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The Courier

Information and Advice for NSW Transport Operators

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Transport Industry – General Carriers Contract Determination Update

Proceedings in relation to Stage 2 of the Transport Industry – General Carriers Contract Determination resumed before the NSW Industrial Relations Commission on 26 September. A number of significant developments occurred in the lead up to the resumption of these proceedings.

Discussions with the NSW Government

ARTIO NSW held discussions with the office of the NSW Treasurer and Minister for Industrial Relations on whether the NSW Government would intervene in these proceedings. The office of the Minister for Roads and Freight was briefed on these discussions by ARTIO NSW.

Submissions Made by the NSW Government

Following these discussions, submissions were made by the NSW Government through the Crown Solicitor's Office. These submissions stress the need for the NSW Industrial Relations Commission to take into account

the proper balance between the needs of the parties and the public interest in accordance with the Commission's responsibilities under the *Industrial Relations Act*. These submissions also specifically refer to rates which may be set which relate to interstate work.

These submissions make clear that following the completion of evidence by parties to these proceedings, including ARTIO NSW, the Crown Solicitors' Office intends to make further submissions on the principles which relate to the public interest and the needs of the parties. These submissions also leave open the possibility that further submissions that may be made on other matters relating to these proceedings. This will depend on what specific matters arise, including matters related to the setting of rates for interstate work.

Witness Statements

The TWU, ARTIO NSW, the NSW Business Chamber, Toll and TNT have all provided witness statements to the NSW Industrial Commission.

Witness statements from ARTIO NSW were obtained from three transport operators who have sold their businesses in recent years. A fourth witness statement has been provided by an ARTIO NSW Member. These witness statements describe the operation of the market in the regional and interstate sectors. Witness statements which focus on the operations of the market have also been provided by Toll and TNT. Other witness statements relate to owner driver businesses and the construction of cost models.

Conciliation and Arbitration

Under the timetable developed by the NSW Industrial Relations Commission, it was proposed that arbitration would commence on 26 September.

In the lead up to these proceedings, ARTIO NSW representatives have met separately with certain other employer associations represented at these proceedings as well as on a one on one basis with the TWU.

Following these discussions an approach was made to the Bench to allow time for conciliation. All of the week commencing 26 September was set aside for conciliation between the parties. Further conciliation can be expected to occur when proceedings resume.

Small Business Ombudsman Releases Report into the Effect of the Road Safety Remuneration Tribunal Payments Order

The Australian Small Business and Family Enterprise Ombudsman has released its report into the effect on small business of the Road Safety Remuneration Tribunal's Contractor Driver Minimum Payments Road Safety Remuneration Order 2016 (the payments order). This followed a request from the then Minister for Small Business, Kelly O'Dwyer, for the ASBFEO to conduct an inquiry into the impact of the payments order on small business.

The inquiry examined:

- The conduct and operation of the Tribunal in how it treated and engaged with owner drivers in relation to the payments order.
- How governments, including tribunals, should consult with owner drivers and other small businesses in the development and operation of tribunals and other similar bodies, as well as in the development and implementation of regulation.

The report contains 13 findings. Key findings were:

- The payments order resulted in owner drivers being made uncompetitive.
- There was significant uncertainty and anxiety about the application and impact of the order.
- Uncertainty for owner drivers continues beyond the abolition of the Tribunal and the payments order.
- The effect of the payments order on individual owner drivers and small businesses in terms of financial hardship, stress and in other ways was significant.

- The payments order was discriminatory in its application to owner drivers and small business and that discrimination was not based on a sound and sufficient evidence base.
- The Tribunal's processes were adversarial and overly legalistic.
- Owner drivers who appeared before the Tribunal were not treated with due respect and felt the Tribunal lacked independence and impartiality.
- Tribunals are suited to resolving disputes and are not appropriate vehicles for developing complex industry wide regulation that intervenes in market forces.
- Fatigue management laws are inflexible and may lead to perverse situations such as permitting a person to drive when they are fatigued.
- Safety should not be addressed by legislating rates of pay.
- It is costly and onerous for drivers loading and unloading to have to complete a site specific induction at every site.

The report also reported that some drivers were unable to cope with the payments order and took their own lives.

The report recommended amongst other things that:

- When developing regulation that will have a significant impact on small businesses, consideration should be given to the potential impact on people's mental health.
- The inquiry strongly discourages the setting of mandated rates of pay that only apply to owner drivers and small businesses. (Note: the ASBFEO linked this recommendation to the review of the Transport Industry – General Carriers Contract Determination currently underway before the NSW Industrial Relations Commission.)
- Existing and future tribunals dealing with small business should employ less formal and legalistic processes, not be adversarial, facilitate well-represented parties and be free of bias, actual or perceived. Processes should be collaborative and consultative.
- Governments should consider other bodies or frameworks in regulation and facilitative processes to achieve negotiated and appropriate outcomes to complex, industry wide regulation.
- It (the ASBEFO) should inquire into ways to reduce payment terms for owner drivers as part of its inquiry into payment terms,
- The Treasury and the ACCC work with industry to investigate developing a code of conduct of the road freight industry.

A copy of the report is available at www.asbfeo.gov.au/inquiries/impact-rsrt-payments-order/final-report.

ARTIO NSW Makes Submission to Legislative Council's Workers' Compensation Review

ARTIO NSW has made a submission to the NSW Legislative Council's Standing Committee on Law and Justice First Review of the Workers' Compensation Scheme.

This submission:

- Welcomes reform of the workers' compensation system in NSW over the past decade under both Labor and Coalition governments as well as last year's Insurance and Regulation Reform Package which separated into discrete functions insurance, workers' compensation claims management and care and rehabilitation functions and integrated administration of the compulsory third party insurance scheme with the workers' compensation scheme.
- Stresses the importance of a financially robust and viable insurance scheme which aims to achieve a modest surplus over the long term.
- Advocates as a matter of principle a sharing of any benefits from an underlying surplus in a cautious manner through lower premiums to employers and through targeted reforms of benefits arrangements for those who require financial support.

- Supports further harmonization of WHS law and road law throughout Australia.
- Supports the extension of the concept of reward for effort to employers with a good claims history to the CTP scheme.
- Encourages SafeWork NSW to restore tripartite stakeholder consultation forums in industries with high death and injury rates such as the trucking industry.
- Advocates for improved links between industry and government agencies in areas related to WHS and road safety.

Road Closures: How to Stay Informed

With widespread flooding across several jurisdictions leading to road closures in recent weeks and the likelihood of ongoing road closures, especially in the central west of NSW, ARTIO NSW Members are strongly advised to keep informed of access restrictions due to weather related events.

The National Heavy Vehicle Regulator has provided timely advice on how to stay informed about road closures.

The following websites may be of assistance:

- NSW: Transport for NSW Live Traffic NSW: www.livetraffic.com/desktop.html.
- ACT: www.tccs.act.gov.au/roads-paths/act_public_road_closures.
- Victoria: VicTraffic: www.traffic.vicroads.vic.gov.au.
- Queensland: Queensland Traffic and Travel Information: 131940.qld.gov.au.
- SA: Outback roads reports: www.dpti.sa.gov.au/OutbackRoads.
Traffic SA; www.traffic.sa.gov.au
- Tasmania: Tasmanian Police Community Alerts: www.police.tas.gov.au/community-alerts.
Tasmanian Road Closures and Delays: www.transport.tas.gov.au/road/closures_delays.

Motorists Thanked for their Patience as WestConnex Work Ramps Up

(Extracts from Media Release from the Hon Duncan Gay MP, Minister for Roads, Maritime and Freight, 14 September 2016)

Motorists have been warned to expect delays and allow more travel time as work ramps up on building WestConnex, with a rolling program of traffic changes set to be introduced over coming weeks.

“Once WestConnex is opened, motorists will be able to get to their destinations quicker and local roads which are currently clogged with traffic will be returned to their communities,” Minister for Roads Duncan Gay said.

“But we have a lot of work to do in the meantime to build this city-changing piece of infrastructure, and we thank motorists for their patience while we get the job done.”

Mr Gay said motorists using the M4 and Parramatta Road needed to plan for extra travel times as the traffic changes were progressively introduced.

Work is continuing on widening the M4 from three lanes to four in each direction between Parramatta and Homebush and will be opened to motorists next year.

Following the start of tunnelling for the long-awaited M4 East at Concord in July, work has now begun at a second site in Homebush with four road headers now working underground.

As well, tunnelling will begin before the end of the year on the New M5 between Beverly Hills and St Peters.

“All this important work also means extra construction vehicles on major roads as they access tunnelling sites, deliver materials and remove spoil,” Mr Gay said.

Project Director Terry Chapman said the further changes followed the closure earlier this month of one eastbound lane of the M4 exit ramp onto Parramatta Road until the M4 East opens in 2019.

From 11pm Sunday night, a westbound lane will be closed on Parramatta Road for around 450 metres between Ashfield Park and Bland Street at Ashfield. It will remain closed until the M4 East opens in 2019.

In the coming weeks, motorists can expect further changes including:

- A westbound lane closure at the M4 entry ramp from Parramatta Road at Concord until the M4 East opens.
- Night works on the M4 between Church Street at Granville and Homebush Bay Drive at Homebush until early next year
- Two permanent lane configuration changes on the M4 at James Ruse Drive and Homebush Bay Drive later this year or early next year
- Continual lane, ramp and carriageway closures on the M4 from now until the M4 widened section opens

“As we prepare to open the widened section of the M4 next year, we’re working day and night and motorists need to plan for regular closures along sections of the motorway between Concord and Parramatta,” Mr Chapman said.

Investigation work for new local road upgrades around St Peters, Alexandria and Mascot for the New M5 are also rolling out over the coming months, starting next week on Euston Road. This work will require temporary changes to traffic and footpath conditions.

Once the dates of the upcoming closures are confirmed, motorists will be advised through newspaper and radio advertisements, electronic signage and media announcements. For the latest traffic information, motorists can visit www.livetraffic.com.

WestConnex Update – Parramatta Road Lane Closures

On 4 October an eastbound lane on Parramatta Road will be closed between Bland St and Rogers Ave, Haberfield as part of work to construct the Parramatta Road interchange. This lane closure will be in place until construction of the WestConnex M4 East is completed in 2019. Two of three eastbound lanes will also be closed each night for two weeks.

One westbound lane between Ashfield Rd and Bland St is also closed until the completion of the WestConnex M4 East.

Further information on WestConnex is available from www.westconnex.com.au.

Safe Work Australia Issues Amended Bullying Guide

Model WHS guides aimed at preventing workplace bullying have been updated to ensure consistency with workplace relations and anti-discrimination laws. Revised WHS documents are:

- *Guide for preventing and responding to workplace bullying*. This guide provides a person conducting a business or undertaking (PCBU) with information on how to manage workplace bullying risks.

- *Dealing with workplace bullying.* This guide provides advice to workers who experience or witness bullying or have complaints of bullying made against them.

These publications can be obtained from www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/guide-workplace-bullying.

New Fitness to Drive Guide to Apply from 1 October

The National Transport Commission and Austroads have released a new edition of *Assessing Fitness to Drive for commercial and private vehicle drivers*.

This publication includes standards for private and commercial drivers of heavy vehicles, light vehicles and motor bikes. Updated medical guidelines will provide better guidance to all Australians, their doctors and other health professionals on whether they are safe to drive.

'We have worked closely with health professionals, driver licensing authorities and consumer health groups to update the guidelines, which has resulted in some changes to the licensing criteria to account for developments in medical understanding and practice,' Paul Retter, Chief Executive of the NTC said.

Nick Koukoulas, Chief Executive of Austroads said doctors and other health professionals use *Assessing Fitness to Drive* to advise driver licensing authorities about how their patients' health and medical conditions might affect their ability to drive.

NHVR Chain of Responsibility Survey

The National Heavy Vehicle Regulator has launched a national online survey to better understand the views of logistics chain parties on Chain of Responsibility law and the role of supply chain parties in daily operational matters. This is part of the NHVR's role in helping parties understand CoR obligations under the Heavy Vehicle National Law.

According to the NHVR, this survey is being run by Macquarie University on behalf of the NHVR, will take approximately 15 minutes and will run till 10 October. The survey is available via www.nhvr.gov.au/CoRsurvey.

Feedback will assist the NHVR in designing information and education packages.

New NHVR Customer Portal for Access Permits

The NHVR has announced that applications for access permits will no longer be accepted by email. The NHVR will only accept access permit applications online. Access permit customers wishing to register can set up an account via www.service.nhvr.gov.au.

Income Tax Threshold Changes

The Australian Government has increased the 32.5 per cent income tax threshold from a range of \$37,001 to \$80,000 to a range of \$37,001 to \$87,000. New tax tables are available at www.ato.gov.au/taxtables.

These changes take effect from 1 October 2016.

The ATO advises that employers do not need to make any adjustments or refunds as refunds will be made to employees after they lodge their tax returns.

Australia's Freight Task to Increase by 26 Per Cent over the Next Decade

(Extracts from Media Release from Paul Retter, Chief Executive, National Transport Commission, 8 September 2016)

Australia's transport sector has recovered after the impact of the Global Financial Crisis with the nation's freight task likely to grow by 26 per cent over the next decade according to a new research report published by the National Transport Commission (NTC).

Chief Executive of the NTC Paul Retter said the *Who Moves What Where* report provided useful information to governments and industry about the nature of Australia's freight and passenger movements, and would help those involved in infrastructure planning and investment, operational improvements and regulatory changes.

'This data has been compiled from more than 150 different sources and for the first time provides an overview of what kinds of freight and passenger movements are likely between now and the end of 2026,' Mr Retter said.

'This is the most comprehensive analysis of Australia's freight and passenger transport since the NTC's *Twice the Task* report was released 10 years ago.

'The report shows that for the next decade:

- Domestic freight will increase by 26 per cent (down from 50 per cent during the previous 10 years).

The report can be viewed at www.ntc.gov.au/Media/Reports.

TWUSUPER Super News September 2016

Why we need your employees' correct contact details

Annual statements are now in the mail or available to view online in Member Access (TWUSUPER's secure online service).

So now is a good time to remind you that it's important for your employees to ensure **accurate details are provided to the Fund. This is especially true when making super contributions on behalf of a member for the first time, whether through Employer Access or a super clearing house.**

Here's a checklist for the employee details that are needed to set up and for the Fund to **properly assist members:**

- full name
- date of birth
- email address
- postal address

- preferred phone
- TFN.

Providing the correct personal details for your employees helps the Fund comply with privacy standards should we need to contact members.

Employees in different funds?

Pay all your employees' super with one login and one payment, free of charge through SCH Online. Call us on 1800 241 877 from 8am to 8pm (AEST/AEDT) weekdays to find out more.

* SCH Online is a financial product operated by The Superannuation Clearing House Pty Limited (Authorised Representative Number 290290) (TSCH), an authorised representative of Pacific Custodians Pty Limited (Australian Financial Services Licence Number 295142) (Pacific Custodians).

SG contributions due 28 October

Employers must pay Super Guarantee payments for eligible employees at least four times a year, and the ATO can apply the Super Guarantee Charge if payments are not made by the quarterly deadlines. SG contributions for the 1 July - 30 September quarter are due no later than 28 October.

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Economic and Industry Indicators

Indicator/Source ¹	As at	Unit of Measure	Quantity	% Variation
GDP latest quarter (ABS)	Jun Qtr 2016	\$m	421,919	3.1
CPI (ABS)	Jun Qtr 2016	Per cent		1.0
Cash rate (RBA)	Current	Per cent	1.5	
Estimated Residential Population (ABS)	As at 30 Sep 2016	Million	24.230	
Retail Turnover (ABS)	July 2016	\$m	25,040	2.7
Actual New Capital Expenditure (ABS)	Jun Qtr 2016	\$m	29,130	-15.2

¹ ABS – Australian Bureau of Statistics; RBA – Reserve Bank of Australia; AIP – Australian Institute of Petroleum; TIC – Truck Industry Council/'Prime Mover' latest issue.

Inventories held by private business (ABS)	Jun 2016	\$m	153,830	-0.3
Dwelling unit approvals (ABS)	Jul 2016	Number	19,971	0.9
Manufacturers Income (ABS)	Jun 2016	\$m	81.783	-3.8
Employed persons (ABS)	Aug 2016	Million	11,965	1.6
Unemployed persons (ABS)	Aug 2016	Percentage	5.7	-0.4
Wage Price Index (ABS)	Jun Qtr 2016	Per cent		
All employees				2.1
Transport, postal and warehousing				2.0
New motor vehicle sales (ABS)	Aug 2016	Number	97,892	0.9
Cab Chassis/Prime Mover Sales (TIC)	7 months ending July 2016	Number	15041	3.6
Vans (TIC)	7 months ending July 2016	Number	3229	-1.2
AIP Terminal Gate Price-Diesel-Sydney	As at 30 Sep 2016	Cents per litre	104.1	

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