumer. Under fuel excise, those who travel longer distances and those driving older, less fuel-efficient vehicles tend to pay more regardless of their capacity to do so. Transitioning to a distance-based road user charging model presents an opportunity to modernise that system. Importantly, this is not about introducing a new charge but about replacing an existing, declining one with a system that is more transparent, more sustainable and ultimately fairer for motorists. The NRMA therefore supports the intent of the Electric Vehicles (Revenue Arrangements) Act. The policy objectives remain valid and the legislative framework is appropriate.

However, the success of the reform will depend entirely on how it is implemented, and there are several key principles we would like to emphasise. First, implementation must remain aligned with the original policy design and sequencing. This includes the delayed introduction of the charge from 1 July 2027 or when electric vehicles reach 30 per cent of new vehicle sales. The NRMA strongly supported that phasing at the time, and we are now approaching that point in the market. This makes it timely that implementation is considered carefully and in line with the original settings.

Second, the system must be simple, practical and consumer focused at commencement. New South Wales is well placed to implement a distance-based charge through the existing registration framework, either through the use of an annual odometer reading or leveraging connected vehicle data or telematics to support accurate, low-burden and automated reporting, provided there are appropriate safeguards around privacy, data security and consumer choice. From the NRMA's perspective, the customer experience will be critical. For motorists, the system must be easy to understand, low effort to comply with, and clearly fair.

Third, public confidence and transparency will be essential. Motorists need to understand not only how the charge works but where the revenue is going. New South Wales is facing a significant road infrastructure challenge, including a local road backlog of around $3 billion. Revenue from road user charging should support the maintenance and improvement of the road network. We also support a portion of that revenue being directed toward the continued rollout of publicly accessible EV charging infrastructure, particularly in regional and underserviced areas.

In this context, implementing road user charging at the State level also provides New South Wales with a more sustainable and transparent own source of revenue for road infrastructure. This improves the State's ability to plan, prioritise and deliver road investment in line with its own network needs, including local road funding and distribution to councils. As the fleet electrifies, under the legislation there will be a gradual but structural transition away from fuel excise which is collected by the Commonwealth toward a State-based road user charge. This should be understood as a tax transition, with revenue progressively shifting from the Commonwealth to the State. As that transition occurs, it will be important that infrastructure funding at the State level grows commensurately with that revenue to ensure that investment in the road network keeps pace with demand and community expectations.

More broadly, the NRMA takes a holistic, consumer centric view of this issue. Road user charging does not exist in isolation. It sits alongside EV uptake, charging infrastructure, road funding, road pricing reform and the broader question of Federal-State financial arrangements. Progress in this space has been limited at the national level for many years. In that context, New South Wales has played a leadership role in advancing a practical pathway forward. That leadership is appropriate and, in our view, overdue. We would also emphasise that the evidence on electric vehicle adoption is clear. Consumer decisions are driven primarily by factors such as vehicle affordability and access to charging infrastructure. Where those settings are strong, uptake continues to grow. A modest, well-designed and appropriately timed road user charge is not a material barrier to adoption, particularly when introduced in line with market maturity and alongside continued investment in infrastructure for the public.

Finally, this reform should be seen as the first step in a broader transition. A simple distance-based model at commencement is appropriate. But, over time, the system can evolve to better reflect the costs of road use and improve equity and efficiency. These levers are currently unavailable under the fuel excise scheme. That could include factors such as location, including differences between metropolitan and regional travel; time of day; congestion; vehicle type; and potential pricing caps or adjustments to protect certain cohorts of motorists. In closing, the transition away from fuel excise is both necessary and inevitable. The Act represents a practical and considered first step in that transition. The question is not whether we proceed with reform, but whether we get the implementation right to ensure simplicity and fairness, while maintaining the confidence of motorists. The NRMA stands ready to work with the Government and the Parliament to ensure that outcome is achieved.

The CHAIR: In your opening statement, you talked about how the 1 July 2027 implementation date is approaching. I think you said the "time in the market". We heard evidence in the previous panel of witnesses that we've had, I think, one month with around 20 per cent of new vehicles being EVs, and that was seen as a bit of an anomaly. I think under the Act, it's done on an annual basis of when we've reached an annual 30 per cent of new vehicles—do you think that we are anywhere near that, and do you think that, given we thought we would be closer when we first put this in in 2021, that perhaps we should be revisiting that date now?

ROBERT GILTINAN: No. When we supported the State's EV strategy, it was a circa $600 million investment to support EV uptake, which we supported at the time, along with the Electric Vehicle Council and the Ministers who were responsible for implementing that package. Part of that package was the associated Act, which we agreed would implement on 1 July 2027 or at around 30 per cent of vehicle sales. I don't think there was an explicit view on how you would measure the 30 per cent of vehicle sales, because there's a couple of different ways to do that. But we all agreed at the time and thought it was quite reasonable to give motorists a pretty long lead-in so that they were aware that a charge was coming at a certain point, and 1 July 2027, or 30 per cent of vehicle sales was the trigger.

WAL SETKIEWICZ: The other thing to note is that when this was put in place, obviously we were wanting to give consumers as much time for this thing to be implemented. Obviously, we thought it was better to be open, up-front and transparent that this thing is coming, and we've set a time frame for that to happen. As Robert mentioned, there were obviously other packages which were put in place to try and make this a sustainable program going forward. Whether the number is 30 per cent or 20 per cent, we are now seeing a lot more electric vehicles in the dealerships. If you were to have a look at the current *Wheels Magazine* and compare it to the *Wheels Magazine* of about four or five years ago, you'll see the amount of electric vehicles, and vehicles which are well priced, now, in the system. We are encouraging people to do that. The other thing to note is that our vision in terms of building a network of charging stations across New South Wales and into the other States all supports that entire package, going forward.

The CHAIR: Going back to 2021, when this was put in place, the idea at the time was that by around 1 July 2027 we would have reached 30 per cent of new vehicles being EVs, and there was a sort of carrot-and-stick approach put in there where we were going to have the stamp duty exemptions and other things, and it was going to sort of kickstart. No-one's taking away that, of course, there has been an increase in the number of EVs that are being bought, but it's not anything like what was thought of at the time. What is the current rate, and do you think that we should be delaying until we're more likely to get to that sort of ideal uptake first?

ROBERT GILTINAN: No. Again, certainly from this year we've seen volatility in the fuel market, like an exponential increase in vehicle sales in the new market and second-hand market. We've also seen an exponential decrease in the cost of vehicles. They're now, over some sort of total cost of ownership/life cycles, cheaper, in some instances, than internal combustion engine vehicles. The rationale for delaying the charge beyond 1 July 2027, when consumers or potential purchasers have had more than five years knowledge that the charge is coming—and it's a relatively modest charge compared to what one would pay under fuel excise if you look at the kind of commensurate rate—I think now's the time to do it.

The further we delay it, the harder it becomes to implement and, as we noted in the opening statement, we've got a circa $3 billion road funding backlog. If this is implemented at the State level, it gives us a bit of a trajectory in terms of creating an own source of revenue so that we can start to combat and put more funding into maintenance and upgrade the network, which currently is not satisfactory.

The CHAIR: Perhaps I'll break the questions down then. The first question is what is the current rate of uptake of electric vehicles.

ROBERT GILTINAN: Last year in New South Wales we were around 8 per cent to 9 per cent. I think already in 2026 we're more than 15 per cent. Some months we've recorded more than 20 per cent. I wouldn't necessarily say that that's an anomaly. We've seen a huge increase in traffic through to our website and inquiries coming through and people wanting to know more about EVs. In the past couple of months, the interest has grown exponentially.

The CHAIR: In your previous answer you talked about how consumers had five years to prepare for this. Do you think that most consumers know that there's an EV tax coming in at the beginning of the next financial year?

ROBERT GILTINAN: New South Wales has done a reasonably good job in disseminating that information. We've certainly done that from an NRMA perspective. But, again, I would probably make the point that the critical things we see from members and through our surveys in terms of the impediment to purchasing are very obviously purchase price and also access to public charging infrastructure, particularly on the latter point, where they don't have access to home charging. A road user charge that is currently set at a lower equivalent rate to what someone would pay in fuel excise, for us, is not a material burden for people looking to purchase these types of vehicles.

The CHAIR: Coming back to the answer you just gave then, and the first bit around whether or not people know that this is coming, you said that the Government has been doing some work on that and that the NRMA has as well. What is that, exactly?

ROBERT GILTINAN: As part of the EV strategy back in 2021, we agreed to a communications package. We've disseminated the information about the road user charge and the need to implement that at some point, primarily to underpin road funding at that time, and also more recently.

The CHAIR: What does that mean when you say you disseminated that information?

ROBERT GILTINAN: Made known through communications, including *Open Road* and other channels that we have access to through *Open Road*.

The CHAIR: What is *Open Road*? Is that the magazine?

ROBERT GILTINAN: Yes, a magazine—which I think has got the highest latency of any magazine in New South Wales—and through other member communication channels that we have access to at the NRMA. I'm happy to provide a list of those communications to the Committee if it's helpful.

The CHAIR: That would be useful to see what information has come out. In the discussion we had in the previous panel, there was research presented that showed that the introduction of a road user charge would have a significant impact on the take-up of electric vehicles, based on their survey. What surveys have you conducted to show the opposite of that?

ROBERT GILTINAN: Again, we have conducted a member survey in that regard, and I'm happy to provide that to the Committee. I'm not aware of any other survey that suggests that that would be a material impediment to EV uptake.

The CHAIR: Did you hear the evidence that we had in the previous panel?

ROBERT GILTINAN: No. I'm happy to consider it and provide a response in regard to it.

The CHAIR: That would be very useful. That was a study that was undertaken by Dr Jackson at the end of 2025, I think he said, that specifically looked into that as an issue. That would be useful to understand. The question of implementation is a really important one. I'm very interested in your views around what the public would expect or what would go easiest for the public in terms of the implementation of this. You refer in your submission to the production of annual odometer readings. We know that in the Act there are some variations or exceptions for people who are, for example, driving on farms and things like that. How do you see that working out in practice in a way that is not going to be off putting for EV drivers to be able to justify how many kilometres they've driven for the road user charge purposes?

ROBERT GILTINAN: That's ultimately up to the Government and government departments to implement the mechanism to collect the road user charge, but having an annual registration system already in place probably presents the easiest pathway where you can make a determination each year in terms of the kilometres travelled by particular individuals. It would become part of that yearly process—at least that's what we understand from Transport for NSW and other discussions we've had with government departments in terms of how it would be implemented. I don't know if the thinking around that has changed very recently, but that seems as though it's the simplest pathway to implement.

The CHAIR: So you've had discussions around implementation with government?

ROBERT GILTINAN: Previously.

The CHAIR: When was that?

ROBERT GILTINAN: Back around 2021, when we were first discussing a road user charge. I would also probably make the point that telematics and connected vehicle data has come a long way since that point in time. If you're looking for an automated, low-cost, low-burden way to implement, I think looking seriously at using connected vehicle data would be really worthwhile to consider.

The CHAIR: In your submission you talk about appropriate safeguards relating to privacy, data, security and consumer choice. I know that back in 2021, but also more recently, there were real concerns around privacy and the idea that you would have an automated function in your car that would then report back somewhere else—what sort of car usage and other stats about your driving. I understand that in some other countries, some insurance companies have been using that data to increase people's premiums. There are a bunch of other things going on in that space. What are your members telling you in relation to privacy concerns and other things around connected vehicle data?

ROBERT GILTINAN: In relation to implementing it for road user charging, again, it's something that needs to be considered holistically by government. In terms of connected vehicle data more broadly and some of the risks or perceived risks that pertain to what those vehicles collect—where the data goes, who has access to the data, who controls the data et cetera—the NRMA will have a lot more to say about that in the coming months. We're currently working on a policy paper with reputable partners from Australia and overseas to pitch a national framework that will put in place protections for consumers as the connected vehicle data becomes more and more prevalent as the vehicle fleet transitions.

The Hon. SCOTT FARLOW: In terms of the road user charge as it stands at the moment and scheduled to come in on 1 July 2027, we have heard a lot in terms of the Vanderstock decision of the High Court. We heard from the previous witnesses that they are considering a legal challenge if the New South Wales system were to be brought in on 1 July. I'm interested in the NRMA's perspective as to whether it still holds water in terms of the constitutional impediments potentially and whether the Government should potentially consider a redesign to ensure that it doesn't fall foul of the High Court's determination in Vanderstock.

WAL SETKIEWICZ: I'll start. My first point is that the current Government, when the decision was handed down, looked at what the result was and, obviously, has done some legal homework to understand what would be the issue or what would be the case if New South Wales implements a system from 1 July 2027. Obviously, the Government has done some legal homework on that.

The Hon. SCOTT FARLOW: Why do you say "obviously" they have?

WAL SETKIEWICZ: It has been mentioned.

The Hon. SCOTT FARLOW: I just wondered if you had more information than us. Sorry, Mr Setkiewicz.

WAL SETKIEWICZ: You just lost my train of thought.

The Hon. SCOTT FARLOW: My apologies.

WAL SETKIEWICZ: The other important thing is the technicality issues in law. We are looking at it from the perspective of what it means from the economics of funding our roads. The conversation of is it an excise or is it a charge—we're not legal people, so we're not going to go down that path. But I think what is important is that we understand why this thing is needed and the imperatives for doing these things. Obviously, at the end of the day, if there is to be a legal challenge, either we need to work through those processes or, if the Government wishes to, change what it's got on the plate for implementation at the moment to possibly make it work. Obviously, they would be considering those options at the moment as well.

ROBERT GILTINAN: I would add that, as an advocate for the motorist who's looking at things like EV uptake road infrastructure funding, we're coming at it from very much a policy perspective and a realisation that fuel excise is obviously going to decline over time and so it's inevitable that we need to look at how we create a funding source to continue to enable us to invest in road infrastructure, maintenance upgrades and those sorts of things. Ideally, we would like a nationally coordinated approach that was agreed by all governments, including the States. The implementation question for us and the legality around where the legislation sits, who collects the revenue et cetera is really for governments to work out. We're effectively just an advocate for the motorists and coming at it from very much a policy perspective.

The Hon. SCOTT FARLOW: I appreciate that. I guess the challenge that we face, in a sense, is that we have a legislated road user charge which, following the Vanderstock decision, may not hold water. Then we're back at square one, where we're not actually able to recoup that funding for roads and for the motorists across New South Wales. That's one of the things that we're considering. I guess that your advocacy on this point is probably similar to others who've come before us—that the ideal would be a nationally coordinated road user charge which applies to all vehicles and is hypothecated fully to road funding and maintenance. Am I correct to characterise your position in a similar way?

ROBERT GILTINAN: Yes, I think that's broadly right. National coordination is always the first starting point when you have these issues or these magnitudes that we're considering. I think from our position, the Commonwealth have delayed an inevitable transition across to a road user charge for probably more than two decades because it's politically sensitive. Effectively, we're talking about a tax—a fuel excise, a road user charge. It's been kicked down the road too long and it's now becoming harder and harder to implement as the electric fleet continues to increase, in the past the couple of months exponentially. The reform is overdue. We would like a nationally consistent approach. Whether that means it's a Commonwealth-led approach or whether that means the Commonwealth support the States in collecting the revenue, we're open to all of those potential scenarios for the transition. But at the moment, New South Wales has shown a leadership role. We commended them in 2021 at the time, when they took that position alongside their broader EV package, and we continue to do so.

The Hon. SCOTT FARLOW: Some witnesses have said that fuel excise doesn't necessarily go to the upkeep and maintenance of roads. Is that a position that you share as well? Or do you think that when it comes to fuel excise, it is the way that motorists are currently paying for the upkeep and maintenance of roads across New South Wales and Australia?

WAL SETKIEWICZ: Obviously there's no formal link between the excise collected and road funding. It's well known and you obviously have heard that from a few people. I think for us, the issue is about what is the level of funding required to maintain a safe road and a sustainable road network. That's our issue, and that's why we want to see road user charges in place, because that will change the dynamics of how this funding model works in this country. I've been in these rooms about four or five times over the last two decades talking about this issue, so obviously it's just a revolving circle. We're also wedded to a system that's based on user pays and also that it funds roads. It potentially funds public transport options as well, and also EV chargers going forward. We want this to be a holistic, proper funding model going forward. We're also of the view, if you want to look more holistically, that we would like to see a holistic review of all the motoring fees and charges, to have a proper dedicated funding program to fund the transport network in this country.

ROBERT GILTINAN: It's only a hypothecated portion of the CPI at the Federal level of the excise that actually is required to be redirected into roads. Our position is that we have a huge backlog in New South Wales. There are also major backlogs in the other States. Our starting point is that we don't have enough investment going into roads at the Federal, State or local government level. The transition to road user charging, we would like to see it enable us to put in place a more sustainable long-term model so that we don't have disparate funds coming from Federal, State and local governments—effectively, a patchwork of approaches to try to maintain roads—because that approach is simply not working. We want to deliver a safe and efficient network for motorists, for transport and for logistics, and we can't do that with the current funding envelope.

The Hon. SCOTT FARLOW: One of the arguments that's put before us is that, before any road user charge comes in on EVs, we need to get to a certain critical mass. Just prior, I think the Electric Vehicle Council talked about 30 per cent of the fleet. From your perspective, how realistic do you think that is? If you were to take that approach, what would be the cost that's borne by other motorists if electric vehicles were exempt for such a period—which I think, from earlier evidence we heard, is probably at least a decade away.

WAL SETKIEWICZ: Obviously I'm not going to comment on what people are forecasting, but the reality is that the longer you delay this, the more inefficient the funding model system will be. Investments that are required to even just maintain our network—we've all seen what has happened over the last couple of years with various weather conditions. We need to be at least on the playing field, not below it. I don't want to argue whether it should be 25 per cent or 30 per cent. For us, it's a policy issue as to how best to fund this particular system going forward. We also realise, as you people realise, if this was easy to implement, it would have been implemented a long time ago. What we're now trying to do is start the process, because we know that traditional fuel excise calculations are going to fall over time.

If EVs, supposedly, by 2035 are 50 per cent of sales then you can look at the numbers in terms of what it does to the calculation of a pool of funds to go into the transport perspective. You'll probably say it's not hypothecated, but we need a sustainable funding model that helps us for all motorists going forward. The more you delay, the more the consequences of maybe harsher decisions being made further down the track. Let me point you also—at a Federal level, we only just recently implemented the national vehicle efficiency standard, which actually forces vehicle manufacturers to bring more fuel-efficient and electric cars into the country. That should have been implemented 10 or 15 years ago. We wouldn't be making some of the harsh decisions now if we had thought this through logically and put profiles in to actually start doing this thing.

The Hon. SCOTT FARLOW: One of the issues that has been raised is about hybrid vehicles. Under the New South Wales scheme, there are four plug-in hybrids. There's an 80 per cent hypothecation in terms of their distance, and 100 per cent for full-battery electric vehicles. Those that are not plug-in hybrid would not be captured but would still be subject to fuel excise. In that sense the argument is that, just because they are much more fuel efficient, they're not really carrying their full load of contribution to wear and tear on the roads. Is there something that needs to be done when it comes to hybrid vehicles as well, or is it best left alone?

WAL SETKIEWICZ: I think at this point it's best left alone. Let's see what actually happens. Obviously the rate that has been proposed is based on some sort of assumption—that it was 80 per cent usage of hybrid and 20 per cent on the road, or whatever permutation. That's a starting point. I think we shouldn't get bogged down in that particular technicality because, at the end of the day, what we're wanting to see is this thing develop over time. Where there are problems, that will come up. We want those policy problems solved as we move to a system that in the end becomes fairer for everybody.

The Hon. MARK BUTTIGIEG: We heard in earlier evidence from the EV industry advocates that this is a far too immature part of the market for EVs to be introducing this sort of a road user charge. The argument was that it needs more stimulus if we're to get to the targets that the Government's set. What's your view on that argument?

ROBERT GILTINAN: Again, I just point back to my further evidence that there was a lot of consultation done around the particular piece of reform back in 2021. At the time when it was publicly announced by the Government, it was supported by the NRMA and also the Electric Vehicle Council. We don't think that a charge at this point in time is a material barrier to people purchasing EVs. The true critical options for us are making sure that they're affordable and that people have got access to charging infrastructure. Those are far and away the critical factors.

The Hon. MARK BUTTIGIEG: The NRMA's view would be, if I summarise that, that the market can sort out the comparative advantage, based on long-run cost to clients and the technology improving, and the road user charge is simply an equity issue in terms of if people are going to use the roads, they should pay for it.

ROBERT GILTINAN: Yes. I think that's broadly right. Again, if you look at total cost of ownership now with some EVs, they're actually a better proposition compared to internal combustion engines. What we've seen over the couple of months with fuel volatility has underpinned the demand and the inquiry we've seen in terms of people looking to purchase EV, both in the new market and the second-hand market. You also have a lot of really affordable vehicles now on the market and still coming down the pipe. If someone's purchasing one of those particular vehicles and not paying any road user charge, there are others who have purchased vehicles that would be commensurate with the purchase price and who are paying the fuel excise. There's some sort of equity or fairness issue in there as well.

The CHAIR: Can I just ask, on that fairness and equity issue, we have a lot of people commuting long distances these days from outer Sydney into Sydney. As one of those people who lives in an area that has no viable public transport for me, I drive a long way to get to work, and I also pay a huge amount in tolls. This is the experience of so many people across Western Sydney, the Illawarra and the Central Coast. Do you think it's fair that those people should be paying extra, effectively, to get to work than people who are living closer to the city with something like this?

ROBERT GILTINAN: I'll put tolling aside. That's a separate issue. But if you're looking at road user charge versus fuel excise, the current fuel excise is incredibly regressive in nature and we don't have any way to change or make that more equitable. If you look at travel distances now, people driving long distances in the regions travelling to work—particularly in the regions, a lot of our members drive older, less fuel-efficient vehicles. The status quo is that they're actually paying significantly more for road use, if you want to tie fuel excise to road use currently. The switch to a 2.97¢ per kilometre charge actually means that they'll be better off.

The CHAIR: Effectively, then, we're trying to bake in the unfairness of the current system. We have a system at the moment that if we get to 100 per cent EVs and we're not going to have that fuel excise on any vehicle, we have the opportunity with these electric vehicles and all the technology and everything else to design a system that could be far more progressive and doesn't penalise those people who have no choice but to drive.

ROBERT GILTINAN: Yes, correct.

The CHAIR: Do you think that perhaps we should be trying to look at those more progressive and equitable features when we're designing this particular road user charge?

ROBERT GILTINAN: Yes. Again, that's very clearly part of our policy. I guess where we're coming from is this is a first step. A distance base is a first step for implementation. The 2.97¢ is not commensurate with what you would be receiving if you looked at what fuel excise was collected in New South Wales. You would need to increase the road user charge up beyond 6¢ per kilometre to make that cost neutral, or revenue neutral if you like. The benefit of a road user charge for us is that you can make it as simple or as complex as you like. You can add in different elements, like looking at where people are commuting from and to, the weight of their vehicle, if they contribute to congestion, how much pollution they're emitting—all those sorts of things—whereas under the fuel excise, it's very rigid. You don't have any optionality around it whatsoever.

The CHAIR: One of the first things we heard this morning was the constitutional experts saying one of the ways it would be smart to avoid the High Court striking this down is to try and take it away from being a purely distance-based charge, like Victoria's was, and to add in some of those elements of other externalities. Would the NRMA support those sorts of tweaks to this legislation?

ROBERT GILTINAN: We certainly wouldn't oppose it if it was based on making the system holistically more equitable for motorists. This reform is well overdue, and the simplest way to implement it is starting with distance. But if there is appetite and an agreed view to make it more equitable and to add in additional elements from the starting point, and if it overcomes the legality issue, I certainly don't think that we would oppose that. In fact, we would probably like to be involved in developing what that looks like.

The Hon. SARAH MITCHELL: Thank you both for coming. The broader issue in some of the earlier evidence we heard was that it is too early to bring this in because the rate of take-up of EVs isn't high enough. To your point, Mr Giltinan, you talk about the issues with charging infrastructure. That is something that I hear as well. From NRMA's perspective, what are some things that the Government should be doing to better invest in or better support that charging infrastructure, particularly for more urban communities and apartment living? Where are the gaps as you see them? How could that help in this overall issue?

ROBERT GILTINAN: I'd start by saying that I want to commend the previous Government, because the investment that they made in supporting the EV transition was really significant and nation leading. We, as an organisation, have also supported the transition by building the largest regional fast-charging network and also by working with the Federal Government to build a national backbone network to support State implementation and State charging as well. I would say there is no greater advocate for the transition to EVs than the NRMA. We've done everything that we can to work with government and industry to support the transition, because there are so many benefits to motorists and so many societal benefits that come from making that transition happen as quickly as possible. I think that governments have done a really good job up until now supporting the transition.

Looking forward, the critical things that we see, as I mentioned before, are purchase price and the access to charging infrastructure. The purchase price is being addressed through the market mechanism. We've seen battery technology improve rapidly and some of those cost pressures being passed down to the consumer in the form of reduced pricing. The charging infrastructure is where we need to concentrate. There are two things—charging infrastructure to support light vehicles and heavy vehicles, and then probably more support to try and transition the heavy vehicle fleet as well, which is delayed behind the light vehicle fleet. We would like to see the Government invest more at a State and Federal level in the provision of publicly accessible charging infrastructure, including accessible infrastructure that is available for those people with disabilities to be able to access so that we're not precluding anyone from being able to transition to an EV if they choose to do so.

The existing apartment issue is a significant barrier. Again, that will be overcome by a mix of putting fast-charging hubs in metropolitan locations, continuing to build fast charging in regional locations and also looking particularly at how we can do low-cost retro fits to existing apartment blocks, which is where a lot of people would like to purchase but they don't have access to current charging. I know the Federal Government is doing some work. They're looking at some innovation in that regard. They've done a test recently in an apartment block that was quite successful—in Victoria, from memory. Putting in investment and trying to expedite the process for existing apartment block charging is something that we should be concentrating on, because that is a really critical barrier for us.

The CHAIR: Thank you so much for your attendance. It's been really useful. To the extent that questions were taken on notice or there are supplementary questions, the committee secretariat will be in touch.

(The witnesses withdrew.)

Mr SIMON O'HARA, Chief Executive Officer, Road Freight NSW, sworn and examined

The CHAIR: We now welcome our next witness. Would you like to commence with a short opening statement?

SIMON O'HARA: Chair, Deputy Chair and members of the Committee, thank you for the opportunity to appear here today. Road Freight NSW welcomes the opportunity to assist the Committee in its review of the Electric Vehicles (Revenue Arrangements) Act 2021. Our written submission is before the Committee and I do not intend to repeat it in full. Road Freight NSW represents road freight operators across New South Wales, with origins dating back to 1893, from the era of the horse and cart. Today our members move the goods that keep the State operating, including food, fuel, construction materials, containers, refrigerated freight, oversized and over-mass freight, waste, retail goods and essential supplies across metropolitan, regional and interstate supply chains. Road freight is an essential service. It underpins our modern economy and the daily lives of our communities across New South Wales.

Road Freight NSW accepts that the broad policy objective behind the Act remains valid. As vehicle technology changes, governments will need to consider how roads and transport infrastructure are funded into the future. Freight operators rely every day on safe, productive and well-maintained roads, and we support the principle that road users should make a fair contribution to the infrastructure they use. Our concern is with the design of the mechanism. The current Act establishes a system of distance-related road user charges for certain zero and low emissions vehicles. Importantly, it expressly excludes heavy vehicles. Section 8 lists a heavy vehicle as an excluded motor vehicle. Road Freight NSW acknowledges that exclusion. However, heavy vehicles being excluded from the current Act does not mean freight should be excluded from the road funding conversation.

This review may influence the future model for road user charging, and Road Freight NSW's central concern is that a passenger or light vehicle charging model should not become the default template for freight. Heavy vehicles operate under very different commercial, safety, access, infrastructure and compliance arrangements. Freight also includes light commercial vehicles such as vans, utes, couriers and last mile delivery vehicles, which may not be heavy vehicles but are still performing an essential freight task. Road freight does not stop at State borders. Operators regularly move freight between New South Wales, Victoria, Queensland and other States and, of course, regional communities. A patchwork of State-based charges, reporting requirements and compliance systems would add cost, uncertainty and complexity. That concern is reinforced by the Act's extraterritorial features. The Act is intended to apply to New South Wales registered zero and low emission vehicles travelling on roads in other States and Territories.

For freight, interstate travel is not incidental; it is fundamental to how the industry operates. Road Freight NSW therefore submits that New South Wales should not proceed in isolation with a fragmented State-based model. Instead, New South Wales should use this review to help lead a national framework developed with the Commonwealth, other jurisdictions, industry and infrastructure stakeholders. Any future model must avoid double charging. Freight operators are not starting from zero. They already contribute through heavy vehicle charges, registration, tolls, compliance costs and other government-imposed costs.

Electric freight vehicles may also face depot, infrastructure, grid connection and electricity network costs. Before any new charge is imposed, government should be clear about what existing charges remain, what is being replaced, what is being duplicated and how unavoidable costs can be passed through the supply chain. Government should support the transition before charging it. We need to put things in place, particularly in and around infrastructure that relates to making this work, as opposed to seeking how we get individuals and companies to pay straightaway.

Finally, Road Freight NSW says any future road user charging framework must include fairer and more binding hypothecation or statutory earmarking so that revenue collected from road users is actually reinvested into the New South Wales road system and the infrastructure that road users rely upon. At present, section 7 of the Act states that revenue collected under the Act is indeed to be paid into the Consolidated Fund. That is not the same as guaranteed return to roads, bridges, rest areas, freight corridors or charging infrastructure. I note, of course, the system we have federally, so I am setting a high bar for New South Wales. Industry confidence will be much stronger if revenue is transparently and directly linked to the infrastructure outcomes road users need: better roads, stronger bridges, safer rest areas, more productive freight corridors, improved first and last mile access, regional road resilience and future low and zero emission freight.

In essence, we support a sustainable model for the future and we support electric vehicles. I would note that if New South Wales proceeds with any interim approach—if New South Wales decides to go it alone—Road Freight NSW stands ready to work constructively with the Government to ensure the road freight industry is properly considered. I note particularly Professor Twomey's submission this morning, which was compelling and erudite. I thought that Professor Twomey was very compelling. I submit, from our perspective, that our heavy vehicle partner Sitrak, who manufactures about 300,000 heavy vehicles a year and 200,000 light vehicles per year, has a heavy focus on manufacturing electric heavy vehicles. I welcome the Committee's questions.

The CHAIR: When I was chairing the inquiry into tolling a few years back, there was quite a lot of talk at the time about this idea of double charging that comes with freight operators. We were talking at the time generally about the differential toll on trucks, the difference in rego costs and all sorts of different things, and how the logic behind all of these different charges didn't seem to add up. They all had a different basis. At that time, I'm pretty sure Road Freight NSW was arguing—certainly some others were—for taking a step back and actually going, "What is it we're trying to achieve here? If we want this to be equitable, we're going to have to look at all of the charges." Can you tell the Committee a little bit more about what that double charging looks like? I know you mentioned it in your submission as well.

SIMON O'HARA: Yes, certainly. Double charging can mean a range of things. I would just note and preface any of my comments by saying the following. I note that some of the other persons giving evidence here today mentioned heavy vehicles, and indeed I think yourself, Chair—you've mentioned heavy vehicles in terms of doing damage to roads. We note that, but at the same time we also note that, say, for instance, registration—if you look at a light vehicle at the lower end in terms of the registration cost, it's about $380; at the higher end for heavy vehicles, it's about $15,000 to $17,000 for registration per vehicle, and that's based on mass, type and a range of other factors. People, perhaps to their disservice, have these throwaway lines about freight doing more damage. Freight pays a premium to be able to use those roads. Freight pays certainly much higher when it comes to tolls, certainly much higher when it comes to registration. You also have fuel.

Freight pays its way and freight carries the cost for any of the so-called damage to roads that might eventuate, so much so that light vehicle costs in terms of those surcharges are quite small. The additional costs may well be, in terms of the duplication, a range of things, and that includes, as you've mentioned, tolling. I've mentioned registration, which for heavy vehicles is part and parcel of how they pay for the use of the roads, again, based on mass, weight and type, and you also have it through the diesel component by which they pay for the use of that fuel. There's certainly a fair bit of double charging. Whether that's other charges, I'm happy to go into that as well.

The CHAIR: One of the related issues that I remember from that inquiry was the complexity around who pays for those charges depending on the driver, the truck owner, the freight company and the contracts. There was a lot of dispute about who was paying for what administratively. When we talk about this idea of this road user charge coming in on 1 July 2027 but then potentially being struck down by the High Court shortly after, what sort of impact does that have on your members in terms of trying to prepare themselves for the introduction of something? How annoyed would you be if it then got struck down and it was all for nothing? What sort of costs are we looking at to administer that kind of thing from an internal perspective?

SIMON O'HARA: Good question. I do note that currently, as it stands, this particular piece of legislation does not apply to heavy vehicles. But in terms of that 1 July 2027 date, the members—our operators—prefer a national scheme simply because it works better for them in terms of consistency and certainty. In freight, consistency and certainty are two things that are absolutely fundamental to being able to move goods across the country. New South Wales might have its own particular system, but I do note the extraterritorial aspects to the Act. I'm certainly open to having conversations around how that might operate. From our perspective and our members', the freight industry needs consistency and certainty, and for them to scramble around with upcoming dates, that—let me put it in these terms—may be problematic.

The Hon. SARAH MITCHELL: In terms of the percentage of electric heavy vehicles, I think you note in your submission that this is the pathway that we're eventually moving down. But I'm just curious in terms of the size, noting what you said before about vans and utes and other kinds of freight operators. What's the percentage or scale that you're seeing in your industry?

SIMON O'HARA: In terms of electric heavy vehicles or electric vehicles?

The Hon. SARAH MITCHELL: Electric heavy vehicles most specifically.

SIMON O'HARA: The penetration within the industry certainly isn't as much as you've seen within the light vehicle industry. I note, though, that the Chinese imports that are coming through—the Chinese heavy vehicle manufacturers—their pricing is extremely competitive. In fact, sometimes they're half of what you might be seeing in other companies or, indeed, manufacturers. In terms of the proportion, it's not a high proportion. I would put it under 10 per cent in New South Wales, or maybe even 5 per cent. But it depends on how you break it down. If you're going to talk about vans and last mile delivery—

The Hon. SARAH MITCHELL: I'm thinking more longer, heavy vehicles.

SIMON O'HARA: Very few. One of our members purchased a hydrogen heavy vehicle. I don't know if he still owns that vehicle. The type of work will dictate the type of vehicle that you will use. For instance, potentially, you might see electric heavy vehicles being used first at, say, Port Botany, so shorter trips. Part of the issue as well—and it comes back to that double charging and those issues—is that you've got to be able to set up a network that allows heavy vehicle charging, preferably rapid heavy vehicle charging, which would mean that you would have to have clients as well as the trucking operator being able to work together to be able to ensure that those heavy vehicles are charged. At this point, the port work would be likely the first cab off the rank.

The Hon. SARAH MITCHELL: That sort of goes to what you talk about in your submission, too, about the wraparound infrastructure that you would need on freight corridors and things. We are just not there yet in terms of what's on offer for those longer haulage trips.

SIMON O'HARA: I remember being out at Toll about four years ago or five years ago with Mr Kean and the other members of Parliament from Queensland and Victoria. We came together for a tripartite agreement to say, "Hey, we need to do something on the Hume, amongst other roads." The charging infrastructure for heavy vehicles is still—the paucity is high. There's not a lot that allows you to be able to charge. Janus, which is a separate company, has a drop-in charge battery. They take out and they drop in. I think they've just moved to Singapore in terms of their operation, but I'm happy to be corrected on the record for that.

The Hon. SCOTT FARLOW: Mr O'Hara, thank you for your attendance today and your evidence. That is part of the missing piece of the puzzle, so to speak, in terms of heavy vehicles, when it comes to the electrification challenge and the charging infrastructure being pivotal. One of your concerns, I think, is that in this current system electric vehicles may be forgotten when it comes to the rollout that we're going to need in terms of electrification. What are some of the things you would suggest that the Government do on this front?

SIMON O'HARA: From my perspective, there seems to be this ongoing debate between purists for internal combustion engines and those that seek battery-led technology. Hydrogen will still use electric vehicles as the way in which they will be able to move. From our perspective at Road Freight NSW, we take a very commonsense approach, and that is that you need a mix. There's a certain amount of sovereignty that you gain from having a certain mix of energy and also being able to move freight effectively. Your logistics are absolutely important for a modern society, so having a mix would be essential. I just preface my comments by saying that. In terms of what New South Wales needs, we would need dedicated areas. If you go to Pheasants Nest, you would need rest areas that would be well and truly catered for to be able to allow charging to take place. You would need that infrastructure in place.

One of the issues that we've encountered—it certainly hasn't been encountered by my members, but in another State—one company decided to purchase two heavy vehicle electric trucks. I don't know what sort of pressure testing they did, but they sent them out on the first run and they didn't make it up a mountain just outside the city, so they had to be picked up by a truck tower and brought back. It's not just New South Wales; it's Australia-wide. We need to invest in this in a way that would be consistent and move across parties, so you couldn't necessarily have that uncertainty about one party saying, "This is what we're going to do," and another party not backing it in as well, because there's huge investments that are made by freight operators.

When you're looking at an electric vehicle that costs anywhere from, on the cheaper side, $435,000 all the way up to $1 million, small businesses will go broke. The truth of the matter is the heavy vehicle industry is made up predominantly of small-to-medium businesses, so we have to get this right. If this is what we want to do, we have to get this right in a way that means that the investment, particularly for charging, and also incentives—I've always been a fan of incentivising companies and people into changing their behaviour, as opposed to the stick, which I suggest might be something that comes later.

The Hon. SCOTT FARLOW: With respect to some of the challenges that you outlined, I think you watched the evidence this morning of Professor Twomey—the suggestion that she had in terms of an alternative system that would take this outside of the realms of Vanderstock and what the High Court had determined, I think with a mix of distance but weight in that as well. Do you foresee any challenges when it comes to your industry, if there was such an application?

SIMON O'HARA: The premise of my submission was based on those two elements that I raised with the Chair, and that is certainty and cost. From our perspective, if the Parliament can ensure that there is a certainty to the path that's being taken, then that gives us comfort. I note Professor Twomey's reference to the "mad decision", as she put it. I won't paraphrase beyond that. The point I would make is that it's all about consistency for us. It's not about the debate about electric vehicles or not. It's about consistency and businesses being able to make big investment decisions that allow them to go, "Well, we've made the right decision, because this is going to be something that's going to be around for years to come." I have a certain amount of sympathy for the Treasurer, as well. I note that there has certainly been a bit of debate about funding in New South Wales recently. We called on

State and Federal governments to work together on the Great Western Highway, and when, for instance, Anne Twomey talks about catastrophic issues, we're certainly alive to that.

The Hon. SCOTT FARLOW: Finally, in terms of what you've advocated and what other witnesses have advocated as well in terms of a national road user charge, and using this opportunity and the Vanderstock decision, and where we find ourselves in advocating for a national road user charge, what would you, on behalf of your members, like to see as part of that national road user charge? How should it apply? What should it take consideration of?

SIMON O'HARA: I've had a long history in this role. If you're going to pay money, what do you get for it? I've had that with the port surcharges in terms of money being spent and paid to pay port surcharges. It's the same in this particular circumstance. If you're going to be paying a road user charge and you're going to be using the road and we're going to need infrastructure, then that money, in my opinion and our members' opinion, should go back into the roads and to that infrastructure. At the moment, we are looking at an audit of roads in the Central West, as a result of some things we've had to say. I reckon there's a pretty good case to directly link the money that comes in to road funding, and make sure that they both match up so that that hypothecation isn't an aim, but it's binding.

The CHAIR: One of the points you raise in your submission is around if some sort of technology is to be used to work out how many kilometres people are driving—that there needs to be some pretty strict guardrails around that. Obviously, in the freight industry, there's a lot of going between and across States. How do you see that working out? Is it feasible that we would have a scheme—we heard earlier you could have it based on the location of the registration but then be driving all over Australia. Does it make sense to do that at a New South Wales level?

SIMON O'HARA: The issue is, first of all, will it be constitutionally valid if, for instance, you would have a New South Wales system. Second point would be if you do have a system and you've got trucks—and we've got members, for instance, who have depots in every major capital in the country. If you've got trucks coming and going out of Sydney—and New South Wales is really a through State, so it's got a lot to do with coming up from Melbourne or coming down from Brisbane—how do you manage that? Say you've got a Queensland registered heavy vehicle and you come down through New South Wales into Victoria, but you use the roads here. How are you going to measure that? How are you going to measure, for instance, a New South Wales registered vehicle out of one of our members' premises? How are you going to measure that if they go to Perth? There is telematics that's available to be able to get some pretty accurate readings. I don't have an answer in terms of how that would work; I would leave that to the good people sitting before me.

The CHAIR: For a commercial vehicle, if you had a depot in every State, you would just register it in a different State, wouldn't you?

SIMON O'HARA: Perhaps. That's what happens with certain other arrangements where it might be, say, more advantageous to be in another State for a range of reasons. That is certainly something that happens.

The CHAIR: From an administration perspective, do these companies already keep track of how many kilometres have been driven per trip or per job? How does that work? Is that something that would be readily available for them?

SIMON O'HARA: Potentially. There has been the rollout of electronic work diaries and other things, and telematics is pretty astute and spot-on. Of course, you've got the odometer, which gives you a broad—but, look, conceivably, yes, you would be able to get that information. There are certain schemes within New South Wales which require you to have certain tracking devices on your vehicles.

The CHAIR: That does bring us to time. Thank you so much, that's been really interesting. To the extent that there are questions taken on notice or supplementary questions, the Committee secretariat will be in touch. But that concludes our time with you.

(The witness withdrew.)

Mr ADRIAN DWYER, Chief Executive Officer, Infrastructure Partnerships Australia, affirmed and examined

The CHAIR: Good afternoon. Would you like to commence with a short opening statement?

ADRIAN DWYER: Thank you for the opportunity. I apologise, I'm coming off the back of a cough and tend to run out of breath halfway through sentences, so I've got a written copy for Hansard should I trail away at the end of a sentence.

The CHAIR: No worries. I was choking on air earlier.

ADRIAN DWYER: I'm in good company then. Infrastructure Partnerships Australia has been a longstanding and consistent advocate for road reform. In 2014 we drew attention to a system that was already inefficient and unsustainable, and set out a rationale for reform towards a better approach to road funding. In 2019 Infrastructure Partnerships Australia released *Road User Charging for Electric Vehicles*, drawing on nearly three decades of advice on the need to change how Australians pay for road use. This report established the concept of a distance-based charge on electric vehicles in advance of the announcements of such schemes in Victoria, South Australia and New South Wales.

Subsequently, our 2023 *Completing Road Reform* report canvassed reform options following the Vanderstock High Court decision. Australia's road revenue model is approaching a structural breaking point. The greater fuel efficiency of all newer vehicles and the welcome fact that electric vehicles do not use fossil fuels at point of use means that fuel excise revenue is in terminal decline. Consequently, there'll be less money overall to pay for services, including roads, and the use of roads will become increasingly inequitable, with the proportional cost burden falling squarely on those motorists who cannot afford the latest vehicle technology.

Meanwhile, the cost of maintaining and upgrading our road network continues to grow in line with demand. The result is a widening gap between how Australians use roads and how they pay for them. This makes beginning road reform with electric vehicles—in particular, light electric vehicles—the most viable opportunity for enduring reform. The New South Wales electric vehicles Act of 2021 provides the vital legislative pathway for that reform. Crucially, the legislation provides a time-bound mechanism for commencing reform. Any delays to implementing the reform will deepen inequity and fiscal risk. Contrary to discourse of lobbyists in recent years, there is no compelling evidence to suggest that road user charging will inhibit the uptake of electric vehicles. I look forward to answering the Committee's questions.

The CHAIR: I'll start with a couple and then I'll pass to my colleagues. Can we pick up on that statement, because it was in the submission as well—this idea that there's no compelling evidence to suggest that the road user charge will inhibit the uptake of electric vehicles. What we heard two panels of witnesses ago was that there was evidence from a study undertaken at the end of 2025 that looked at people's intentions to buy and showed that it would inhibit it, potentially. But, also, there's evidence from New Zealand, where apparently there was a 70 per cent reduction, following the introduction of the road user charge, in relation to the uptake of electric vehicles. Are you saying that evidence is totally without grounding?

ADRIAN DWYER: They need to be contextualised. I'll take them in order. The first one was a survey. I've seen surveys that say the exact opposite, including from the Australian Automobile Association, for instance, and various other pieces of polling. A survey is not evidence; it's a survey. On New Zealand, that has to be taken in the context of it coinciding with the removal of the sticker price subsidy for electric vehicles and the telegraphing of that subsidy being removed. When you look at that data, there's a huge bring-forward of people buying a vehicle in the last quarter before the subsidy went.

When you remove that effect, there's actually very little material change in the uptake of electric vehicles over the wider view of uptake in New Zealand. But we don't need a consumer sentiment survey or evidence from overseas, because we have it from the Australian market. There was a period in time where Victoria had a road user charge for electric vehicles in place. New South Wales had one announced and legislated but not operational. Queensland had said it wouldn't do the road user charge for electric vehicles. During that period of time, the highest uptake in Australia was in Victoria.

The CHAIR: One of the issues that concerned me back in 2021, when we were discussing this legislation, was that, at the time, there had been evidence presented that Transurban had been suggesting—and I think I had an SO 52 at the time that showed that Transurban had been pitching this idea of this broad road user charge to the New South Wales Government and other governments, and trialling ideas overseas where you effectively had a higher toll amount or road user amount based on congestion in the area, based on the time of day that you were driving and all sorts of things. But there was this idea of presumably a Transurban-administered scheme that would be charging all users all over the place. I know that Transurban and the IPA are very connected. That's my understanding.

ADRIAN DWYER: Transurban are a member of ours, but so are NSW Treasury and others.

The CHAIR: Yes, they're a member and I think the Transurban CEO is on the board. So it doesn't surprise me that we have your submission being so in favour of the road user charge, because it seems to be in line with that. Is that still the intention to have—and you did say in your opening statement that this is beginning road reform with these electric vehicles. Is the idea that we have this time and congestion and everything else based uber road user charge that applies to all vehicles in the future? Is that still the vision?

ADRIAN DWYER: There's a bit to tackle there, so I might break it down.

The CHAIR: Please do. I've just laid it out there.

ADRIAN DWYER: I note that the CEO of Transurban is on my board. So is the Federal infrastructure department, NSW Treasury and Victorian Treasury. Our membership model is that all of our members pay the same. Transurban is one of 140-odd members, and that's the extent of their voice. I first advocated for a road user charge on electric vehicles when I worked for the Federal Government for Infrastructure Australia as an independent infrastructure adviser. In fact, that's where the idea came from. I was at that organisation and then carried on in this organisation. On what Transurban have done, I think there's a conflation of a couple of things there. I think you're talking about the I-95 express toll road in America—

The CHAIR: Probably. I don't know what it's called.

ADRIAN DWYER: —which is a concession-based toll road where the toll floats in response to congestion. That is a facility-based tolling model, rather than a road user charging model. They're quite distinct.

The CHAIR: Because we also heard at the time—sorry, this is testing my memory—when we were doing the tolling inquiry a few years back, a story of people going to pick up their kids and it being a different amount depending on how many other kids were being picked up that day from particular areas, and all sorts of things that were coming out of the United States.

ADRIAN DWYER: I don't recall that. There's no mandatory road user charging in the US. There is a couple of toll roads in the US where the particular corridor has a floating toll based on the minimum speed requirement on a road—so a lane on a road where the toll increases as the average speed of the road goes down to discourage people from using the lane. When the lane is emptier, the toll reduces, so it's a demand-responsive pricing mechanism. But that's quite different to road user charging. It's a fundamentally separate concept. In terms of the proposal of this piece of legislation and the equivalent one in Victoria that was struck down by Vanderstock, that's a government revenue opportunity. I haven't heard anybody credibly talk about that being a tolling approach, as opposed to a broad-based road user charge.

The Hon. SCOTT FARLOW: Mr Dwyer, thank you for your attendance here today and for your submission. When it comes to the arguments we've heard, a lot have been around delay, effectively, and that now is not the right time and we need to have a more mature industry when it comes to electric vehicles. What would you say to that proposition?

ADRIAN DWYER: I think, on the contrary, now is the ideal time to do the uptake. We have a continuing inequity in the system where a section of road users, myself included as the driver of EV, don't pay to use the roads, when people with 20-year-old Nissan Pathfinders are paying to use the road, or someone in a 20-year-old Holden is paying to use the road in a disproportionately large way. There's an existing inequity in the system. As I think NRMA gave evidence, this becomes disproportionately harder with every day that passes, because the group that is being introduced to a new system increases. Far from this being a reason for delay, I think it's actually a reason for acceleration. We're presented with an opportunity now to get this reform done. There has been close to 30 years of attempts to do road user charging reform, beginning with the Industry Commission back in the '90s writing on the subject. The Productivity Commission, Infrastructure Australia, Infrastructure Victoria, ourselves and many others have had pushes on this. The only time any actual meaningful reform has happened is in Victoria and New South Wales, with legislation similar to the one we're debating today, so I think this is absolutely the right time to proceed.

The Hon. SCOTT FARLOW: Did South Australia embark on it as well? What happened there?

ADRIAN DWYER: Yes. South Australia legislated the reform, in fact, in advance of Victoria and New South Wales, but there was a change of government shortly after. The then Opposition, now Government had immediately said that they would repeal the legislation should they be elected. They were elected. I do note, however, that they joined in with Victoria, as all States and Territories did, in the defence of the Victorian position in the Vanderstock case.

The Hon. SCOTT FARLOW: Another argument that we've heard is that we should, effectively, wait for your friends in the Federal Government to implement their own holistic road user charge, and move on from fuel excise. What would you say to that proposition for New South Wales? Is that something that we should entertain or should we carry on regardless?

ADRIAN DWYER: I think, as with all of these things, there are a couple of different strains of answer to that. The first thing I would say is that I think there are perfectly logical reasons why one might want to do this at a State level rather than a Federal level. I think about hypothecation, for instance. If you think of hypothecation as a spectrum between no hypothecation and full hypothecation, at least raising revenue at the level of government that's responsible for delivery of the infrastructure is a higher degree of hypothecation than, say, fuel excise, for instance. I think there are good reasons to have a debate about which level of government is best placed to do this reform.

But, on the more pragmatic matter, the Federal Government has looked at this issue a number of times over the last few decades, and very little progress has been made. An eminent-person panel was meant to be appointed back in about 2017. That never happened. There has since been the Vanderstock decision, seemingly in the Federal Government's court. Very little has happened since then: a taskforce. I think the pathways through the Federal Parliament look challenging so, for those of us who want to see reform happen in this space, and want to see a more equitable approach to road user charging, the best current opportunity is through the continuation of the New South Wales legislation.

The Hon. SCOTT FARLOW: The large impediment to that is the Vanderstock decision and what the High Court held there. We've already heard today from witnesses that there are considerations about a court case in terms of the New South Wales regime. With that being the case, do you think that there should be amendments made to the New South Wales road user charge in order to take it out of the realms of what the court found in Vanderstock? Or do you have the view that, with a new composition on the High Court, Vanderstock may be overturned?

ADRIAN DWYER: I was quite compelled by Professor Twomey's evidence on this. I think that the natural conclusion from that was there are opportunities to make this legislation less vulnerable to a High Court challenge. It would seem to me that that would be a sensible and prudent move in advance of implementation. It's up to others about whether or not the risks and trade-offs of doing that are worth the effort. But certainly Professor Twomey appeared to be arguing that there were opportunities to strengthen the legislation. Based on her view of—I think the term was "mad". I would say it was an erroneous decision by the High Court. I think you can choose your nomenclature, but I think we're in firm agreement about the decision. If the modifications were made to strengthen legislation, that may be an opportunity to correct where the court has erred.

The Hon. SCOTT FARLOW: In terms of what Professor Twomey outlined this morning on the composition of such a road user charge with a weight consideration and the like, that's not something that you would have a problem with at IPA?

ADRIAN DWYER: I'm a road reform tragic. I've been writing about this subject for the best part of 20 years. My ideal end state or the nirvana of road user charging is mass-, distance- and location-based charging on all roads, where you can modify those charges towards pricing. Just to draw a distinction, charging is something you do to recover revenue; pricing is something you do to affect behaviour. I would like, over time, for there to be a road pricing model where we use the charging mechanism and, by extension, the pricing mechanism to modify behaviour. I'm aware that that is sort of an economist's dream rather than a practical reality.

Where we are is a much more pragmatic solution. We have an increasing inequity in the system. We have a portion of owners of vehicles that are able to avoid the existing de facto road user charge, fuel excise, by purchasing the new technology—by the way, I welcome that new technology—but that increases the inequity in the system. That's something we have to correct for now. I think the discussions about what can be layered on top of that or alongside of that in the future are a different discussion. I do understand the point that it may make legislation more robust to a challenge. I'll take that at its merits; but, actually, I think the important thing we have to do here—I think the NRMA commented on this—is something that's easy for the road users to understand, that there's high transparency to; that it's relatively easy to collect; and we protect things like privacy et cetera.

The CHAIR: Doesn't that horrify you, the idea of—I can understand from an economist's perspective and even mathematically, I guess, I can understand why you might want a pricing model, but I remember as a teenager I would fill the car up petrol and then I'd have a week on that amount. I'd spent that amount and I had a week. I could work out that if I drove the car in a certain way, I'd get a certain distance. I have to admit I would turn the engine off or put it into neutral to go down hills so as not to use the petrol. But I knew how long that petrol would last, I'd already paid for it and then I would sort of make it work.

I knew how much it would then cost if I had to refill it. The idea of having this kind of pricing model where I don't know how much it's going to cost me—it doesn't really matter how efficient I happen to drive. If I go out at a certain time when it happens to be congested and everyone else is out there, and I want to pick up my kids but there's lots of congestion around where my kids are, so suddenly I have to pay more—this kind of nebulous amount that I don't even know. You might have it up on screens or something, but how would I, as a driver, know what I am spending, what this particular trip is costing me? Is it just me that that horrifies?

ADRIAN DWYER: It doesn't horrify me, but I also say I wouldn't advocate for switching your engine off going down a hill.

The CHAIR: No, no. This was many, many years ago. I was a teenager.

ADRIAN DWYER: I'm glad you survived to tell the tale.

The Hon. SCOTT FARLOW: What was the car?

The CHAIR: It was a beaten-up Holden.

ADRIAN DWYER: No, it doesn't terrify me, but I recognise the tension versus the policy purist versus a pragmatist here. That's why I land on the point of you actually having to base this in simplicity, understandability. That's where a distance-based charge is the most effective achievable outcome in the near term. There are perfectly good reasons why you might want to do those other things. One could look at places like Singapore, or a more pure congestion charge in London, where they solve specific problems. I don't think the case has been made for that yet, and I am not making the case for that here, but I can see the economic rationale behind it. I think that's the wrong end of the tunnel to start at. Right now what's in place, what's before this Committee, what I think has been broadly accepted from a policy landscape point of view is that a distance-based charge is a vastly superior model to a fuel excise model. And fuel excise is in terminal decline. It needs to be replaced with something. This is a sensible thing to replace it with.

The CHAIR: Couldn't we—just to play devil's advocate, though—also have a model where we have a far more progressive tax system that brings in enough money to be able to maintain all of the infrastructure in society? Not everything has to be user pays. We don't have user pays—well, we are getting to user pays schools and hospitals and everything else, but there are some of us who believe that, actually, if you have a progressive tax system, you can then pay for the upkeep of roads.

ADRIAN DWYER: I did a piece of research when I was with Infrastructure Australia that looked at the quality of outcomes in infrastructure, just at the quality of the asset and the service provision versus the degree of user pays in that particular asset class. You can imagine the four quadrants that it produced, but it essentially said that where you have a user-charging model in infrastructure, you tend to get more customer-responsive outcomes and higher quality of infrastructure and better maintenance of that infrastructure. The reason being in something like economic infrastructure is that it's quite clear who the beneficiary is. If you have a beneficiary-pays model, you tend to get a better demand-responsive provision of infrastructure to meet that. In roads, in particular, identifying the beneficiary is exceptionally easy.

The CHAIR: Doesn't everybody benefit from roads?

ADRIAN DWYER: Everybody benefits from the provisions of roads, yes. The user disproportionately benefits from the use of the road, whether you're in a bus or a car.

The CHAIR: Or walking.

ADRIAN DWYER: If you're walking on the road, I would say that is in the same category as driving down the hill without the engine on.

The CHAIR: Not on the road—you know what I mean. Roads are the arteries of society.

The Hon. MARK BUTTIGIEG: To that point—this was relevant to a question I asked before and to some of the earlier evidence we heard from the pro-EV industry, who were essentially saying it's too early and you can't have this road user charge because we need to stimulate the market for EV uptake. It's still only 2 per cent or 3 per cent of the market. What you're saying is, from an economic point of view—which is a roundabout way of saying equity and fairness—in sending the correct price signals, you can apportion damage to the road based on users. If you're going to affect the market, you do it with the tax system. You're saying that this helps do that, as opposed to—if you want to argue that you want a bias towards the take-up of EVs, you do that through the tax system, for example, with the FBT exemptions we've got and things like that. Is that essentially your view?

ADRIAN DWYER: Yes, although with some caveats. Absolutely, the most effective way to incentivise uptake of electric vehicles right now, as the market stands, is based on sticker price and recharging infrastructure.

I draw the distinction between charging and recharging just for simplicity. They are, in all the evidence I have encountered, the two principal impediments to uptake. In our limited capacity to incentivise the uptake, that would be where I would spend that capital in terms of money and effort. In terms of provision of roads—I draw a distinction to damage—being able to fund those roads through the users that benefit from the existence of those roads is actually a pretty efficient way of funding them. What we have right now is a very inefficient way of funding roads. We have an opportunity here to move towards a better system.

The Hon. MARK BUTTIGIEG: What they might say, and what I think they did say, is that we're happy to move to that system, more or less, in the long run. If you're serious about EV uptake and stimulating demand—which would then stimulate technology and the price, so that eventually the market will take over—you have to drop this road user charge because it's too early to kill that incentive. I think that was their argument.

ADRIAN DWYER: I've heard that argument. Again, I point to the evidence from when there has been a road user charge in place that it hasn't impacted uptake. I'd also make the case that I've seen some moving of goalposts after the fact here. The 30 per cent threshold that was put in—supported by NRMA, the Electric Vehicle Council and others when this legislation was put in place—was about 30 per cent of vehicle sales. I heard today that that now has moved, in their view, to 30 per cent of fleet.

The Hon. MARK BUTTIGIEG: Total fleet.

ADRIAN DWYER: That looks like a secondary delay mechanism to me. I would say that was an arbitrary figure anyway. In fact, my memory of that time was that the 30 per cent was put in not as a fail-safe to move back but as a fail-safe to bring forward from the 1 July 2027 date, should there be uptake that was higher than anticipated. The backstop was the date and the safety net was the 30 per cent, such that there should be higher uptake. We're clearly in a phase now where there is a transition on the way towards electric vehicles. I encourage that. I don't think a modest road user charge is an impediment to uptake. My purchase of an electric vehicle had a $2,000 metallic paint option that I took up. That would be vastly more than I would pay in road user charges over the life and ownership of the vehicle.

The Hon. SARAH MITCHELL: On that, in your submission you talk about the evidence from Victoria, and I think you cite Australian Automobile Association data showing that, when this was brought in, it wasn't a massive impediment for people purchasing road EVs. Is that the best dataset that represents that, or are there others that you could maybe share with us on notice?

ADRIAN DWYER: There were a couple of things there. I was talking about the Australian Automobile Association's customer surveys that they do. That would just be the vehicle sales figures that would have been around at the time. They publish those.

The Hon. SARAH MITCHELL: As I said, earlier evidence was around how we need to delay this because it would stop people taking it up. But I think the counterargument has been made as well, so clarity around that is good.

ADRIAN DWYER: Can I make one more observation. I did hear some questions earlier on about the degree of public awareness of the road user charge. I may have had a unique experience but, when I bought my vehicle, I was told by two separate people in the process that there would be a road user charge applied to my vehicle from 1 July 2027. I don't know if that was a government mandated thing—

The CHAIR: That's very useful.

ADRIAN DWYER: —or perhaps I had a particularly good dealer, but I was told both by the leasing company and by the dealer that there would be a road user charge from 1 July 2027. I found it slightly curious. I've never been told when buying a petrol vehicle that I would have a fuel excise. Nevertheless, I was informed.

The Hon. SCOTT FARLOW: I've got to say, having bought two EVs, it was not my experience on that front. You might have been lucky, or unlucky—either way you look at it.

The CHAIR: That's really interesting and useful. Thank you so much. To the extent that there were questions taken on notice or supplementary questions, the Committee secretariat will be in touch. That concludes our time with you.

(The witness withdrew.)

(Short adjournment)

Mr COLLIN JENNINGS, Head of Government Relations, Motor Traders' Association of NSW, affirmed and examined

Mr STEPHEN JENKINS, General Counsel, Motor Traders' Association of NSW, sworn and examined

Mr JAMES VOORTMAN, Chief Executive Officer, Australian Automotive Dealer Association, affirmed and examined

Mr MICHAEL McKENNA, Director of Industry and State Affairs, Australian Automotive Dealer Association, affirmed and examined

The CHAIR: Welcome. Thank you for making the time to give evidence this afternoon. Would each organisation like to start with a short opening statement?

JAMES VOORTMAN: The Australian Automotive Dealer Association thanks the Committee for the opportunity to appear today. Our association represents all of Australia's franchised new car and truck dealers, including some 1,216 dealers here in New South Wales, ranging from small family-owned businesses to large, multi-site, publicly listed organisations. Our members in New South Wales employ 19,500 people and we sell almost 370,000 new vehicles each year, as well as being responsible for most of the used vehicle sales undertaken by licensed motor vehicle traders. Our members are at the forefront of the transition from petrol and diesel vehicles to electrified vehicles. We have seen a surge in sales in recent months, brought on by higher fuel prices.

The AADA takes an active interest in all matters which affect Australia's automotive taxation regime. New car dealers are the first point of contact for the majority of people looking to purchase a new car. We collect and remit billions of dollars of tax on behalf of State, Territory and Federal governments. We are responsible for collecting and remitting stamp duty, registration charges, luxury car tax and GST. While we are unsure what role, if any, we will have in collecting the RUC revenue from future customers, our members will certainly be faced with questions from customers, particularly if there are different charging arrangements for different vehicle fuel types. In relation to our position on the RUC, we acknowledge the policy rationale for transitioning to a road user charge framework and we understand the concept of applying a charge to electric vehicles and plug-in hybrid vehicles initially. Most rational Australians understand the need to collect revenue to fund roads. Consumer research we undertook in 2025 suggests that a road user charge would not deter the overwhelming majority of people from buying an EV. However, we do strongly support a nationally consistent approach to the design and implementation of a RUC system.

A harmonised, nationally coordinated approach developed through extensive industry and community consultation would provide certainty to consumers and businesses, and the long-term funding of road infrastructure. If New South Wales is to go it alone, we are hopeful that the system developed here can serve as a model to be rolled out nationally. Revenue collected through a RUC should be hypothecated to land transport. We believe, at least initially, that it makes sense for this revenue to support the rollout of robust EV charging infrastructure, including in regional locations where commercial investment is likely to not be viable. The Act should also provide new car dealers with an exemption for the application of a RUC for the first 7,500 kilometres for a vehicle's road use on any newly registered, dealer-owned trading stock. This exemption will encourage dealers to have an abundance of demonstrator vehicles ready to be test driven by consumers, without the burden of being financially penalised. Finally, it is important that any new charging system does not unfairly penalise motorists who continue to drive internal combustion engine vehicles, particularly those for whom an EV is not yet a practical option.

COLLIN JENNINGS: Thank you, Chair and Committee members, for the invitation to appear before you today. For over 115 years the Motor Traders' Association of NSW has stood as the premier employers' body advocating for the motoring industry. We proudly represent over 3,200 businesses, collectively employing more than 35,000 workers. Our core mission—our raison d'être—is to elevate the industry's standing in the eyes of decision-makers and the public, thereby advancing our sector for the betterment of the economy and the motoring public. We are not a fragmented industry body. Our membership comprehensively covers new and used passenger and commercial vehicle dealers, mechanical repairers, automotive electrical, smash repairers, independent tow truck operators, panel beaters, tyre dealers, service stations and auto dismantlers, consisting of roughly 95 per cent of small and family-owned operations that serve as the absolute backbone of both metropolitan and regional communities.

Beyond our direct advocacy work, MTA NSW is a critical hands-on service provider. We offer our members comprehensive employment relations advice, legal support, workplace health and safety guidance, and compliance information to ensure our industry remains highly professional, safe and sustainable. At the very core of our industry and, indeed, our future is training. MTA NSW is the largest not-for-profit industry-registered training organisation in New South Wales, specialising in automotive apprenticeships and specialised skill development, including training in electric vehicles. Our unique onsite training model sees our trainers work directly on the shop floor with apprentices, saving time and money for small businesses. MTA NSW employs over 40 specialist trainers who traverse the State, delivering AQF training to dealerships and workshops across New South Wales.

Turning to the Electric Vehicles (Revenue Arrangements) Act 2021, MTA NSW does want to state clearly for the record that our industry is not opposed to the transition to zero and low emission vehicles. Indeed, the industry as a whole is now fundamentally aware of the current shift towards battery electric and low emission vehicles. New car sales over the year to date have demonstrated a distinct market shift, with sales of BEVs in New South Wales increasing by 108 per cent year to date as of May this year according to VFACTS. New South Wales vehicle registrations have also increased significantly over the last 12 months, with well over 140,000 EVs now registered in New South Wales, making it the largest fleet in Australia. While only a proportion of the seven million vehicles registered, it is a significant increase and demonstrates a trend.

More telling is where electric vehicles are now being registered. Early adopters have now made way for a more widespread registration pattern from Western Sydney and across the Dividing Range. MTA NSW supports the core principle of what the New South Wales Act was originally trying to achieve, which is to establish a sustainable mechanism to ensure dedicated funding for roads and road infrastructure. Everyone who uses the road should contribute to its upkeep. However, the legal and operational landscape surrounding this legislation has fundamentally shifted since 2021 following the landmark High Court ruling in *Vanderstock v Victoria*. The High Court has made it clear that a road user charge functions as an excise, and because individual States cannot constitutionally levy an excise, the operational functionality of this Act is therefore limited.

We contend that, as a matter of fundamental policy, any nationwide framework eventually established by the Commonwealth, of which we support, should mirror the core objective of the New South Wales legislation by guaranteeing that all collected revenues are strictly hypothecated to roads and road infrastructure. As road users transition away from fossil fuels, the integrity of our transport network relies on ensuring these funds are locked away specifically for the maintenance, structural safety and long-term upgrades of our physical highways and local roads, rather than disappearing into a general consolidated revenue fund.

In closing, the transition sweeping the automotive industry is profound, and our legislative frameworks must match reality without overstepping constitutional boundaries. A comprehensive and nationally consistent road user charge that benefits all motorists and provides New South Wales with the revenue to ensure continued maintenance and servicing of roads should be developed in conjunction with industry associations with the depth of knowledge to provide frank and fearless advice and with State and Federal governments. Thank you for your time and we welcome any questions.

The CHAIR: There was a bit of discussion earlier about how there has been five years already since this legislation was put in place and therefore people have had plenty of time to get used to the idea. I'll come back to asking about how EV purchasers have been informed about this upcoming charge. But when the Vanderstock case was handed down, I thought, "That's it for the New South Wales one. They'll be doing something different. It's now just not going to happen." I think there was an assumption that it wasn't going to happen, and then we saw it come up in the budget as being something that was being booked for the future and we thought, "Oh, okay, so they are still planning on doing it." From a dealer perspective, in terms of communicating with purchasers, what has been your understanding from an industry perspective as to whether this thing is coming in, and how you've been conveying that to consumers?

JAMES VOORTMAN: I think a lot of us would have shared your experience. I think Vanderstock probably created the assumption amongst most of us that this was dead and buried, and that the way forward would be through the Commonwealth. In relation to dealers and the messaging on this, I think they would have followed the same approach. I don't think they probably would have engaged in detailed conversations with their customers about the merits of the Vanderstock case. From their perspective, this was probably something that they weren't proactively mentioning.

There might have been a few examples, as we heard with the previous witness. But our message, pretty firmly, to most of our members is there's a lot of uncertainty in this area. We don't really know what it's going to look like or how it's going to work. As a result, we've not put out any communications to our members about what to say to customers. Obviously the reason we're following this process really closely is that when something is finalised, and when there is a concrete proposal on the table, we are able to communicate with them, because they are definitely going to get those questions from their customers presenting at the dealership.

The CHAIR: What do you think the practical impact would be if the Government decides to run the gauntlet and says, "We're going to implement this legislation. It already passed five years ago. We are going to implement it and then we will deal with the High Court challenge when it comes"? What is the practical impact on that uncertainty of what that will mean from a market perspective? Do you have reflections on that?

JAMES VOORTMAN: I guess it depends on how prevalent the concept of a road user charge is amongst the consumers out there. What we saw for the short period of time that Victoria had this in place is that it wasn't much of a deterrent to consumers. I believe that there is very little consideration of this amongst consumers. Even when there is—we did research back in November 2025, so fairly recently, in which we asked around 2,000 consumers as part of an annual survey how they would feel about the introduction of a road user charge and whether it would affect their willingness to buy an electric vehicle.

Seventy-three per cent basically said that would have no impact. Of those, 20 per cent said it would actually make them more likely to buy an electric vehicle. It's true that there was a 27 per cent cohort who would be less likely to buy an EV. But, to be frank, I don't think this is much of a deterrent. When you look at the whole cost of owning an EV these days, I think the benefits currently outweigh the costs, and they will only more so when you consider some of the Federal incentives in play and when you consider some of the implications from the New Vehicle Efficiency Standard. I think those are going to outweigh even the introduction of a modest road user charge.

STEPHEN JENKINS: If I may, just to add to my colleague's comments as far as how the industry would feel if the New South Wales Government went ahead, at the large end of the dealership spectrum they were well aware of what was happening in Victoria and aware of the Vanderstock case. In a lot of the more regional and smaller dealerships, it wasn't across their radar screen across our membership. Business-like certainty—it would make it difficult for my colleagues, members and our members to be having one conversation and then, whether that be weeks or months later, attempting to have a very different conversation with purchasers of vehicles in relation to something like a road user charge.

That might be just an on-the-ground practical issue that the New South Wales Government, going ahead, and to use the language—see what the High Court decides—at a later point in time. There's no doubt any of the expenses referable to a car, as we all experience individually, is a factor in a purchasing decision. For business to not be clear on what they are saying or not saying creates that uncertainty, and may even be a negative impact in relation to the uptake of electric vehicles if there's uncertainty around whether those charges are in or not in. That's just a practical, on-the-ground effect that our members may well encounter in their conversations with consumers.

MICHAEL McKENNA: If I may, as well, Chair, we saw something analogous to what you're referring to took place with the Federal Government's toing and froing with regard to the luxury car tax. Now, we're talking about quite different amounts of money. However, the uncertainty in the market was enough at times to cause not quite a buyer strike, but uncertainty in that marketplace. It certainly caused a lot of unrest within our industry amongst those dealers who are selling vehicles in that price range.

The CHAIR: Because people were holding off, waiting to see what would happen?

MICHAEL McKENNA: Yes.

The CHAIR: The point that was made around an exemption for kilometres driven while still with the dealer, that makes perfect sense to me in terms of going for test drives and other things—that not being included within the road user charge. I note that that was in the Victorian one; it's curious that it's not in the New South Wales one. Was it, to your knowledge, not raised? Is there a reason why it wasn't included in the New South Wales version of this legislation?

JAMES VOORTMAN: I can speak to my colleague who was intricately involved in the Victorian process. I don't know.

MICHAEL McKENNA: Even in Victoria, at the industry association that I was working at at the time, it was a request that came via the dealership network to help offset some of the charges that they'd incur during test drives under that regime or under that hierarchy. As to why it was never included in the New South Wales legislation, no, I can't answer that, but I can probably testify that even the local association—MTA NSW—have also been quite vocal in pursuing this angle, only because it just encourages getting towards that target of 50 per cent by 2030.

JAMES VOORTMAN: We might have to take that on notice and consult previous submissions that we put in to that process. But given that as a national body, we look at what is happening in all these jurisdictions, I am fairly confident we would have put forward a similar proposal to benefit our members in New South Wales.

The CHAIR: It just strikes me as administratively problematic that you would have the dealership paying that amount of—but I'm not sure. Maybe it's not as obvious as it seems. I would be curious.

JAMES VOORTMAN: I think I also struggle to remember how the decision was announced at the time and whether there was any sort of consultation around detail and so forth.

COLLIN JENNINGS: I don't recall.

JAMES VOORTMAN: Six years is a long time.

COLLIN JENNINGS: But the idea of the exemption for dealerships under any sort of road user charge has been mirrored by both the AADA and the MTA NSW group in various forms as a way of encouraging uptake. Certainly we're hearing from some dealers that there is a long line of people now coming forward to test-drive electric vehicles, so that would assist them in that process. It's certainly a cost that's not necessarily needed to be incurred at this point.

The Hon. SCOTT FARLOW: Mr Jennings, back to your point previously about conflicting advice, so to speak, or having to change advice, we're in a position at the moment where there is a legislated road user charge. It would come in at either 30 per cent or on 1 July 2027. That's been a known proposition for some time, despite what may have occurred in the Vanderstock case. Considering we're nearly 12 months away from that and the Government's booked it in their budget papers and the like, what sort of preparations are both of your organisations doing in order to be able to equip your members with trying to explain that there will be a road user charge—at least on the books—come 1 July 2027?

JAMES VOORTMAN: On reading the budget, we went out that week with a dealer bulletin informing them that this was once again a live issue, that they should be preparing for it and that we'd be reaching out much closer to the time when they do have to make those transitions to just give them some advice on what their obligations would be to customers presenting at dealerships.

MICHAEL McKENNA: I'd also say that it's very difficult to go to the members with regard to a road user charge. We can tell them about it, but quite often the interest for the dealers is how is it going to be applied. What technology do we need for the interfaces to all happen and eventuate? They're the questions that we can't answer and that we're waiting on the Government to answer for us. Sorry about that, but it's really important that that takes place, because the dealer systems are intricate and they cost the dealers millions of dollars every year to maintain and update.

STEPHEN JENKINS: Probably in direct answer to your question, yes, we have informed our members that this legislation does have a start date, although they are mindful, obviously, of what the High Court decided since the legislation was passed here. They're watching with caution. They're awaiting advice from us on what the New South Wales Government may decide and then they will need to implement it. But to Mr McKenna's point, there are practical implications if the New South Wales Government goes ahead with it. It's one thing to have the legislation, but how it's then recorded, how it's collected and where the dealerships fit within that are questions that we presently can't answer. We are getting those coming down the line at the moment.

The Hon. SCOTT FARLOW: Have you had any communication whatsoever from the Government about the implementation or the commencement of the road user charge at all?

STEPHEN JENKINS: I won't speak for my learned colleagues. We at the MTA NSW have, apart from putting in the submission and being here, not had any direct communication, no—not from the Government.

JAMES VOORTMAN: Neither have we, no.

The Hon. SCOTT FARLOW: It's good to know for our understanding. This Committee, for your edification, came about not because of a government initiative but because the Chair had identified it in the legislation and, I think, put it at budget estimates or in a question in the House as well.

The CHAIR: I may have put it in the legislation to begin with.

The Hon. SCOTT FARLOW: The poison pill that alerted the Treasurer to it. In terms of the rollout—and the Government, at the moment, seems to, on all evidence, just be proceeding regardless of the determination in Vanderstock. It's not looking at amending the legislation and banking the revenue in the budget. To your point before, if things were to change, what sort of instability would that cause in the industry if, come 1 July next year, we had a legislated road user charge that was only, in application, a very small period of time and we were straight off to the High Court hearing another case as to whether it fell foul of section 90 of the Constitution?

STEPHEN JENKINS: If I may be brave enough to attempt to answer your question, as I said before, industry works under certainty. The uncertainty that may create—I only say "may" because there's an assumption that someone may challenge the legislation. That uncertainty would make it very difficult for business on two fronts—one, in the way that they communicate with consumers about the product that they are selling. One needs to be mindful that my learned friends, colleagues, their members and our members have a range of legislative requirements—consumer law requirements and not making false or misleading statements et cetera. It would cause uncertainty for them. With the inevitable press that it would generate, it would cause uncertainty amongst consumers, and that may be, of itself, detrimental to what the Government wishes to achieve in its policy, which is an increase in the uptake of electric vehicles. It would be very difficult for business.

COLLIN JENNINGS: I think there's another point to raise around the legislation itself, what it wants to do and some of the practicalities within New South Wales around things like registrations. Within the Act, it talks about taking odometer readings, but you only really get your odometer reading when you go and get your pink slip. New South Wales has a very good system in place. You've got your smartphone, and when you take your vehicle in to get registered, it gives you your odometer reading and your past three odometer readings. But that's only in the instance where you have to take a vehicle in. In those preceding years, there is no requirement for that. The question then comes down to the practicalities, regardless of High Court challenge. How will this work?

The actual practicality of what you do—and this comes to questions around dealerships. Selling a new vehicle, would that predicate a change to the registration requirements in New South Wales? Therefore, dealers, when they're registering vehicles, will need to make those adjustments. So, yes, there is uncertainty around that, but uncertainty around the practicality of actually doing things like registering the vehicle, taking kilometres off when the when the owner gets the vehicle, taking it to a service station to get the odometer reading to pay that road user charge, as it's written within the legislation now.

The Hon. SCOTT FARLOW: And from the dealers?

MICHAEL McKENNA: The reality is for franchise dealers—and we're not even factoring in the independent used car trader after the event here, by the way. But the reality for used car dealers is that on 1 July 2027 the dealers will be ready to roll with whatever system it is that the Government's proposing. The issue is we're not talking about just a change in policy and this is what you must do; we're talking about a business that can have fleet sizes to acquire and dispose—anything from five to 500 vehicles at any one time. These systems have all got to be adapted and integrated and so on.

I come from the myopic lens of operations, and these are the challenges that dealers are going to face and have to have in place. To have to turn around three months later and unravel all that because another High Court challenge ensued and was successful, that's another cost to the dealers again, and a huge administrative burden. That's probably the operational lens more than anything else. We've just got to be really mindful of the size of the fleets we're talking about. We're not talking about James Voortman from Canberra with one Zeekr. This is 500. Any one day you've got three and four people trying to handle these, making sure the odometer reading is correct to start with, which means you've got to visualise it. You've got to do all these things to make sure you're conforming with the legislation. From an operational perspective, it becomes really messy and really inefficient, and it becomes an absolute administrative burden for the dealer.

JAMES VOORTMAN: And a much bigger administrative burden than would've happened in Victoria when that High Court—

The Hon. SCOTT FARLOW: I was about to ask that question. It's a good segue.

MICHAEL McKENNA: I lived it.

The Hon. SCOTT FARLOW: From your experience of living in Victoria and living the Victorian experience, what was the impact to your members on having a system in place and then having that system unwound in terms of the road user charge there?

MICHAEL McKENNA: The first impact was just utter confusion and just raising the eyes "Here goes this Government again,"—not a political statement; just a fact. This no way highlights my allegiances for or against. The other thing was then the person had to go through the process of claiming back what they'd already paid and so on. That in itself is resource intensive. I have no idea what the time limit of those payments was. They've underwritten a certain degree of a piece of legislation or a charge that's never eventuated. But, again, it just creates that complete and utter change in the way that the business is approaching the consumer of a ZLEV, or an electric vehicle, and also trying to assure the consumers as well, "No, this thing's dead in the water. This will not eventuate again." So there's a lot of uncertainty again. In effect, you're creating a mini buyer strike for a short period of time, but enough for it to affect potential sales of that type of vehicle.

COLLIN JENNINGS: Also—and Mr Voortman and Mr McKenna have touched on this—the large new car dealerships and franchise dealerships is one thing, but we also have to consider the small used car dealerships that would then have to comply with this, who don't have the access to the bigger frameworks that are in place and infrastructure that is in place with the large franchise dealerships. There is an element of where that comes in and how that can disrupt that business as well, because, as Mr McKenna pointed out, you're talking about odometer readings. That especially plays us into the used market and how those regional, small used car dealerships who don't have the infrastructure. That then causes a great level uncertainty within that sector of the dealership regime.

The Hon. MARK BUTTIGIEG: Just listening to that, you can understand the Treasurer's position, right? They've obviously got some sort of advice and modelling that, given the uptake of EV vehicles, there's a huge loss of revenue here, notwithstanding the issues we've got with uneven distribution of GST. From an equity and taxpayer point of view, we've got to try to address this. Given the High Court complexity, would your view be that we should just wait and see what happens, or we should do this on the basis that, if Twomey's right and they're mad, maybe the legislation gets up and we go down that path? Where do you sit on it?

JAMES VOORTMAN: You're going to find no arguments from dealers across Australia in terms of the equity. I think there is a strong sense that it is equitable to ask electric vehicle owners to make some kind of contribution towards the roads and potentially towards the charging infrastructure. There is absolutely no argument from our industry on that particular point. We think all road users should contribute in some way. Eventually, one day, we are hopeful that they'll all be on a common system of contributing. We're not constitutional experts.

I don't know what the New South Wales Government strategy is in relation to this, but it would be excellent for our industry to have some certainty before any process is embarked on. You won't have any argument from our association on the merits of this policy. As we said in the opening statement, we just believe that nationally is the way it should go. I also understand, from the New South Wales Government's perspective, that they probably feel like we've been talking about a national system for a very long time and it hasn't occurred, but we do believe that nationally makes most sense in this particular policy area.

STEPHEN JENKINS: To add to my colleague's point, you have to consider the geography of where New South Wales is, and the businesses that sit not only on the Queensland border but also on the Victorian border, and the difficulty, if we don't have a national regime, in respect of fleet vehicles that will move across borders, may be registered in another State and then appear in New South Wales. That's why a national approach, just from a geography perspective, works best for New South Wales. Without going back to the terrible past, we saw what happened during COVID and how different State borders created uncertainty for businesses and for the public. That's why we think a national approach is best. I may have a legal background, and I'm not aware as to what constitutional advice is provided to the State Government through the Crown Solicitor's Office or wherever, but my years of experience in the courts say that it may not be the best approach to wait for the High Court to make a decision on it.

The CHAIR: When this was brought in in 2021, it was coupled with a stamp duty exemption. How powerful is a stamp duty exemption in driving up the uptake of electric vehicles? If we did want to do something again, is that what we should be looking at, or is there another type of incentive that would drive it up?

JAMES VOORTMAN: I think the Committee spent a great deal of time asking what has changed in the last six years. The truth of the matter is what has changed is that it has become a lot more compelling to buy an electric vehicle for a number of reasons. We now have the rise of China as an automotive superpower, which has brought a huge range of EVs at much more affordable price points. We've got the New Vehicle Efficiency Standard developed federally, which really encourages manufacturers to supply electric vehicles to the market and gives them credits which they can use to make vehicles more affordable. We've got the FBT exemption, which is really driving uptake of EVs. Then you've got a fuel crisis to boot, and you've just got wider acceptance of all of this.

Is there a room for more incentives? I believe there might be. The FBT concession is an excellent policy, but it doesn't apply to everyone. Any time a State government is looking at ways it can assist—and I think particularly some of those lower income earners, if you can look at helping getting them into EVs, that would be one of the areas we'd be supportive of supporting. What I would say is that it's an incredibly favourable set of circumstances for EVs. We're hearing today about how a lot of EV owners are actually starting to make money off sending power back into the grid. I think it's fair that they should make some kind of contribution to the upkeep of our roads.

COLLIN JENNINGS: When the New South Wales State Government did have subsidies and then they were removed, as many States did across the country, at that particular time we did see that as not optimal, but things have changed. The additional thing to what Mr Voortman has said is simple cost-of-living changes as well. People are looking to purchase electric vehicles for the simple fact that, at the end of the day, they can save money when they purchase it. The announcement today by the New South Wales Government for some more loan applications for rooftop solar and batteries creates that ecosystem of essentially not using the power because they can use that as well.

There are points in there—we would agree with AADA that the FBT exemption is a real game changer that has come through federally. We see that through vehicle registration changes in New South Wales. The early adopters were mainly in the eastern suburbs, but we're seeing more vehicles in the west of the city. We're seeing higher uptakes now in regional areas. We can see that there is some expansion of uptake. How that works with a road user charge—you're not going to get any argument from this end about it. It just needs to be a balanced approach.

The Hon. MARK BUTTIGIEG: That broadening out to those areas, which has been reiterated a couple of times in evidence today, in your view, is that a direct function of the market actually sending signals saying this is a cheaper form of getting around and it's actually a real thing, rather than what pejoratively might have been termed a status symbol originally?

COLLIN JENNINGS: Yes.

JAMES VOORTMAN: I think it's a sign that it's becoming mainstream. The benefit that we have, even over other like-minded countries like the United States and to a lesser extent Europe, is that we have opened the doors to the Chinese automotive sector. We now have vehicles that are affordable, relative to what they were six years ago. It just makes sense when you look at the price of petrol, you do the sums and you consider your own circumstances. For people in the outer suburbs it almost makes more sense, because they're driving further. This is also of interest, funnily enough. It's the hip pocket speaking.

The Hon. SCOTT FARLOW: I imagine in your members as well—they're salespeople or they've got a team of salespeople. They're selling the cost and advantages of each and every car that they are presenting when you walk into a dealership. I imagine part of that value proposition is going through what the cost is over the life of ownership when it comes to an EV, going through the benefits that may exist in terms of the tax settings that apply, or being able to novate the lease and get that fringe benefit tax exemption when it comes to an EV, and being able to look at the features as well. I imagine all of these are the sort of things that your members would be, on a daily basis—probably as we speak—going through with customers each and every day.

JAMES VOORTMAN: That's right. It's a conversation that probably about four or five years ago was a harder conversation. It was almost a conversation where you were having to convince them, but now you're finding people are a lot more open to this technology. The benefits are real, and I think what we would have seen at our last survey on electric vehicle uptake, which we did in November, was that we have an embedded group of around 25 per cent who had no view on whether they would intend or not to buy an electric vehicle for their next purchase. I believe what's happened with this recent fuel crisis is that we've moved a lot of those fence-sitters into the likely-to-consider camp. A lot of people think it was just this particular conflict but, if you remember, three or four years ago we had a conflict in the Ukraine. I think this whole concept of fuel price volatility is probably becoming a feature of consumers' thinking and not wanting to be held ransom to the volatilities of a commodity like that.

The CHAIR: They're excellent points. I think that's right: EVs have got better. There's more of them. They're cheaper. As you've said, this is not 2021 anymore.

MICHAEL McKENNA: And there's one for everybody. You've got the plug-in hybrid if you're really unsure. You've got the hybrid if you're absolutely unsure. And you've got the full-blown electric if you really want that full driving experience 24/7.

STEPHEN JENKINS: But I think also, Chair, what the road user charges regime does is enable there to be revenue generation across the entire fleet. When you then have the ability to invest in the infrastructure that's necessary for continued uptake of electric vehicles, it gives the Government that opportunity. We have to remember, we have an entire ecosystem built around the internal combustion engine, whether that be petrol stations, fuel refineries or whatever. Governments are now working out how to create that infrastructure for the uptake of electric vehicles. That's where road user charges across the whole fleet allows government to generate that revenue, hence our support for what the legislation is. If that can be done in New South Wales, then we're not opposed to it, subject to the practical issues raised. But it will allow the Government to continue that investment and to progress those uptakes because, in the regions, we know that the ability for people to use charging stations and have that infrastructure is still a factor.

The CHAIR: Excellent points. Thank you so much for coming along today and giving us the benefit of your expertise. To the extent that there were questions taken on notice or supplementary questions from members, the Committee secretariat will be in touch. That concludes our hearing for today.

(The witnesses withdrew.)

The Committee adjourned at 16:30.