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Background

Australia has come to a fork in the road. Our cities are clogged, but our regions are struggling. The cost of living is going up, but wages are not. Corporations are becoming more powerful, and more belligerent, while the rights of workers are being eroded. Wealth is becoming increasingly concentrated in the hands of the privileged few. And our physical environment is reaching crisis point, with escalating climate change posing an existential threat to the planet.

This Federal election is, therefore, about much more than just which party will govern Australia for the next three years. This election is about the direction of the country, and whether or not Australia can be steered toward a fairer, more prosperous and more sustainable future.

It is arguably the most critical election in Australia’s political history.

At this election our major political parties must present their respective visions for transport and industrial relations policy to the Australian people.

These policies should be informed by the people who understand them most – workers. As the body representing workers in Australia’s rail, tram and bus industries, it is the RTBU’s responsibility to ensure the views of these workers are expressed clearly and forcefully.

Political parties who ignore the views, expertise and wishes of workers are at serious risk of developing ineffective and ill-advised policy positions.

Moreover, they risk suffering from the judgment of those workers at the ballot box. Conversely, parties that listen to workers, respect the views of workers, and take those views into consideration will reap the benefits.

This paper outlines 13 broad policy priorities that have been identified by the RTBU through extensive and wide-ranging consultations with our members.

As a democratic, member-based and member-run organisation, our policy positions are truly driven from the ground up by working people.

Most importantly, these policy priorities provide a signpost towards a better Australia.

The fork in the road, therefore, should not be confusing – all our political parties need to do is consult the map, and the way forward is clear.
Keeping our Railways Safe

Millions of people catch trains, trams and buses to get to and from work every week. Everyone has the right to leave home for work in the knowledge that they will return safely to their loved ones at the end of the day.

Rail safety laws save lives. Australia’s National Rail Safety Law, which was introduced in January 2013, was an opportunity to bring all jurisdictions up to the highest levels of safety. It should have been a case of “a rising tide lifts all boats”, but unfortunately, the National Rail Safety Regulator opted to take a “lowest common denominator approach” by moving towards industry self-regulation.

Now, safety standards are once again under threat. The current Review of Fatigue Management protocols could see basic standards like minimum breaks between shifts abandoned in favour of a so-called “risk management” approach.

Employers are also lobbying politicians to amend the law to narrow the definition of rail safety work. If they succeed, many workers will no longer receive the training they need to keep themselves, passengers and the wider public as safe as possible.

Watering down safety standards is unacceptable. We must act to prevent future rail tragedies, and to ensure safety standards on Australian railways are not compromised. This means implementing stronger national rail safety laws, with mandated minimum shift breaks and maximum shift lengths, in order to protect workers from the risks of fatigue.

POLICY POSITION:
The RTBU calls on parties to commit to implementing a prescriptive approach to rail safety, including mandated minimum shift breaks and maximum shift lengths, in order to protect workers from the risks of fatigue.

The RTBU calls on parties to retain the current definition of “rail safety work” to ensure rail workers get the training they need to keep themselves and the travelling public as safe as possible.
Right to Strike

The right to strike is a basic principle that has long been respected by unions and governments around the world. The ILO Committee on Freedom of Association declared, in 1952, that the right to strike was one of the principal means by which workers and their associations may legitimately promote and defend their economic and social interests.

That right, however, has been progressively whittled away under Australian law.

It has been limited to certain times, under certain conditions, with certain caveats, and with the approval of a government authority.

Secondary strikes in support of other workers, or in support of social justice principles, have been outlawed completely.

And as Sydney rail workers have discovered, even when all of these conditions are met, strikes can still be cancelled by a government authority. The right to strike is so restricted in Australia that it is becoming meaningless.

**POLICY POSITION:**

The RTBU believes that far-reaching restrictions and hurdles imposed by the Fair Work Commission on taking legitimate industrial action, including those in the Sydney Trains dispute, must immediately be reviewed and overturned by regulators.

The RTBU calls on parties to commit to genuine measures that protect and respect workers’ right to strike.
Restoring Public Confidence in the Corporate Sector

Australia’s corporate sector is reeling from a string of scandals. From eye-watering executive bonuses, to fees for no service, to pressuring people with intellectual disabilities into buying products they don’t need, Australia’s corporate sector has shown that it is has no regard for ethics or for the common good.

As the Royal Commission into the Financial Sector has shown, Australia’s current system of light-touch corporate regulation is failing. Corporations cannot be trusted to behave ethically or responsibly.

Increasingly, we are finding that many of our leading corporations are built on business models that embrace wage theft, phoenixing, sham contracting, exploitation, environmental damage or tax minimisation/avoidance.

Of course, it is unreasonable to expect corporations to solve all of society’s problems – but it is also unreasonable for corporations to expect they can continue generating profits at the expense of the Australian community. The concept of the ‘social license’ for corporations needs to be revisited, and it needs to be given some teeth.

The RTBU has developed a detailed discussion paper titled, A Social License that Means Something, addressing these issues and proposing a number of initiatives to rein in rogue corporations and restore public confidence in Australia’s scandal-ridden corporate sector.

**POLICY POSITION:**
The RTBU calls on parties to develop and implement measures that will give meaning to the notion of the ‘social licence’ by making corporate social responsibilities legally binding. These measures should include:

- expanding duties owed by corporate directors to the community;
- introducing public interest audits and mandatory reporting; and
- establishing a body to drive cultural change in Australia’s corporate boardrooms and propose legislation relating to corporate social responsibilities.
Urban Rail and Public Transport Infrastructure

Australia’s urban transport networks are currently in a state of flux, as governments realise that their past reliance on building more and more roads is no longer sustainable. To put it simply, our cities have reached a point where traffic congestion is the number one hand-brake on productivity and a major contributor to declining liveability.

Major public transport projects are now underway across Australia, however these projects are effectively “playing catch-up” when it comes to meeting Australia’s urban transport needs. Addressing urban congestion must become a national economic priority.

Infrastructure investments must be supplemented by policies which support public ownership and control of assets. For example, the North-South corridor in Sydney, which will connect to the Western Sydney Airport, must be incorporated into the existing publicly-owned heavy rail network.

For several years, the RTBU has been also advocating for a bold and revolutionary approach to funding rail and public transport infrastructure. Our Union strongly believes that alternative funding mechanisms such as value capture have much to offer, and can ensure that the people and organisations who profit from new public infrastructure are required to make a reasonable contribution to the cost of that infrastructure.

An RTBU National Office research paper, titled Innovative Funding Models for Public Transport in Australia, suggested two principal forms of value capture which could be considered for Australian conditions:

- Tax Increment Financing (TIF) combined with bond issuances; and
- Business Rates Supplement (BRS).

The RTBU contends that state governments should be required to use these funding methods as part of the mix for financing new urban infrastructure projects. Such requirements should be built into co-funding agreements with the Federal Government.

POLICY POSITION:
The RTBU calls on parties to develop a $20 billion national fund to support urban public transport infrastructure projects, managed by Infrastructure Australia, and supported by a policy framework that facilitates the use of alternative funding methods such as value capture.
Population, Decentralisation and Infrastructure

Australia is operating a multi-speed economy, whereby the economic growth being experienced in major cities stands in stark contrast to the fortunes of some regional areas. In this context, the media and political debate around restricting population growth is a decidedly urban affair, and reflects the failures of governments at all levels (over decades) to adequately plan for and manage urban population growth.

Too often, Australia’s migrant population is made a scapegoat for these failures. As a result of this scapegoating, politicians put forward ill-informed and anti-growth policy solutions such as “restricting migration”.

It is time for Australia to throw off this negative and counter-productive approach to population and infrastructure, and to adopt policies that embrace growth, productivity and opportunity. This can be done through a strategy to better connect our major metropolitan and regional population centres, and to decentralise the national economy.

High speed rail links should be developed to reduce travel times between major populations centres in:

- South East Queensland (extending into Northern NSW);
- NSW/ACT (connecting Sydney with Newcastle, Wollongong, Orange/Bathurst and Canberra); and
- Victoria.

These high-speed rail corridors should be developed with a view to ultimately connecting up as part of the east coast high-speed rail network – ie the infrastructure should be consistent and operating systems for services should be compatible.

**POLICY POSITION:**
The RTBU calls on parties to abandon anti-migrant and anti-growth rhetoric, and to develop comprehensive strategies for economic decentralisation and to encourage growth in major regional centres.

Furthermore, the RTBU calls for the establishment of a $50 billion Population and Infrastructure fund to build better transport connections between urban and regional population centres, including high speed rail links.
Australia’s country rail networks are suffering from decades of neglect. Many rail lines have been closed, and more are at risk of closure.

As a result, much of the freight task that was previously carried by rail has been transferred to local roads, increasing safety risks for motorists and increasing road maintenance costs for both State and local governments.

In South Australia, for example, the Eyre Peninsula Railway is a crucial piece of infrastructure for South Australia’s grain growing industry, but is at risk of being closed due to ongoing speed restrictions along the corridor. Up to two million tonnes of grain are currently exported via the Port Lincoln shipping terminal. The bulk of this is delivered by train, and the rest by road. If the railway shuts down, then the burden of transporting grain will fall to trucks alone, leading to a massive increase in the number of 60-tonne trucks travelling through the streets of Port Lincoln.

Country Rail Renewal

POLICY POSITION:
The RTBU calls for a dedicated Federal Government infrastructure investment program targeted at the revitalisation of regional rail corridors to protect the viability of regional economies and support road safety.
Protecting and Creating High-Skilled Transport Jobs

Skills development is essential to ensuring Australia’s rail and public transport workforce is able to keep pace with their rapidly changing industries. In particular, the growing use of automation and new technologies means that workers are constantly having to renew and upgrade skills. Furthermore, jobs on our rail and public transport networks are constantly evolving.

There is a clear public interest in ensuring that our rail and public transport workforce is adequately skilled to perform the jobs of the future, and is effectively trained to maintain the highest possible safety standards.

Much of the public discussion about automation and technological change is centred on the abstract and vague notion that some tasks and jobs will disappear, while other tasks and jobs will be created. There is very little planning, and task and capability mapping to upskill the workforce for the transport jobs of the future.

The changing nature of work in our rail and public transport networks should be about job enhancement and upskilling, rather than job replacement and redundancies. There is a clear public interest in ensuring that the organisations and institutions responsible for this process are not captured by private for-profit interests.

In the past, the rail industry was renowned for providing long-term career pathways for workers - people could join the industry as apprentices and work their way from the track or workshop to more senior roles. However, after decades of underinvestment, contracting out and restructures, career and training pathways have been decimated. The rapid expansion of privately-owned for-profit training organisations in the TAFE sector also serve as a sobering example of what can go wrong when the crucial task of skills development is handed over to vested interests.

Australian governments are now trying to pick up the pieces of a sector that delivered massive profits to private owners at the expense of standards and job security. Responsibility for determining industry-wide skills requirements and future workforce development should therefore reside in organisations with genuine tripartite structures, with government, union and employer representatives.

Policy Position:
The RTBU calls for a tripartite strategy overseen by government, union and employer representatives to:

- Model current and future employment trends and capabilities in the rail industry;
- Map current and emerging tasks, skills and capabilities in the industry;
- Develop upskilling and enhanced career pathways and retraining programs for workers to ensure they have the skills to perform the jobs of the future;
- Facilitate long-term and multi-site planning of the introduction of technological change across the industry;
- Develop and manage rail industry standards, rules, codes of practice and guidelines; and
- Develop strategies for long-term collaboration across the industry, especially between unions, employer associations, training organisations and governments.
Inland Rail

The Inland Rail project is one of the most important infrastructure projects to be undertaken in this country since the construction of the Snowy Hydro scheme.

The RTBU argues that the Inland Rail project should be a top-tier infrastructure priority for the Federal Government, however we also believe that the current proposal needs to be re-worked to ensure it delivers a world-class outcome for Australia.

As the RTBU argued in its submission to the Inland Rail Implementation Group, we believe the guiding principles for the delivery of Inland Rail should be:

- Inland Rail should be treated as a transformational and intergenerational nation building project, delivering 21st Century performance and productivity benefits.

- The journey-time from one end to the other should be under 20 hours, enabling a return train trip to be completed in two days.

- The project should be constructed to North American Class I Railroad standards rather than ARTC mainline standards in order to support modern, fast, efficient, high-productivity freight trains.

- The project must connect directly with the Port of Melbourne and Port of Brisbane.

- The project should begin with sections that will deliver the most value to the national economy, rather than sections which are the cheapest to deliver. This means an early focus on the link between Toowoomba and the Port of Brisbane.

**POLICY POSITION:**

The RTBU calls for the work on the Inland Rail project to be expedited as a matter of urgency, with a clear timeline for construction and priority given to economically important sections, including Toowoomba to the Port of Brisbane.
The takeover of rail freight operator Asciano by Brookfield Holdings in 2016 exposed significant inconsistencies in the way that access to below rail infrastructure is managed across Australian jurisdictions. The differing regulatory models, and the lack of transparency in the application of these models, has created a regulatory “dog’s breakfast” in the freight rail sector.

To put it simply, the scope for market manipulation under current arrangements is unacceptably high, and rail freight operators (and their customers) cannot have faith that the system is either working fairly or efficiently.

A simpler, more transparent, national access regime would be of significant benefit to freight users, and is clearly in the national interest.

**Policy Position:**
The RTBU calls for regulatory control over access to all Australian rail networks to be transferred to the Federal Government, under auspices of the ACCC, and a single national access regime to be put in place across the country.
Transport and Greenhouse Gas emissions

It is estimated that transport contributes around 20 per cent of Australia’s total greenhouse gas emissions, with passenger vehicles being the primary source of those emissions. In fact, Australia’s transport emissions have increased by 63 per cent since 1990.

A comprehensive approach to reducing Australia’s contribution to greenhouse gas emissions would therefore include specific ambitions for the transport sector.

The transition to greater use of zero-emission vehicles (electric and hydrogen) will play an important role in reducing transport-related greenhouse gas emissions.

However, shifting more of the urban transport task from private passenger vehicles to mass transit alternatives will also reduce the number of private petrol-powered vehicles on our roads, while increasing the efficiency of road transport networks.

**POLICY POSITION:**
The RTBU calls for the development of a comprehensive national strategy to reduce transport-related greenhouse gas emissions, including:

- Increasing funding for passenger rail, tram and bus networks, as well as more efficient multi-modal freight infrastructure and services;
- Investment in behaviour change programs to encourage modal shift to mass transit systems;
- Developing transport industry emission reduction targets;
- Including public transport projects as part of any green jobs programs;
- Implementing greenhouse gas emission standards for cars and heavy vehicles.
Truth in Bargaining

The RTBU has found that many employers are manipulating the Fair Work system by failing to declare the true state of their financial position during enterprise agreement negotiations – particularly as it relates to fair and sustainable wage claims. Perhaps the most farcical example of this has occurred with the behaviour of Aurizon in 2015, when it sought to have 12 Enterprise Agreements overturned through the full-bench of the Commission.

In November of that year, Aurizon implied to the Fair Work Commission that it was under serious financial pressure and needed to reduce labour costs in order to remain profitable and competitive. Just a few months later, however, Aurizon announced its half-year net profit had nearly tripled from $107 million to $308 million. This example shows how institutional shareholders have more power than Fair Work Commissioners when it comes to obtaining genuine performance information about listed companies.

When companies such as Aurizon can treat not only their workforce but the independent umpire with such contempt, it inevitably erodes confidence in the workplace relations system.

Workers in particular cannot have trust in a system of bargaining when its employers are under no compulsion to treat it seriously, or to be entirely transparent about their budgetary position during negotiations.

The RTBU is seeking an amendment to the Fair Work Act to mandate the disclosure by companies of internal accounts, budgets and financial forecasts to unions and employee representatives – particularly when companies rely on this data to refuse union claims in bargaining or in their applications to the Fair Work Commission.

The RTBU believes that the mandate must apply even when such documentation is described as commercial-in-confidence. The use of non-disclosure agreements would provide sufficient protections to ensure that the union use of such material is for the sole purpose in which it was provided.

POLICY POSITION:
The RTBU calls on parties to commit to ‘Truth in Bargaining’ laws, by amending the Fair Work Act to mandate employer disclosure of comprehensive internal accounts, budgets and forecasts as part of the bargaining process.
Building Code

Changes to The Code for the Tendering and Performance of Building Work 2016 (ABCC Code) and its enabling legislation (Building and Construction Industry (Improving Productivity) Act 2016 (BCIIP Act)) in 2016 have resulted in railway work being explicitly included in the definition of “construction work” for the Building Code. This means that provided other legislative criteria are met, a number of RTBU enterprise agreements (EAs) are now required to be “code compliant”. Practically, code compliance means a loss of conditions for members, and that the Union, as an organisation, can no longer be recognised as a party to many clauses.

Furthermore, companies without a code compliant EA are no longer eligible to win work on Commonwealth projects of a certain value. This is simply unnecessary and unfair to rail workers.

The RTBU and other unions strongly believe the Federal Government’s Building Code should be re-written from scratch. Instead of imposing draconian anti-worker and anti-union requirements on businesses, the Building Code could and should be used to stop wage theft, improve safety and drive out sham contracting in the construction sector.

POLICY POSITION:
The RTBU calls on parties to commit to re-writing the Building Code in consultation with trade unions to ensure that it supports safe, secure and well-paid jobs for Australians.
Ending the Legal Arms Race

At present, lawyers are required to seek leave to appear at Fair Work Commission hearings. This requirement was put in place as the Fair Work Commission was intended to be a forum where employees and employers could directly resolve disputes in a constructive and benign environment.

In practice, however, Commissioners grant leave to lawyers as a matter of course.

Workers who do not have legal representation therefore, are regularly put at a significant disadvantage when they have to appear against highly-qualified lawyers with expertise in industrial relations law.

The RTBU believes that first instance matters in the Fair Work Commission should be a true non-lawyer jurisdiction. To this end, no lawyer should be permitted to appear in a first instance matter before a single member of the Fair Work Commission without the consent of all attending parties.

This would ensure the Commission serves its purpose as originally intended, and will take away the current legal “arms race” that sees major employers hiring expensive top-tier legal teams in order to out-gun workers in the court room.

**POLICY POSITION:**

The RTBU calls for the independent industrial relations umpire, the Fair Work Commission, to provide a more collaborative and cooperative environment for the resolution of workplace disputes. The Fair Work Commission should operate on a more even playing field by removing the right for lawyers to request leave to appear in hearings unless there is consent from all attending parties.
Appendix A - Keeping our Railways Safe

**Fatigue is a killer on both rail and road. Effective fatigue management, therefore, saves lives.**

Australia’s National Rail Safety Law, which was introduced in January 2013, was an opportunity to bring all jurisdictions up to the highest levels of safety. It should have been a case of “a rising tide lifts all boats”, but unfortunately, the National Rail Safety Regulator opted to take a “lowest common denominator approach”. As a result, the regulator recommended that the least stringent standards be adopted nationwide.

Now, fatigue management standards are once again under threat. During a recent review of fatigue management standards by the Office of the National Rail Safety Regulator (ONRSR), employers lobbied for basic standards like minimum breaks between shifts abandoned in favour of a so-called “risk management” approach. Meanwhile, the Productivity Commission has just commenced a review of the “economic impact” of the National Rail Safety Regulator – we have no doubt that employers will again attempt to use this process to water down safety standards.

The RTBU’s position on fatigue management has consistently been underpinned by an Evidence Based Review. It provides a powerful rebuttal of attempts to undermine a regime of maximum work hours and minimum rest periods.

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The RTBU’s position on fatigue management has consistently been underpinned by an Evidence Based Review. It provides a powerful rebuttal of attempts to undermine a regime of maximum work hours and minimum rest periods.

A stand out feature of the Evidence Based Review is the link establishes between fatigue, reduced performance and elevated risk of injury. Recent scientific evidence has shown there is a 30.4% increased risk of an occupational accident during the night shift and a clear exponential increase in accident risk beyond the 8th or 9th hour on shift.

The Evidence Based Review makes a number of recommendations to translate this evidence into the design of working patterns that can be formulated to minimise fatigue. These recommendations for future work include restricting consecutive night or early morning shifts, the allowing of adequate time off between shifts and establishing limits for maximum shift durations.

The Evidence Based Review examines the international experiences in the rail industry and other sectors of the transport industry to determine what the international benchmark for addressing fatigue risks is. It concludes:

> “The evidence demonstrates that hours of work and shift limits form part of fatigue risk management systems worldwide in rail and other transportation sectors”.

Internationally, Australia is the odd country out in moves towards a purely risk-based approach. The international evidence in the words of the US Federal Aviation Administration is that “hour of service limits should be the central part of any fatigue risk management system."

**Holistic approach to fatigue management**

The RTBU has pursued a number of themes in its approach to fatigue. These include the need to take an integrated approach to fatigue risk management and fatigue management which includes:

- an examination of both the immediate and long term impacts of fatigue on rail safety workers;
- the impacts of fatigue risk mitigation strategies on a workers work/ life balance; and
- the need to involve rail safety workers and their representatives in the development - from the beginning - of changes to fatigue risk management. The RTBU argues the consultative arrangements for the development of fatigue risk management are inadequate.

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Summary of RTBU Response Recommendations

The Evidence Based Review concluded:

“Based on current practice within other countries and occupational sectors and taking an evidenced-based approach to risk from fatigue, this review supports that hours of service limits should be a central part of fatigue risk management within the rail industry, with additional fatigue risk management strategies incorporated within these limits.”

The Evidence Based Review also found:

“There is a clear evidence base for (i) increased fatigue for 12 hour shifts and (ii) increased accident risk for long work shifts. Working beyond 12h is a known risk factor to fatigue/sleepiness and accident risk. Recent studies capturing accident data spanning ample years/personnel/accident reports reveal unequivocal increases in accident risk with increased shift duration...”

Where an application by an operator under rail safety law seeks an exemption, in whole or in part from fatigue risk management requirements, an affected person including rail safety workers and their representatives are to be consulted by both the operator and regulator and be given the right as an affected person to seek a review of a determination made by the national regulator.

Issues to be addressed by regulators

We have previously provided a number of recommendations to guide the future path in the development of fatigue risk management in the Australian rail industry, and those recommendations have neither been adopted nor adequately addressed by the National Transport Commission (NTC) or the ONRSR.

This is of particular concern in light of the fact that the RTBU’s Evidence Based Review establishes an unequivocal link between fatigue, reduced performance and elevated risk of injury.

The RTBU has made a number of recommendations in several submissions to translate this evidence into the design of working patterns that can be formulated to minimise fatigue.

These recommendations for future work include restricting consecutive night or early morning shifts, the allowing of adequate time off between shifts and establishing limits for maximum shift durations.

The RTBU has never received substantive responses as to why its fatigue recommendations have not been adopted.

We are particularly interested in responses to the conclusion that “the evidence demonstrates that hours of work and shift limits form part of fatigue risk management systems world-wide in rail and other transportation sectors”.

The international evidence clearly reveals that steps have been taken in recent years in a number of countries to reduce fatigue risks by strengthening hours of work and rest limits legislation and/or regulation together with the parallel adoption of complementary fatigue based risk approaches.
Our view remains that attempts to reform fatigue management in a manner contrary to the conclusions of the evidence based review are littered with assumptions and conclusions without presenting any corroborating evidence grounded in science or fact.

Conclusions, for example, that strict limits on shift lengths and rest breaks could unnecessarily hamper rostering flexibility – without identifying examples to substantiate that claim despite shift limits having been in place in NSW for many years – is a case in point.

It is also not enough for regulators to contend that fatigue is not a critical issue in the rail sector to hamper operator flexibility. The RTBU has expressed concern at the inability of research, industry and regulatory bodies to advance the understanding of fatigue related rail accidents and the costs involved – due to poor data collection over many years.

Not having a rigorous evidence base or data set substantially reduces the effectiveness of any such analysis.

The point has been made that the lack of evidence in Australia does not mean there isn’t a problem. In a number of countries governments have increasingly targeted fatigue as a significant rail safety issue.

Furthermore, a “human factors” review conducted for the ARTC by Lloyds Register found that:

“when driving down long sections of track all day, every day, drivers don’t need distractions to lose concentration.”

It concluded that the threat of ‘micro-sleeps’ could occur at any time given long sections of repetitive “bland sections of track”.

No one could be under the illusion that the risks facing train drivers would not have the potential for catastrophic consequences, and that there is a need for even greater fatigue management diligence than that in other sectors.

The RTBU is not persuaded that proper attempts have been made to understand the unique operational characteristics of the rail industry and the impacts on the ground for various categories of rail safety workers.

Furthermore, it has previously been contended with the RTBU that “some rail workers would potentially enjoy some benefits from greater flexibility in their working arrangements to account for family or social needs”.

No evidence, anecdotal or otherwise, has been presented to the RTBU in support of such claims. Rail workers are given a far from adequate say in the development of fatigue risk management policies and are rarely asked for their views. There is certainly no evidence that rail workers have enjoyed being afforded greater flexibility that takes into account family and social needs. There is a presumption here about the type of flexibility that may result from the application of a purely risk based approach to fatigue risk management.

The RTBU’s experience, which has been articulated consistently to regulators, is that overwhelming flexibility is often a one-way street which favours the employer and adversely impacts on a rail safety worker’s social and family needs.

Yet, it is important that family needs and social obligations are addressed more adequately as hours of work and rest impact on these matters more than any other condition of employment - they are front and centre.
The RTBU has many other reservations about a purely risk-based approach to fatigue management and any attempts to downgrade prescriptive hours of work regimes. These include reservations about the lack of involvement of rail safety workers in risk assessment, and whether they have the requisite skills to comply with a combined approach to risk; reservations about the maturity of many accredited parties to understand and apply a risk based approach; and reservations about regulators’ ability to pro-actively manage risk.

Quite simply, the push for “non-prescriptive guidelines” and a ’de-regulated’ approach to fatigue risk management is a means to providing more flexibility to making drivers and other rail safety workers work longer, and rest shorter.

This will not serve to manage fatigue. On the contrary, it is setting up the regulatory system for disastrous failure and flies in the face of scientific and international experience.

The RTBU is unequivocal in its belief that strict standards on fatigue management must be consistently applied across all states and territories.

On a matter of such grave importance to ensuring the safety of both rail workers, commuters and the general public, this is completely unacceptable.

**Recommendations**

Based on current practice in other countries and occupations – and taking an evidence-based approach to fatigue management – the RTBU calls for hours of service limits to be a central part of fatigue risk management in the rail industry, with additional risk management strategies incorporated within these limits.

Specifically, the RTBU is calling for Australia’s Rail Safety National Law to be strengthened by:

- Minimum time between shifts;
- Maximum shift durations ranging from 9–12 hours depending on the occupation;
- Maximum number of shifts and hours which can be worked over any 14-day period; and
- Minimum length of breaks during shifts.

**These changes should apply to all rail safety workers.**
Appendix B - Urban Rail and Public Transport Infrastructure

According to the Bureau of Infrastructure, Transport and Regional Economic (BITRE), urban congestion is estimated to cost the Australian economy over $16 billion a year, and this expected to rise to up to $37 billion by 2030. This includes the cost of wasted time spent by both people and freight in traffic jams, the cost of increased wear and tear on vehicles, and the cost to the community of increased transport-related pollution.

But other transport woes go further than this. Australian cities are under sustained pressure from continued population growth and government policies that have supported artificially high real estate prices. As result, our urban forms are changing rapidly. Areas on the peripheries of our cities are booming – but these areas are by nature disconnected from infrastructure, employment, and services such as public transport. Our cities have designed around ubiquitous access to private transport (ie cars), but in the 21st century the combination of high levels of car dependency and long commuting is having a significant impact on our quality of life.

In the 1960s, 60 per cent of people living in Australia’s capital cities used public transport – mainly rail – to get to and from work. By the 1980s this figure had fallen to 30 per cent. Today it is less than ten per cent.

The decline in public transport usage over this period has mirrored a similar decline in government investment in transport infrastructure. In the immediate post-war decades, total transport investment stood at 70 per cent of all non-primary investment. By the 1980s this had fallen to 30 per cent and today it is less than ten per cent. Of course, an increasing proportion of even this investment is in roads, so the decline in public transport infrastructure funding is actually much steeper.

The key barriers to improving public transport infrastructure in Australia’s cities are the high upfront cost of construction combined with farebox revenue which does not cover operating costs. This places enormous budgetary pressure on government when investment in public transport infrastructure is considered.

Instead of a debate about how to create the best public transport system for our cities, it becomes a debate about the next individual piece of public transport infrastructure we can afford. Alternatively, toll roads have become more prominent in our cities simply because they create limited budget obligations on government because they are a user pays structure financed, built and operated by the private sector with risks defined and limited.

This mismatch in transport infrastructure investment in Australia has distorted the shape and pattern of our cities. Integrated toll road networks are being created while public transport infrastructure remains slow and cannot achieve a critical mass of network integration and patronage to justify the large-scale capital investment required to deliver high service levels and cost efficiencies.

A new approach to investing in transport infrastructure has the potential to unlock our congestion and unleash a new wave of improved productivity across the national economy. The National Institute of Economic and Industry Research (NIEIR) has estimate that:

\textit{the under-provision of transport infrastructure capital stock is estimated to have lowered Australia’s growth in labour productivity by 0.2 per cent per annum for the non-primary business sector over the 1984 to 2011 period.}^2

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2 Traffic and congestion cost trends for Australian capital cities, Bureau of Infrastructure, Transport and Regional Economics (2015), p13

3 Public transport infrastructure investment: An instrument for sustainable debt-funded fiscal policy, National Institute of Economic and Infrastructure Research (2013), p iii.
Public transport also contributes to economic growth by facilitating the beneficial effects of agglomeration – the benefits that firms obtain by locating near each other. Mass transit systems such as heavy rail maximise the benefits of agglomeration by moving large numbers of people to a consolidated location, such as the CBD of a major city, quickly and efficiently.

With a diminishing number of economic levers available to the Federal Government to stimulate productivity growth, investment in transport infrastructure has become the Government’s best bet for achieving its productivity objectives.

NIEIR has also examined the economy-wide benefits of public transport investment. These benefits include:

- More efficient transport of goods and people;
- The social benefits of people having more time to spend at leisure in education, or with their families; and
- The environmental benefits of reduced transport-related pollution.

Considering these economy-wide benefits, NIEIR found that a $100 million public transport investment would generate around $400 to $700 million in economic benefits over the life of the asset. That is, once all the direct and related benefits of more productive public transport are taken into account, there is a return of around four to seven times on the initial investment.

**Innovative Funding Models**

Despite the benefits of public transport, private investors are unlikely to see public transport as a viable investment as these benefits are dispersed across the economy, and therefore not easily harvested by financiers.

The missing link in public transport infrastructure funding is, therefore, finding a suitable method for capturing the economic benefits of new projects and generating a suitable return on investment.

The RTBU National Office research paper titled Innovative Funding Models for Public Transport in Australia tackled this question. The report, which was independently prepared by SGS Economic and Planning, found there are proven global models that can be amended to suit Australian conditions. They are generally gathered under the title of value capture.

According to SGS Economics and Planning, value capture:

> “is based on the premise that government has a right to capture a reasonable portion of the additional economic and property value generated from new public transport infrastructure to fund these enhancements.”

SGS Economics and Planning suggested two principal forms of value capture which could be considered for Australian conditions are:

- Tax Increment Financing (TIF) combined with bond issuances
- Business Rates Supplement (BRS).

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4 IBID, ppiv-v.
5 IBID, p ix.
6 Innovative funding models for public transport in Australia, SGS Economic and Planning (2015), p7
7 IBID, p4.
TIF enables governments to raise bond finance against the future additional tax revenue generated in a designated zone. It is a way of pulling forward funds to the construction stage with a bond issuance and then repaying bond finance with additional tax revenue that flows from the developed area. TIF has been used successfully in the US for over 50 years and has now been introduced in Canada and the UK. The redevelopment of Hudson Yards in New York is a notable example of the implementation of a TIF model in a large-scale urban proposal.

BRS is a levy applied to the rates bill for larger nondomestic properties within a geographic area that benefits from a project. A high-profile example of the use of BRS is the construction of London’s Crossrail project. BRS sources will fund approximately 25-30 per cent of this UKP14.8 billion project. Melbourne’s city loop rail tunnel was also partially funded by a levy on businesses with the Central Business District.

A third type of value capture involves the sale or lease of land around transport corridors and/or the airspace above a corridor. For example, the Hong Kong metro system is operated as a highly profitable, vertically integrated rail and property business. Not only does MTR run the rail system, it also owns shopping centres above rail stations, and develops residential apartments along its rail lines. The company that operates the system, MTR Corporation, is majority owned by the Hong Kong Government, ensuring that the financial benefits of new infrastructure and developments are captured and flow back to the people of Hong Kong.

The RTBU argues that government should be capturing a high percentage of the uplift from the value of their infrastructure investments, as this value would not be happening without those investments.

Indeed, we argue that infrastructure investment should not create windfall profits for landholders who are fortunate enough to be in control of strategic real estate holdings. Value capture is therefore highly desirable from a social equity perspective, in that taxpayers who are funding the cost of development of transformative infrastructure projects, get to share proportionally in the economic benefits that are created. Moreover, once these revenue sources are created they should remain in place permanently, thus providing an important source of future revenue for governments.

Major cities such as Hong Kong, Singapore, London, New York and Chicago are all undertaking large-scale transit oriented development in urban renewal areas to respond to changing economic and job patterns.

It is important to recognise, however, that value capture is not a magic pudding. Value capture offers a way to supplement more traditional government investment as a way to defray costs to taxpayers, and to ensure a more equitable distribution of the financial benefits accrued from infrastructure projects.

The Federal Government should encourage value capture by providing financial incentives for state and local governments that incorporated value capture mechanisms into new public transport infrastructure proposals. This could operate on a dollar-for-dollar, co-funding basis.
Appendix C - Restoring Public Confidence the Corporate Sector

Skim through the annual report or website of any major Australian company and you will be sure to find entire sections about its commitment to corporate social responsibility - donations to charities, environment and sustainability projects, and employee payroll giving programs.

The problem is corporate social responsibility has no teeth. It is treated as an ‘add on’ to the core business of corporations, which is presumed to be maximising profit for shareholders.

Although there is some scope for company directors to consider the interests of broader stakeholder group interests (employees, the environment, integrity of public services), this is largely left to the self-regulation of individual companies. As a result, corporate social responsibility often becomes a marketing tool, utilised by businesses that also cause harm to the community and environment.

And the dangers of not acting are growing. Business is encroaching further and further in the provision of basic public services historically provided by government and not-for-profit organisations. The RTBU believes these services should never have been privatised. In the event that privatisation cannot be reversed, however, it remains a serious concern that the directors of these companies have no legal duty under the Corporations Act to consider the impact of their business on wider stakeholders.

Corporate misconduct and misbehaviour

A corporate regulatory system that facilitates the pursuit of profit above all else has severe consequences. Corners are cut, and other important interests are disregarded. While there are too many examples to document here, a brief survey is provided below:

- Wage theft and industrial manslaughter;
- Tax minimisation and tax avoidance;
- Environmental pollution;
- Phoenixing; and
- Anti-consumer behaviour and financial mismanagement

Although labour laws, tax laws, environmental laws and so on all regulate corporate behaviour, the prolific and flagrant abuse of these various laws points to a more systemic problem.

Why is this happening?

Corporations engage in misconduct because they operate within a system where the balance is heavily favoured towards their interests. They are allowed to misbehave, and they often get away with it. But it was never meant to be this way.

With corporate privileges come responsibilities

Businesses incorporate to take advantage of privileges, including separate legal personality, limited liability and corporate tax rates. These privileges enable corporations to raise large amounts of capital to fund investment and operations.

The earliest kinds of associations known as companies in England were those engaged in monopoly foreign trade – the Russia Company, the Turkey Company, the East India Company. In order to be recognised as independent companies, individuals needed to petition for the grant of a royal charter or an Act of Parliament. Once granted, these companies could sue and be sued, and existed in perpetuity. Over time, they were recognised as shielding their members from liability for all company debts.
In the early nineteenth century, a new system for incorporation of companies by registration rather than through charter was established, with limited liability extended to these registered companies in 1855. An incorporation-by-registration system is the one we have in place today in Australia.

The economic imperative for the policy change was the increasing scale and complexity of production processes and markets at that time. Leading sectors of the economy such as the British railway construction required new organisational forms to raise the necessary vast sums of capital and coordinate complex production on a mass scale. The company form facilitated these large-scale development projects that were in the public interest.

The very existence of the corporation, and the attendant privileges of separate legal personality and limited liability, clearly were never and are still not divine rights, they are rights bestowed by governments and society - whether by royal charter or by registration approved by government.

There was an explicit social licence to operate, defined as “a concept whereby a company’s stakeholders grant the company an unwritten authority to do business.”

Over time, and with the advent of general incorporation legislation, this link has become more implicit – but it has never gone away. Indeed, recent surveys have found that nearly nine in ten citizens across 23 countries support governments taking active legislative and regulatory steps to ensure social and environmental responsibility by companies, rather than leaving it to business to take steps voluntarily.

The problem is there is very little in the way of corporate legislation or regulation to enforce these responsibilities.

**Directors’ Duties**

Under existing Australian company law, directors owe a duty to ‘exercise their powers and discharge their duties in good faith in the best interests of the corporation.’ Although these duties are owed to the company and not directly to the shareholders, courts have generally interpreted the ‘best interests of the corporation’ to give primacy to shareholders’ commercial interests.

The CEO of the Commonwealth Bank of Australia Matthew Comyn has even revealed shareholders have told him: “your only job is to maximise the value of the firm.”

The general rule as to taking non-shareholder interests into account, is that it is only permitted in so far as it is in the interests of shareholders to do so. Directors do not at law owe a more general, public legal duty to act in pursuit of the best interests of other stakeholders like the employees or the community more broadly.

Although corporations must abide by applicable laws that do protect other stakeholders to a certain extent – such as labour laws and environmental laws – it is not the core business of business. And given the problems discussed above, reliance on distinct subject-area, outer-limit regulation is clearly not working.

**Personal liability of directors**

Not only do directors not owe a positive legal duty under the Corporations Act to act in the public interest, but it is also difficult to hold them accountable when the company contravenes existing laws that protect that interest.

Although the corporation cannot think and act for itself, as a separate legal entity it is shrouded in a ‘corporate veil’ that, for the most part, shields shareholders and directors from being held liable for

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Directors overseeing the corporation’s activities are usually not personally liable for breaches of the law such as wage theft, the tax avoidance, and the environmental and other harm that corporations cause. There are exceptions under the various pieces of legislation where directors have individual liability for the corporation’s activities, for example there are relevant provisions under corporations, industrial, taxation, trade practices, environmental protection, and occupational health and safety laws. However, the relevant tests set a high bar, for instance requiring that the director have “aided, abetted, counselled or procured” a contravention, or have been “knowingly concerned” in the contravention - these evidentiary standards are especially hard to prove in the case of large-scale corporations or franchise models operating across multiple layers of management.

**Mandatory Reporting**

Given the absence of a clear positive duty on directors to act in the interests of non-shareholder stakeholders, it is not surprising that corporations are currently not under extensive obligations to report how their activities impacted those stakeholders. Section 299(1)(f) of the *Corporations Act* provides an obligation for a directors’ report to include details on the entity’s performance in relation to any “particular and significant” environmental regulation under a law of the Commonwealth or a State or Territory. This provision has been justifiably criticised for being vague. Under s 295 the Act, company financial statements must give a “true and fair view” of the “financial position and performance of the company.” This is too narrow to give an accurate indication on the company’s impact on the community and non-shareholder stakeholders.

**Corporations are taking advantage of the privileges afforded to them. Rather than recognising these privileges come with a responsibility to serve the public interest, corporations are using them to maximise profit and perceived shareholder value at the expense of other interests.**

**How can we fix it?**

These are not intractable challenges. Indeed, an increasing number of industry superannuation funds are proving that it is good business to invest in companies that demonstrate ethically, socially and environmentally responsible behaviour.

Irrespective of how difficult these issues may or may not be to resolve, business models that rely on wage theft, phoenixing, sham contracting, exploitative supply chain models, environmental damage or tax minimisation/avoidance, are unsustainable, for society, and in the long-run, for the corporation itself.

It is unreasonable to expect corporations to solve all of society’s problems – but it is also unreasonable for corporations to expect they can continue generating profits at the expense of the common good.

**Consequently, the following legislative changes are needed:**

**Directors’ duties**

Section 181 of the Corporations Act 2001 should be amended to include corporation social responsibilities and explicit obligations for directors to consider the interests of stakeholders, as well as shareholders:
A director or other officer of a corporation must exercise their powers and discharge their duties:

(a) in good faith in the best interests of the corporation; and
(b) for a proper purpose; and
(c) with regard (among other matters) to:
   (i) the impact of the corporation on the environment, the protection of aquifers, viable agricultural land and endangered species and the production of non-biodegradable waste material;
   (ii) the obligation to pay the full amount of corporate tax;
   (iii) the interests of the corporation’s employees;
   (iv) the interests of the corporation’s contractors and suppliers;
   (v) the impact of the corporation’s operations on the community in which it operates; and
   (vi) the interests of the corporation’s consumers.

Standing to enforce

Expanding directors’ duties raises the issue of how aggrieved stakeholders can enforce the corporate social responsibilities obligations on directors.

To that end, the recommendations from the Australian Law Reform Commission’s 1996 report, Beyond the Doorkeeper: Standing to Sue for Public Remedies are a valuable reflection point for policy makers. The Commission’s recommendations, none of which have been implemented, relate to specific proceedings relating to matters arising under the Constitution (or involving its interpretation) or federal legislation or are against the Commonwealth or a person acting on its behalf, and include:

- The adoption of a new, single and simple test for standing, to replace the wide range of existing tests;
- Removing the requirement for a person to have a “special interest” to commence proceedings;
- Enabling any person to be able to commence and maintain public law proceedings, unless the relevant legislation provides otherwise or the litigation would unreasonably interfere with the ability of a person having a private interest in the matter to deal with it as he or she wishes; and
- Enacting a Commonwealth standing statute to implement the Commission’s recommendations.

Importantly, the Commission clearly stated that these changes will not lead to an increase in vexatious or frivolous claims and litigants. Courts have a number of mechanisms to manage the litigation process and to strike out matters for showing no cause of action or for being an abuse of process.

Directors who fulfil their duties to a corporation’s shareholders and stakeholders have nothing to fear from reforms to the law of standing.

Ultimately, any changes to the laws of standing and intervention must be developed as part of the package of reforms for improving the accessibility and effectiveness of the legal system.
**Personal liability of directors**

In order to give real teeth to corporate social responsibility, the threshold for holding directors to account for breaches of the law should be lowered. Current tests for holding directors personally to account are too high.

The Corporations Act should be amended to establish a positive obligation for directors and other officers to make reasonable enquiries about and to prevent reckless, intentionally dishonest and illegal behaviour. If serious misconduct, such as systemic wage theft or environmental pollution is taking place, the test for directors should be straightforward - either they knew about it and are therefore responsible, or they didn’t know about it and therefore failed in their duties.

**Purpose of corporations and the Objects of Corporations Law**

The Corporations Act should have an overarching Objects clause that clearly states the purpose of the Act is to ensure that corporate activity carried out in Australia is in the public interest. Company constitutions should be mandated to include a clause restricting companies from engaging in behaviour that would seriously harm the public interest, taking into account the effect of its behaviour on employees, the environment, taxation obligations and so on.

**Public Interest Tests and Mandatory Public Reporting**

The bigger the company, the bigger the impacts its activities have on the wider community. Once a company is large enough to have a serious impact on the community, its continued existence, with all the privileges that incorporation entails, should be conditional on that company’s performance on a public interest scorecard.

Therefore, the Act should be amended to implement a public interest independent audit process for companies over a certain value. The audit would assess the company’s performance across a range of benchmarks, including:

- Conditions for workers, including along the supply chain, gender pay gap, breaches of industrial instruments;
- Environmental impact; and
- Compliance with taxation obligations.

These audits should be conducted in the same manner as financial audits and made publicly available. Restrictions and penalties should be placed on the continued registration of repeat offender companies.

**Role of ASIC**

The Australian Securities and Investment Commission Act 2001 should be amended to ensure it has the powers to enforce corporate social responsibilities and respond to breaches.

**Australian Corporate Governance Authority**

A new Australian Corporate Governance Authority (ACGA) should be established. A key part of ACGA’s mandate will be to help ensure the changes in law translate to real, tangible and cultural change in Australia’s corporate boardrooms. ACGA will also have an important research-based and corporate education function. This includes advising Governments about other changes, and support corporations to fulfil their social responsibility obligations.
The Authority’s functions are, on its own initiative or when requested by the relevant Minister, to advise about any matter connected with:

(a) a proposal to make legislation or to amend legislation relevant to corporations;

(b) the operation or administration of legislation relevant to corporations;

(c) law reform in relation to legislation relevant to corporations;

(d) corporate governance; and

(e) corporate social responsibilities.

**These are not a radical proposals.** After all, corporations and their attendant privileges were designed to further the public interest, not to maximise private profits. All we are proposing is a return to the original objective of corporations.

These recommendations – combined with legislative changes to restore balance and fairness to industrial relations laws, end illegal phoenixing, improve environmental protections and crack down on corporate tax avoidance – will help address, on a systemic level, the harmful impact large corporations can have on the community when they neglect their social licence to operate.
Appendix D - Transport and Greenhouse Gas Emissions

For Australia to meet its commitments and mitigate the damaging effects of climate change, it must reverse a century long trend of increasing greenhouse gas emissions. Achieving this in a growing economy will be especially difficult, particularly for industries such as transportation. While the bulk of transportation emissions currently come from passenger vehicles, growth in the national freight task has been, and is projected to continue to be, the leading cause of increased emission growth.

The Policy Challenge

Australia’s transport system is a significant and growing component of national greenhouse gas emissions. According to the Department of Environment and Energy, transport emissions have risen by 63 per cent between 1990 and 2017. Transport emissions make up 19 per cent of total emissions, the majority of which is attributable to road vehicles such as passenger cars and trucks. Business as usual projections forecast that by 2030, transport emissions will increase by a further 12 per cent on current levels.

The facts are clear: if governments are serious about mitigating climate change, they need to put in place policies to reduce transport emissions. Australia needs a comprehensive strategy to reduce transport-related emissions, including a plan to increase the amount of freight transported by rail, expand the footprint of mass transit services in our major population centres, and encourage people to leave their cars at home. Indeed, carbon emissions are 40 per cent higher on road than rail for each kilometre travelled.

The current transport mix is heavily weighted towards road transport. For instance, in 2015-2016, passengers travelled 324 billion kilometres using private vehicles, while rail only accounted for 16 billion kilometres travelled.

Road transport, in both theory and practice, is neither the most energy efficient means of transporting freight nor passengers. Due to this inefficiency, it is possible to undertake a modal shift, i.e. from one transport mode to another, to meet the same freight and passenger tasks with less energy, and thus lower greenhouse gas emissions.

In order to achieve these outcomes, we are calling on the Federal government to:

- Establish an independent National Rail Commission;
- Significantly increase in funding for passenger rail, tram and bus networks, freight rail, and related infrastructure and services;
- Target funding to promote the private sector to reassess modal choices along supply chains;
- Set an industry specific carbon targets to drive reform and innovation; and
- Include public transport and other rail projects as part of ‘green’ job initiatives.

Achieving a modal shift

It is important to note that modal choice decisions are reliant upon physical capacity, reliability, and frequency of the mode, each of which rail has recently tended to under-perform along many routes.

Road freight continues to dominate major inter-capital corridors. Along the Sydney – Brisbane route, rail only holds 12 per cent of the market, despite being 40 per cent cheaper than road. Road currently provides a faster, more reliable and more convenient service, for which customers are willing to pay a premium.
The shortcomings of the rail network along this, and other inter-capital corridors, are numerous but similar.

Insufficient public infrastructure funding is allocated for solving the common good issues such as congestion and co-ordination. Where these externalities have been internalised, such as in the integrated mine-to-port operations in Western Australia and Queensland, these problems “disappear” and rail becomes a natural monopoly for the majority of the freight movements.

That is why we are calling for the establishment of a single entity which can internalise the social and economic benefits and costs of rail and related infrastructure from a national perspective, with the powers to facilitate, recommend, or direct the required changes to planning, logistics, construction, etc.

Australia needs to be able to internalise the social and economic benefits and costs of rail and related infrastructure, with the powers to facilitate, recommend, or direct the required changes to planning, logistics, construction, etc, on a national scale. The first steps towards a new paradigm will need to be from the top down: high level policy changes, funding approaches, and coordination. If done correctly, this will act as a tipping point, and other stakeholders will respond by taking Australia down a path to a new and better transportation network.

Within a restructured framework, it is envisioned that both the private and public sectors will respond with solutions that match the needs of Australia. For decades, the opportunity costs of having an inefficient and land-intensive transportation system dependent upon volatile fuel prices have not been considered. As such issues become part of the policy making process, modal shifts will emerge as natural outcomes, rather than as a policy in and of itself.

**Green jobs**

Over the years, billions of dollars have been set aside from the tax revenues to fund ‘green’ job initiatives. It would be hard to find more ‘greener’ jobs than those involved in expanding public transport infrastructure, but such initiatives are excluded from the said investment funds.

**Recommendations**

We are calling on governments to implement a holistic response to achieve a modal shift and reduce transport emissions, including:

- Establish an independent National Rail Commission;
- Significantly increase in funding for passenger rail, tram and bus networks, freight rail, and related infrastructure and services;
- Target funding to promote the private sector to reassess modal choices along supply chains;
- Set an industry specific carbon targets to drive reform and innovation; and
- Include public transport and other rail projects as part of ‘green’ job initiatives.

*This is an edited extract of the RTBU’s 2012 research paper titled Transport in a Carbon Constrained Economy. The report was independently prepared by BIS Shrapnel.*
Appendix E - Protecting and Creating High-Skilled Transport Jobs

Policy judgements and the decisions of political leaders will shape Australia’s future public transport industry and the nature of work in this industry. Before making these decisions, it is essential that leaders first consider a number of basic threshold questions. These questions are:

- What do we, as a society want our transport networks and services to provide?
- What should be the role of government in providing transport infrastructure and services?
- How is worthwhile change introduced to the sector in a planned way that fosters stable and quality jobs.

To that end, the RTBU maintains that the goals of our public transport systems should be to:

- Ensure the effective and efficient transport of people around the country;
- Make our cities more liveable, productive and sustainable;
- Enable people to participate in the economy and their communities; and
- Generate meaningful and sustainable employment opportunities for people.

The use of new technology has the potential to help governments and public transport operators achieve these goals. This is why it is important to have a sensible public discussion about the application of these technologies.

However, there is little chance of a sensible discussion when governments and transport operators see technology as a way to reduce costs and cut jobs. There is also little chance of a sensible discussion when the process is led by multinational corporations accountable to overseas shareholders, rather than by governments accountable to the public. Automation and new technologies should not be used for ideological reasons. It should not undermine the quality, standards and conditions of transport work. Nor should it be used as cover for the further outsourcing and privatisation of public transport.

That is why all Australians deserve a say in how change is implemented, and rail, tram and bus workers must be at the forefront of these discussions. These workers are the custodians of our public transport systems. Thus, protecting the interests of transport workers is not simply an end in itself. Rather, it is the key to ensuring that our public transport systems are reliable, safe and efficient.

If applied wisely, new technologies can ensure, in the words of economist Jim Stanford, that –

“Technology [is] an ally, not the problem, in our shared effort to build a high-quality, modern, accessible and democratic public transit system – one that, embodies core commitments to serving the public and environmental interest, maximises its economic and social benefits, and continues to be a source of high-quality, stable employment.”

What is driving automation and technology in public transport?

The impact of technological change is often portrayed as representing “disruption” to the transport industry. People who question the application of these trends are therefore often dismissed as being resistant to progress. For instance, in NSW, Transport Minister Andrew Constance has taken an aggressive stance in support of technological change and the evolution of the public transport sector towards a fully privatised
industry:

“In 10 to 15 years’ time, government will not be in the provision of transport services. It will all be on demand, private sector driven, underpinned by innovation in technology.”

Furthermore, Mr Constance has publicly enthused about the potential for driverless technologies to replace human workers, and therefore damage his political opponents:

“As a Liberal Minister I’m not going to have to deal with the rail union anymore because we’re going to have driverless trains here. And guess what? The union and the Labor Party are opposed to Metro because there are no more train drivers, no more union members.”

Mr Constance clearly sees the introduction of new technologies to the transport sector as part of a broader ideological agenda of privatising, de-unionising and eliminating public sector workers from the transport industry. In this sense, rhetoric around automation and technological disruption is being used as code for undermining the rights and jobs of transport workers.

By adopting such an aggressive and ideological approach, governments and transport operators will inevitably ignore the legitimate prerequisites and barriers that must be considered and negotiated as part of automation and technological change. These include: regulation, infrastructure and capital investment, workforce planning and transitioning, proof of safety, social acceptance, management adequacy, lag times to phase in new equipment and, in the case of greenfield projects, integration with existing networks.

If these issues are ignored, public transport workers will lose out. And protecting the interests of transport workers is not simply an end in itself – it is the key to ensuring communities have access to safe, reliable, quality and transparent public transport networks.

What does this mean for rail, tram and bus workers?

The RTBU believes that extreme caution should be exercised in projecting that the advent of new technology should or will lead to a dramatic or immediate displacement of labour. That’s why it is so important that change is managed properly.

If managed properly, while some specific tasks could be automated, few existing jobs could have their full spectrum of requisite tasks automated. This would in turn lead to an inventory of tasks, which machines cannot satisfactorily perform (or should not perform), being organised into refined roles which consist of those tasks combined with specific new tasks that have arisen as a result of technological deployment.

In other words, the automation of some tasks does not necessarily mean that workers will no longer be needed – rather there will be a restructuring of job roles to accommodate existing (and new) tasks that require human input. Redefining these roles, and managing the transition process, will need a collaborative approach from employers and their employees. This requires workers and their union to have the ability to negotiate change.

Currently, the ability of workers and their union to negotiate change is severely constrained by the attitudes of governments and transport operators.

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Of course, it does not have to be this way. Governments should see technological change as an opportunity to improve public transport, not merely cut costs. And this needs to be demonstrated through action, not simply rhetoric.

**What does this look like in practice?**

Change must be managed so that:

- Existing workforces are given strong rights to training/retraining in skills that will allow them to take advantage of or progress into new jobs;
- Support is provided for existing workers to fill new positions with strong redeployment and job mobility rights;
- Change is managed by providing better support for older workers who are seeking to retire with bridging benefits and other incentives;
- Workers are given a genuine say in how changes are implemented and managed, including through provision of information, consultation and negotiation; and
- Labour standards around pay, conditions and safety are maintained.

Even fully-automated public transport systems require significant workforces. Staff will be required to have a deep knowledge of key operating systems and their functional interactions. Operational control staff with high-level qualifications will also be required to perform emergency operations. Specialised skills will be required from workers in maintenance roles. Commuters will also expect some degree of personal customer service.

There are opportunities for workers to be better remunerated as they develop new skills. For instance, an international survey of 23 automated metros found that automation did not result in reduced staffing costs because the multi-skilled staff employed to operate the lines are paid more.

However, there appears to be very little planning to prepare the transport workforce for the jobs of the future. And if it is going on, it is clear that workers and their unions are being excluded from the process. Governments have cut funding for vocational education and training, making it harder for workers to retrain and upskill. At the same time, private companies are spending less on employee training than they were 15 years ago. At a recent discussion about automation and skills, RTBU representatives were shocked to hear a manager at one transport operator admit that supporting a just transition for at-risk workers was “not my problem”.

We are not opposed to technological change. Rail, tram and bus workers are passionate about their industry. Working in the industry is seen as a vocation. When technological change has a proven capacity to improve the quality of transport work and services, it will be embraced.

**Rising inequality**

Technological change will cause inequality (and its social, political and economic impacts) to worsen, unless it is managed in the interests of workers. While technology can boost productivity, any gains should not simply result in higher profits and bonuses for transport executives. Increased productivity should lead to wage rises and help fund retraining and reskilling programs.

Unless at-risk workers have access to these programs, the income gap between those who benefit from technological change and those who do not will widen.

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dramatically.

We also know from experience that people forced into structural unemployment can find it very difficult to get back into the workforce. Those who do find work often earn significantly less than they did before losing their job.

**Skills shortages**

Technological change will also create significant skills shortages for the transport industry, unless governments and operators engage constructively with workers and unions to prepare for change.

The Australian Industry Standards Rail Industry Reference Committee forecasts that automation and technological change mean rail workers will require new skills in technology, remote operations, diagnostics, maintenance, communications, data-analytics and problem solving. A recent report commissioned by the employer-group, the Australasian Railway Association (ARA), identified the following as areas of future skills shortages in the industry: systems engineering; cloud-based signalling; cyber security; remote condition monitoring; simulator and virtual reality trainers; different customer service skills (for autonomous systems); risk and assurance professionals; and big data analytics.

Governments must take the lead in developing a response to avoid potential skills shortages. But it will become increasingly difficult for governments to do so if they continue privatising public transport systems, rely on privately-owned companies to provide training and cut funding for TAFE in favour of private companies. Transport operators – public or private – are also simply paving the way for future skills shortages when they outsource key functions to labour hire companies, renowned for high employee turnover. These decisions may help cut costs in the short-term, but they will inevitably cause severe shortages in the supply of skilled labour that is required to build, operate and maintain transport systems in the medium and long terms.

Even the ARA has recognised that –

“One of the consequences of [short term cost cutting] has been the collapse in investment in training and skills development of the people to build our infrastructure and operate and maintain first class rail services. This is a clear case of market failure.”

In order to respond to skills shortages, workers and unions must be involved in the process. We are willing and ready to work constructively with governments and operators to develop upskilling programs for existing workers. This includes receiving notice, support and access to programs to ensure workers can adapt their capacities in line with emerging opportunities.

**What is the international experience?**

Governments around the world are faced with a choice about how to manage automation and technological change in rail, tram and bus industries.

The Singapore Government has undergone a process of developing Industry Transformation Maps to ensure automation and technological change is managed in a way that benefits workers, employers and the economy as a whole. The Land Transport Industry Transformation Map was developed by the Government’s Land Transport Authority in partnership with the National Transport Workers’ Union and the country’s rail and bus operators.

13 Ibid.
The strategy outlines planned technological changes, initiatives to improve transport services for commuters, increase productivity and future-proof the workforce with extensive upskilling and reskilling programs.\textsuperscript{15}

Despite automation, the number of jobs in the industry will continue to increase. The kinds of jobs will change, but the government, operators and the union are working together to prepare the workforce. This includes: developing a Public Transport Skills Framework to identify current and emerging skillsets; identifying training gaps and develop upskilling programs for workers; and establishing government-run training academies, known as the Rail Academy and the Bus Academy, to help the workforce upskill and reskill to take on new jobs as the industry changes.

Like Australia, the Singapore rail and bus industries are forecasting skills shortages. But unlike Australia, rather than making the situation even worse by making workers redundant, Singapore is investing in its existing workforce.

Germany’s first automated metro line opened in 2008. This line is part greenfield and part conversion of a heavy rail line. The relevant union and Works Council were intimately involved in the planning process, to mitigate any adverse impacts arising from the conversion. Not only were there were no forced redundancies, but the number of people employed on the line has increased over the past 10 years and labour costs have increased as the workforce develops new skills.

\textbf{Why is engaging with workers important?}

Managing change in the interests of workers is critical to maintaining quality public transport systems. Every day, a skilled, dedicated and hard-working workforce ensures the efficient, safe and reliable operation of Australia’s complex and multi-line/route transport networks. The knowledge required to make this happen is held as a collective consciousness shared between people on the job. This collective consciousness captures the social and technical knowledge dimensions of transport-related work.\textsuperscript{16} It is knowledge that cannot simply be taught in formalised classroom training – it is passed on from one generation of transport workers to the next.

One of Australia’s leading industry experts on transport and logistics issues, Professor Daryll Hull has written extensively on this topic, noting that –

\begin{quote}
“It is specious and arrogant to suggest that the thousands of years of knowledge contained in the heads of railway workers is ‘one year of knowledge repeated a thousand times.’ Anyone who has walked a section of track, watched a train controller in action, or explored Wynyard during peak hour knows that railway knowledge is cumulative, every-changing and often problematic. The basic systems may take you to a place, but there is a never-ending stream of unique situations every day...the balancing act of social and technical forces on a daily and hourly basis in the railways requires high levels of confidence, continuity, and a willingness by people take action based on their own judgement.”\textsuperscript{17}
\end{quote}

Governments and transport operators should be under no illusion that they will lose vital pieces of technical and social knowledge if change is not managed in the interests of workers. And if they lose this knowledge, the quality of our public transport systems will ultimately suffer. Any financial benefits will quickly dissolve as transport operators will inevitably be forced to scramble to compensate for lost knowledge.

\textsuperscript{17} Ibid.