



State Services Commission and the Australia and New Zealand School of Government present:

Policy Transfer:

Public Policy in the import/export business

Moderator

Simon MacPherson

Chief Policy Advisor

Ministry of Social Development

Speakers

Emeritus Professor Arie Freiberg

Monash University

Andrew Jackson

Deputy Chief Executive

Ministry of Transport

Please switch off all devices for the duration of the seminar



MONASH University

Law

Policy transfer: Public policy in the import/export business

Arie Freiberg

SSC/ANZSOG APPLIED LEARNING
9 FEBRUARY 2016
WELLINGTON

What is policy transfer/diffusion

When one government's policy choices are influenced by choices made earlier by other governments (Shipan)



**THREE STRIKES AND YOU'RE OUT: IT'S JUST
NOT CRICKET**

Australia: a penal policy transfer

- Australia started as a colonial export
- Colonisation brought with it English statutory and common law
- Also borrowed from the USA in the 19th and 20th centuries
 - Probation system from the UK and US
 - Habitual criminal and indeterminate sentencing laws
 - Criminal appeals from UK 1907
 - Parole in Victoria from USA in 1950s
 - Community-based orders from USA and UK in 1960s and 1970s

Good and bad transfers

SOME GOOD POLICIES TRANSFER	SOME BAD POLICIES TRANSFER
SOME GOOD POLICIES DON'T TRANSFER	SOME BAD POLICIES DON'T TRANSFER

Criminal justice policy diffusion in Australia

- 1960s and 1970s: community based orders
- 1980s: consolidated sentencing laws
- 2000s: problem-oriented courts eg drug courts
- 2000s: sex offender registration/working with children checks
- 2004: dangerous sex offenders laws: Queensland; Fardon's case

From whom?

- Other countries?
- In Australia: other states: a federal system allows for some degree of experimentation
- Culturally similar jurisdictions?
- Language? We tend to 'globalise' penal policy along Anglophone lines:
 - USA, UK, NZ; Canada
- But not
 - Nordic countries, Western Europe

To whom?

- Australia > >>> HECS
- Case mix funding

Transfer or zeitgeist?

- Policy changes as a result of socio-economic changes?
 - Neo-liberalism?
 - Privatisation
 - De-regulation?
 - Managerialism?
 - Actuarialism?
 - The risk society?
 - Small government?
 - Individual responsibility?
- Globalisation rather than transfer? Globalised information travels fast and wide

How? Policy entrepreneurs

- Policy entrepreneurs: people who devote time, energy and political capital to pursue a specific policy goal
- Can be governmental, private individuals, academics, judges, ex-politicians
- They
 - Define and frame the problem
 - Build a team
 - Gather evidence
 - Develop wide range of supporters

How? Policy entrepreneurs

- Social impact/benefit bonds: developed in UK in 2010 and brought to Australia and now spreading through a number of jurisdictions.
 - 2012 David Hutchison, Social Finance UK spoke in Australia about SIBs and the idea took hold
- Justice re-investment: An idea from early 2000s that has gradually developed in the US and taken up here by Dave Brown, UNSW and retired judge Harold Sperling
 - Ideas still being propounded and tested

How? intellectual leaders

- The highly influential
 - Behavioural economics/nudge eg Kahneman, Sunstein, Halpern
 - Restorative justice (NZ) eg John Braithwaite
 - Responsive regulation eg John Braithwaite
 - Really responsive regulation eg Julia Black
 - Therapeutic jurisprudence eg Winick and Wexler
 - Drug courts eg Peggy Hora

How? Policy networks

- Experts: academics, bureaucrats
 - Gather evidence
 - Publish papers
 - Conferences and seminars
- Diffusion of information through citations: citation analysis

Institutions

- Think tanks:
 - Institute of Public Affairs Australia
 - Grattan Institute
 - The Australia Institute
- Advisory Councils
 - Victoria, Tasmanian, NSW Sentencing Advisory Councils
- Research bodies
 - Australian Institute of Criminology
- OECD
- USA – American Legislative Exchange Council (model legislation for conservative governments)
- Standards institutions eg International Standards Organisation

How? other

- Politicians' fact finding tours
- Media: public and social
- Increased journal access/internet
- US hegemony (pervasive cultural, media, economic and linguistic dominance?)

Good ideas or bad?

- Three strikes laws
- Truth in sentencing
- Boot camps
- Capital punishment
- Anti-social behaviour laws
- Confiscation of proceeds of crime
- Preventive detention: detention and supervision orders
- Sex offender registration and notification
- Mandatory sentencing
- Compulsory treatment for sex offenders/castration
- War on drugs

Good ideas or bad?

- Restorative justice
- Problem-oriented courts eg drug courts; mental health courts; indigenous courts
- Therapeutic jurisprudence
- Neighbourhood justice centres
- Justice re-investment
- Jury sentencing
- Private prisons
- Social impact bonds
- Broken windows/zero tolerance

US(A) v them: general factors

Why borrow ideas from the country with the highest incarceration rate in the world whose laws are ineffective, expensive, inhumane and discriminatory????

- American exceptionalism vs American hegemony
- Global > national>local
- Populism vs professional expertise
- Attitudes to government

Why do good ideas not travel?

- Cultural differences: why are we not more like the Nordic countries?
 - Demographics: social homogeneity; degree of inequality
 - Politics: corporatism vs adversarialism; welfarism vs individualism; centralised vs fragmented/federalised; strong vs weak states
 - Media: tabloid vs broadsheet
 - Degree of influence of religion
 - Historical determinism/path dependency

Why do good ideas not travel?

- Ideas are too complex
- Lack of policy entrepreneurs
- Hard to measure/evaluate

NZ Synthetic Drugs legislation???

Why do bad ideas travel well?

- Simplistic solutions to complex problems
- Emotion rather than evidence drives decision
- Policy-based evidence; emphasise the good, ignore the bad
- Short term fixes vs long term strategies
- Political imperatives: high salience problems
- Ignore local differences
- Over-generalise findings and applicability

Think global: act local?

Learn but do not copy (Shipan).....

Imitation is the sincerest form of
flattery but you lack my
personality, talent,
& creativity so just
stop it before you
hurt yourself.

Bless your heart.



Think global: act local?

- Transfer but adapt
 - Legally appropriate
 - Culturally appropriate
- Costs and benefits
- Evidence of effectiveness
- Travel and see
- Learn languages other than English



Dealing in second hand policy

Dealing in second hand policy

Diffusion of ideas is a good thing

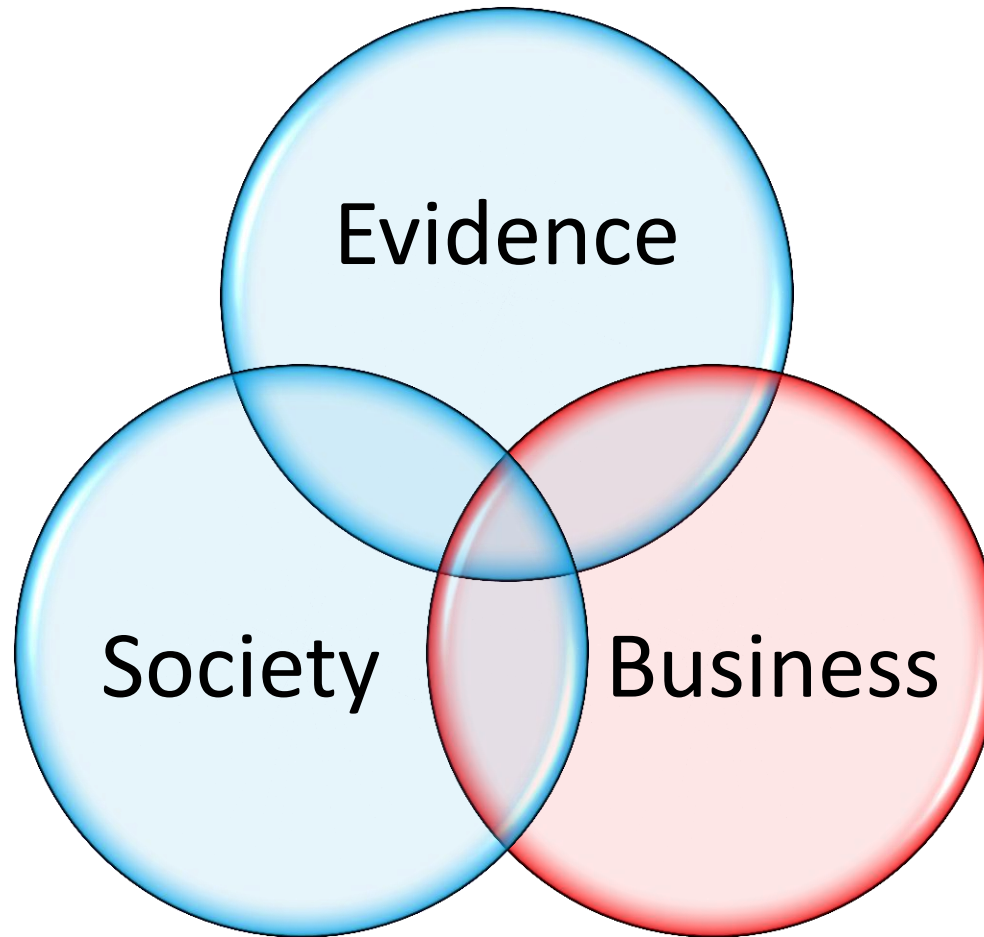
Diffusion of a specific idea may not be

So.....how do we find the good ones, or at least avoid disaster?

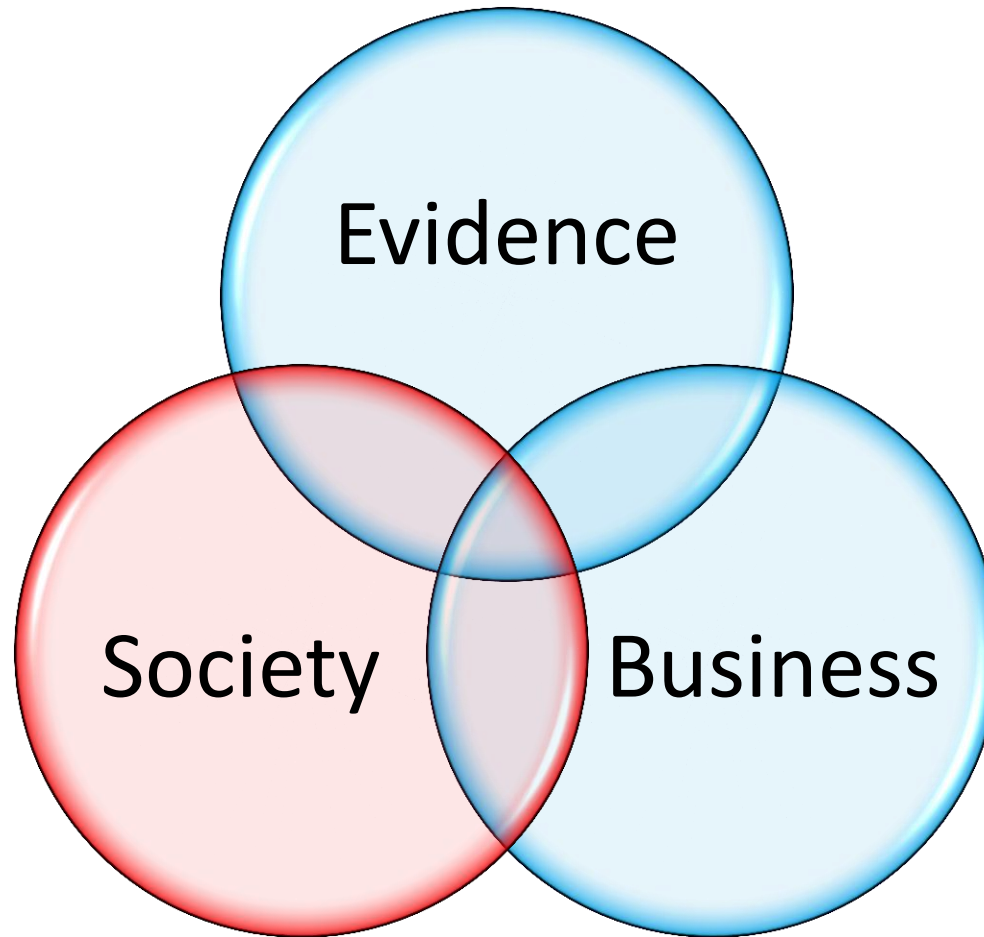




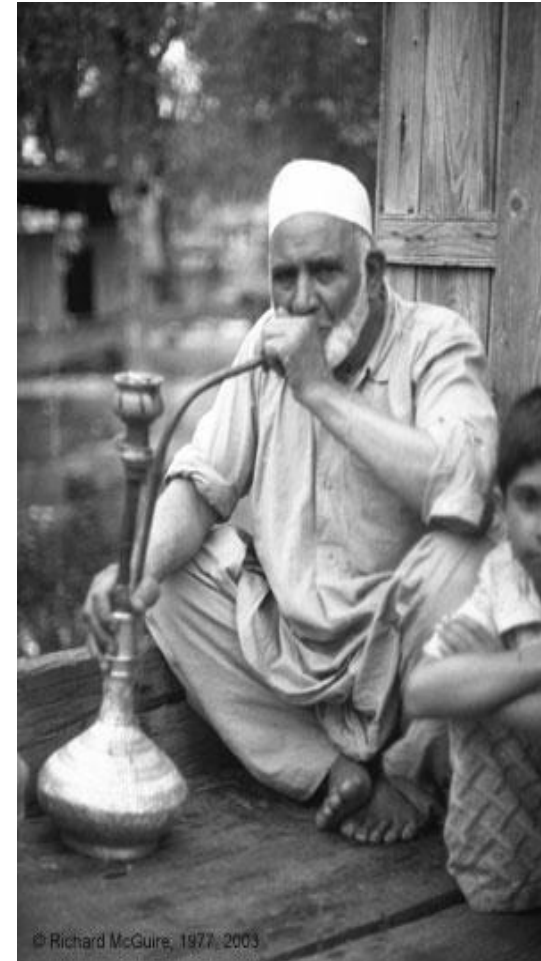
Policy is the art of the possible *not*
the art of perfection



Policy is the art of the possible *not*
the art of perfection



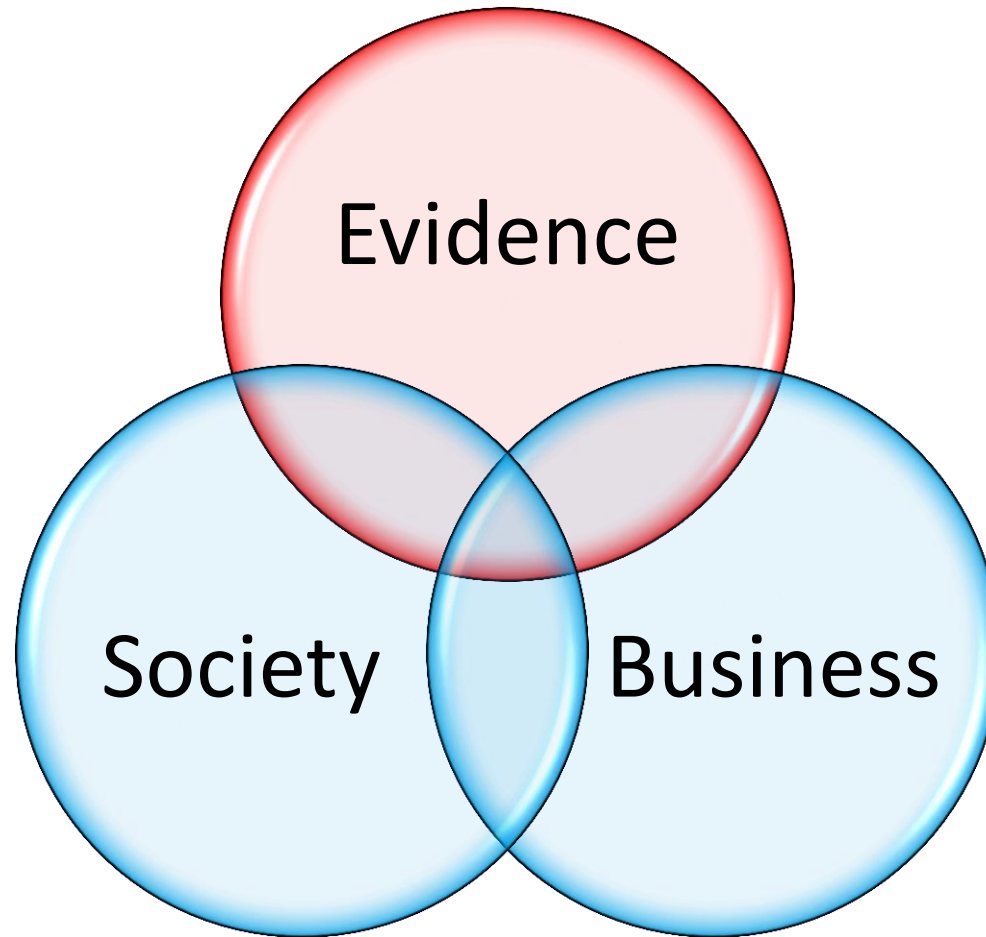
Has to fit with the culture



Two wrongs do not make a right



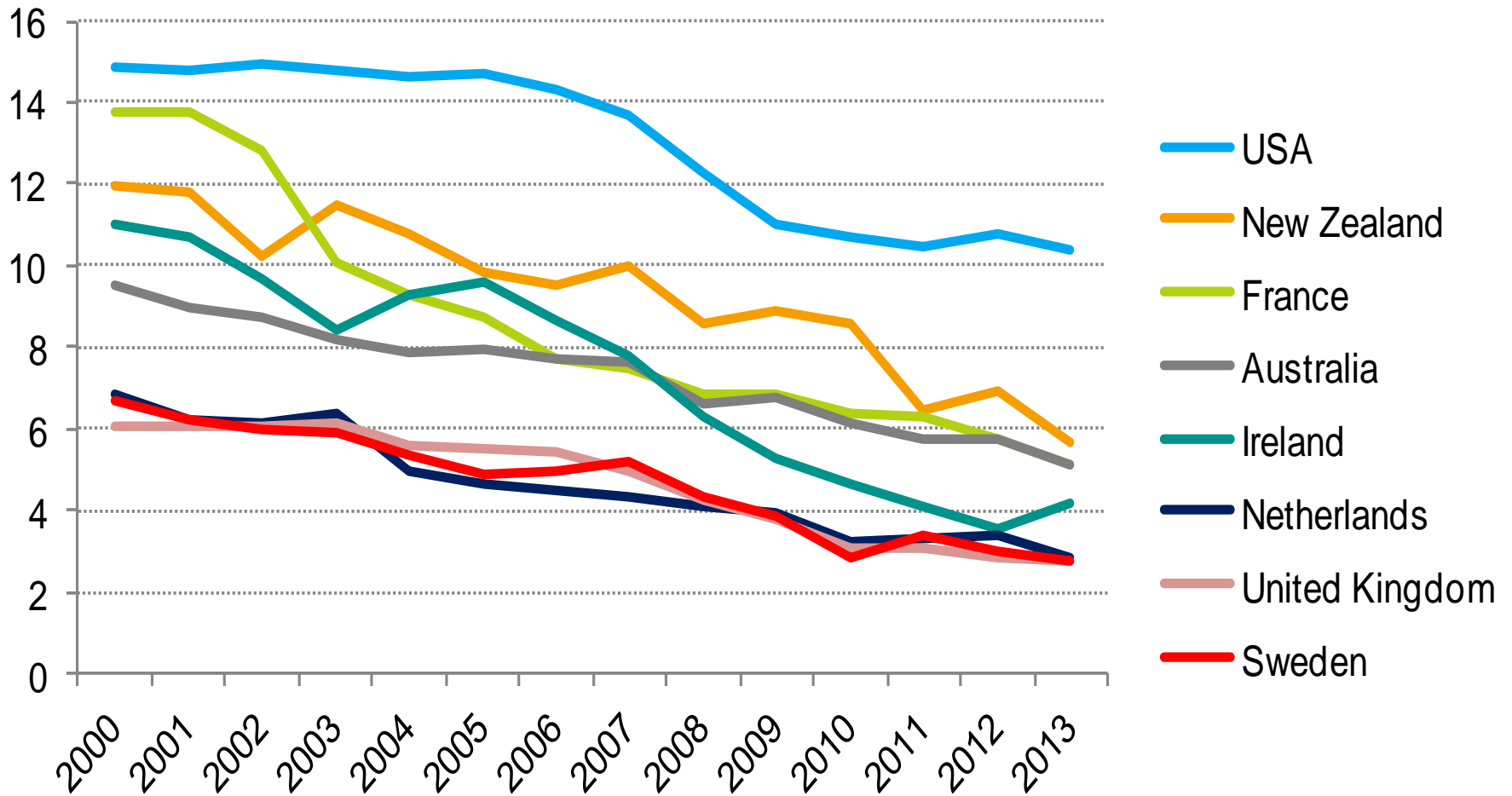
Policy is the art of the possible *not*
the art of perfection



Understand the context

Relative risk of fatal crash by blood alcohol level			
BAC	30+ years	20-29 years	15-19 years
0	1	3	5.3
30	2.9	8.7	15
50	5.8	17.5	30.3
80	16.5	50.2	86.6

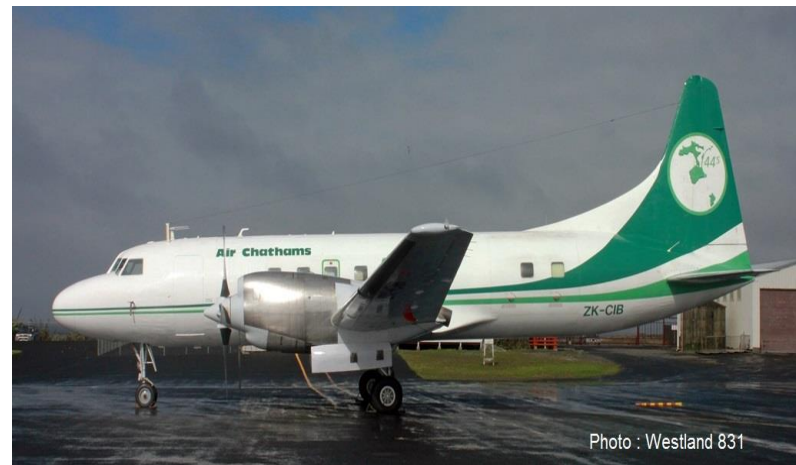
Road deaths per 100,000 population



Understand the context



Balance the costs



Global Financial Crisis

64.02%

42.67%

53.91%

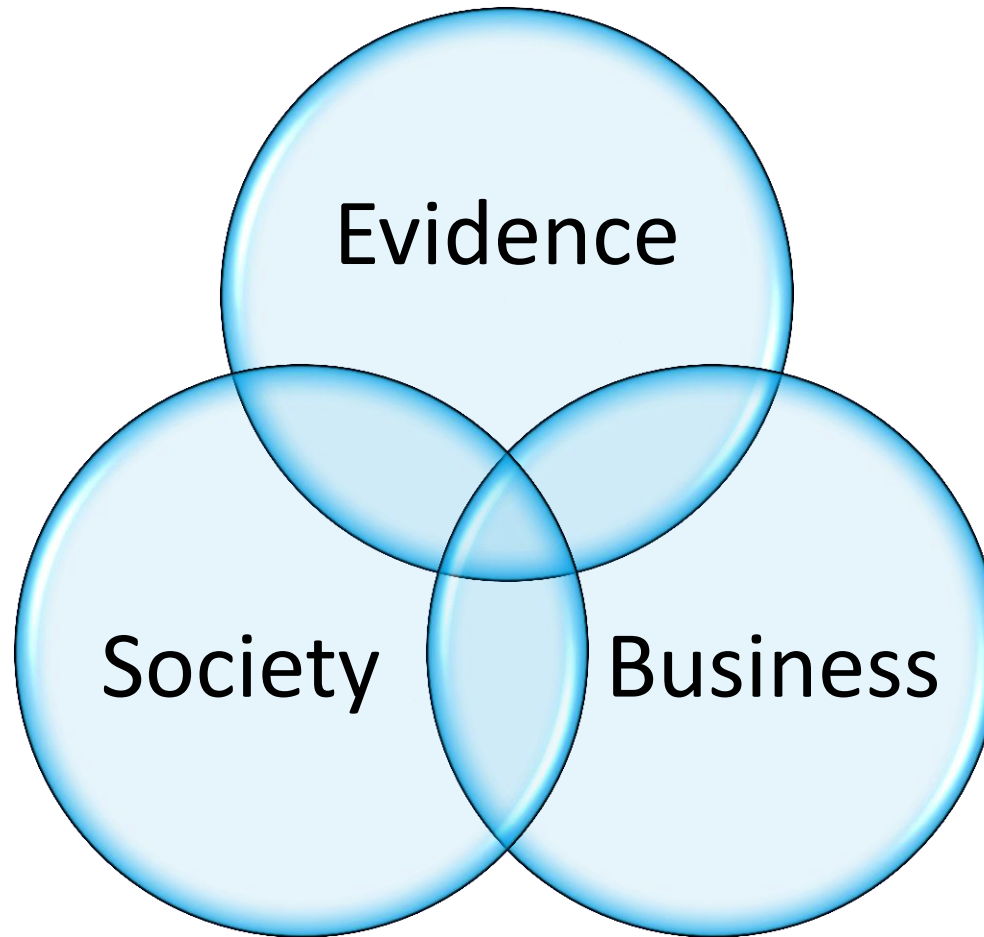
38.25%

31.09%

Stock Shares



Policy is the art of the possible *not*
the art of perfection



Thank you





State Services Commission and the Australia and New Zealand School of Government present:

Policy Transfer: Public Policy in the import/export business

Moderator

Simon MacPherson

Chief Policy Advisor

Ministry of Social Development

Speakers

Emeritus Professor Arie Freiberg

Monash University

Andrew Jackson

Deputy Chief Executive

Ministry of Transport

Please switch off all devices for the duration of the seminar



Upcoming Applied Learning Seminars

Picking the Melbourne Cup winner - uses and abuses of statistical modelling

Speaker: George Argyrous

Auckland
Wellington

14 April
18 April

Enquiries

Applied Learning

T +61 3 8344 1900

appliedlearning@anzsog.edu.au

Details online at anzsog.edu.au

Follow us





the Australia and New Zealand
School of Government

Upcoming Executive Education Workshops

Recognising Public Value

Course leader: Mark Moore

Melbourne

25-26 February

Policy and Program Skills

Course leader: Michael Mintrom

Canberra

5-7 April

Applying Behavioural Insights

Course leaders: David Halpern and Rory Gallagher

Wellington

2-4 May

Enquiries

Executive Education

T +61 3 8344 1984

Executive.education@anzsog.edu.au

Details online at anzsog.edu.au

Follow us





the Australia and New Zealand
School of Government

Visit our website:
www.anzsog.edu.au

