



Thank you for the opportunity to present to the Inquiry.

Included in our submission is the Attached Joint Road Transport Industry Position Statement.

The National Road freighters Association Inc. (NRFA) is a member association bringing together the grass roots of the Australian transport industry. Our board and members are diverse, comprising of owner drivers, companies with fleets, employed drivers, and compliance specialists including auditors. Our membership spreads to all points throughout country and regional Australia and supports the small businesses that are the life blood of country communities.

“Our family business in the Road Transport Industry began in 1959 with a business partnership between my late parents and since then, I am now the second of three generations to have spent their working lives in this wonderfully challenging industry and business.” ... “In the late 1960’s and 1970’s I watched my father ‘rewarded’ for his service in WW2 with a series of jail sentences for his inability to pay his Road Maintenance Tax in what has always been an industry of fine margins, fierce competition, and rewards for those able to circumnavigate industry legislation.” - Chris Roe.

During the 2019 - 2021 senate inquiry “without trucks Australia stops” the NRFA and its individual members made many submissions and attendances at the hearings. The 10

recommendations of the inquiry are the collective voice of hundreds of thousands of transport workers across Australia.

The Closing the Loopholes Bill is informed by these Transport industry voices.

“The determination for industry reform has grown into a united and irrepressible force from an industry determined to see the Closing the Loopholes Bill passed in its entirety urgently.”
- Chris Roe

Road Transport is vital to Australia’s economy. Like a utilities power grid there is no part of this nation that transport, and logistics doesn’t influence. Every portfolio in government relies on transport for its success, and none can afford its failure.

For some unknown reason most Australians don’t make the connection that without a robust secure transport industry every single portfolio in Government - every sector in Australian society will suffer and this nation will not prosper.

The closing the loopholes bill bridges the current gaps to create a safer fairer and more secure transport Industry and is imperative to Australia’s economic and social health.

“I can only hope and pray the human beings that make up the Australian Parliament who have the ability already, share the desire to do the right thing.” - Gordon Mackinlay

Currently the industry is in a race to the bottom. Crippling overheads and large capital outlays are often tied to marital homes placing enormous pressure on health and relationships and regularly resulting in bankruptcies. The looming bills and financial pressures force many truck operators to have to choose between paying the correct superannuation or wages or vehicle maintenance. This is caused as a direct result of not having minimum standards and cost recovery measures.

“Why is the industry so unviable? Well, the short answer is we are for the most part ‘Price Takers’. We do not get input into rates, just like we do not get input into costs. Let me give you an example. A single trailer unit running the East Coast of Australia will do approximately 220,000 km a year. That same truck will use about 1 litre of fuel every 2.2 km. That means an annual fuel burn of 100,000 litres. If fuel goes up by 1 cent, it adds \$1,000 to the annual fuel bill. That would not be an issue if we could get cost recovery, however currently we are ‘Price Takers’, and we have no legislated tools in our pocket to assist in sustainable rates. Fuel was around 117 cents per litre in 2016 when the RSRT was repealed, and the coalition government were given a (still) blank canvas to create a better replacement. Fuel is now around 225 cents per litre. That has increased the running cost of a single trailer unit by \$108,000 per year. This is on a business model that generates around \$400,000 per year.

Where does this money come from? From workers Superannuation, from Vehicle maintenance, from the quality of tyres and brakes purchased and even to how far those consumable items are used before hopefully being replaced prior to failure.” - Gordon Mackinlay

Deaths and serious injuries on Australia's roads must no longer be considered acceptable if Australia is to meet its targets of zero KSI's by 2050.

"The transport industry cannot strive to improve safety and efficiency when it is on its knees. We must first become viable.... Those at the top of the supply chains must be held to account... The provisions provided by the Fair Work Legislation Amendment (Closing Loopholes) Bill 2023 will finally give us a mechanism to establish minimum standards." - Mark Reynolds

Our country cannot wait any longer to protect these heroes of the highway... ensure they are given every opportunity to make ends meet safely and legally without taking risks." - Glyn Castanelli

The road is our workplace - All of Australia's transport workers must be afforded minimum standards to ensure that every vehicle travelling on Australia's road network is able to be maintained to a high standard and able to upgrade to newer safer and more efficient vehicles - it's hard to be green when you are slipping further into the red. We need the closing the loopholes bill passed including the attached joint statement with amendments in order to secure cost recovery measures.

"We need to stop this race to the bottom facilitated by corporate greed at the top of the contract chain and put in place safety measures to ensure the same mistakes are not repeated." - Glyn Castanelli

The following are Member Submissions.

Chris Roe

SENATE EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE

Re-Fair Work Legislation (closing loopholes) Bill.

Our family business in the Road Transport Industry began in 1959 with a business partnership between my late parents and since then, I am now the second of three generations to have spent their working lives in this wonderfully challenging industry and business.

My late father spent 991 days in the Australian Army Transport Corp in PNG during WW2, so it was probably inevitable that he would continue to utilise the skills that he learned during service in civilian life. A constant in the formative years of my siblings and I was a respect for returned Service personnel and the constant pressure of a family business in the Transport Industry.

In the late 1960's and 1970's I watched my father "rewarded" for his service in WW2 with a series of

jail sentences for his inability to pay his Road Maintenance Tax in what has always been an industry of fine margins, fierce competition, and rewards for those able to circumnavigate industry legislation.

When the Razorback Blockades commenced in April 1979, I became involved at a local level and have continued to play my part wherever possible for industry reform ever since. I have been a financial member of both Natroad and the NRFA for many years and a board member of NRFA since 2019.

NRFA is an Industry Association of Owner and small to medium operators and drivers in the long haul and inter capital sector of the industry. We pride ourselves on being volunteers with only one minimally stipend administration person and we are all people who work at the coal faces of our businesses and industry.

In a recent discussion of board members which reinforced our conviction to the Closing the Loopholes legislation and its amendments, we reflected that while we represent our members, it is our firm belief that we represent the thousands of people who ply their trade on the highways of our nation every night to deliver the food, fuel, fibre, building products and white goods that are essential to the country's economy but whose fierce independence, renders them unlikely to ever be union or Association members. Just like the football clubs competing in this weekend's Grand Finals or the political parties competing for your vote, the people we represent are far larger in numbers than those who make a financial or personal commitment.

For this industry to have developed the current unanimity of purpose to the passing of the Closing the Loopholes bill is a remarkable outcome. From the dark days of the industry civil war over the now very defunct RSRT legislation to the initial Industry Standard Forums of 2019 through to the Senate Enquiry into the Importance of a Viable, Safe, Sustainable and Efficient Road Transport Industry, conducted over two years during the Covid crisis, through to the Without Trucks Australia Stops Senate Enquiry recommendations in August 2021, the determination for industry reform has grown into a united and irrepressible force from an industry determined to see the Closing the Loopholes Bill passed in its entirety urgently.

I'm sure that many of our industry association colleagues, with the benefit of administrative staff, would have provided you all with the logical and legal reasons for passing this legislation but I would like to appeal to you on a more personal level.

In any military conflict involving our nation, those lives lost are honoured both at our National War Memorial in Canberra and on a series of monuments in most regional cities and towns. The purpose of these monuments is not to glorify war but to recognise the sacrifices of the fallen and their families in their loss.

Sadly, in the past couple of decades monuments have begun appearing across the country to honour truck drivers who have lost their lives in the course of their employment. The original Wall at Tarcutta sadly carries the names of hundreds of lives lost and in recent times many more of these monuments have appeared in places such as Tamworth and Kempsey in NSW, Alexandria in Victoria and indeed, this weekend, in Gatton Queensland the Lights on the Hill Memorial will be held to honour truck drivers who have paid the ultimate price for their involvement in this industry.

Like on our war memorials it is heart breaking to see some of the youth lost and multiple numbers lost in some families. All of us who chose to work in this industry understand and accept that it is an inherently dangerous occupation but neither this industry or this nation can continue to accept that

these constant tragedies are a cost of business and trade especially now when the opportunity to lift industry standards is within our grasp by the passage of this legislation.

On the 24th of April 1991 on a trip between Sydney and Melbourne I was made aware via the UHF radio communication network used in trucks that a fatal truck accident had occurred at Wangaratta in Victoria. To my horror I soon learned that the truck involved was owned and driven by a close personal friend. The harrowing phone call from his wife at 2am is still indelibly etched in my memory.

Senators, 40 similar phone calls have already been made around our country this year and with the prompt passing of the Closing the Loopholes Bill you have the ability to make these calls a rarity rather than a regular event.

Thank you for considering my thoughts.

Chris Roe.

Alexander Gordon Mackinlay (Gordo)

27/09/22023

To Senate Education and Employment Legislation Committee.

I am a 50-year-old self-employed contactor in the transport industry. I thank you for allowing me to submit my opinion and ask for your help in getting the legislative help the transport industry needs to survive.

In early 2016 after studying the 2nd order that the Road Safety Remuneration Tribunal had released, I soon realised that as an owner driver I was being singled out and would be forced out of business by the fact that the latest order left big business to charge what they liked but forced businesses that were being operated by owner drivers or their family members to charge a minimum set rate.

I had my work pulled out from under me, as did many of my peers. I put my life on hold while I fought this unfair order. I begged the tribunal to amend the order. I begged them to seek industry advice. This all fell on deaf ears. And I was backed into a corner.

I then with the help of a very small but mighty group of people organised a fight to have the legislation that this unfair order fell under repealed. This culminated in a convoy I led of some 230 odd trucks lobbying, from Yass in NSW to Canberra ACT. This was a peaceful but strong statement. Our lobbying in 2016 was directly against the Labor Party, and the Transport Workers Union (TWU) who both stood in favour of keeping the RSRT. Incidentally

both parties agree now it was a 'Train Wreck' and we never want to make the same mistake again.

This action led to something I was very proud of at the time, the RSRT repeal legislation was the first time since federation an act was presented to the lower house, voted in, sent to the upper house and voted in, and made law in a single day. I say 'at the time' as I am so disappointed the government at the time who backed me, after receiving their 5 minutes of good publicity dropped me and the transport industry with me like a hot potato. Until Senator Glenn Sterle came along we had nothing to give us any hope.

The then Co-alition Government of the time were our allies through this. Though it pains me to say that despite my involvement with the Nation Road Freighters Association since 2016, and plenty of lobbying for help we have not received anything from them. Why would we be asking for help? Because our industry is in crisis, it is not viable, and it is very rapidly approaching, if not already arrived at not being safe.

Around the summer of 2017 Labour Senator Glenn Sterle through social media was looking to reinstate the RSRT if they were elected. I was not impressed and reached out to the Senator. I explained who I was, what I had done and said I thought I had some good ideas and feedback that he should listen to. He did, and he has been listening ever since. Glenn introduced me to Michael Kaine, the National Secretary of the TWU. I held both these new contacts at a distance and was very sceptical of their real intentions, and I told them so. But as a mature adult I listened, worked with, told my side, was listened to and have developed a trusting and beneficial working relationship with both organisations. I hope you can see the magnitude of what I have done in the last 7 years joining forces with the Labor Party and TWU. It is not willy nilly bed hoping, rather working with those that want to firstly work with, and secondly help us.

In 2019 I returned to my trade as a mechanic, specifically a heavy vehicle mechanic. I did this to spend more time with my family. I worked and still to this day work as a contract mechanic to several larger transport companies. I also drive from time to time, just this week having done 2 trips in a B-Double. I put a driver in my truck and kept our second truck and driver on. After several months I kept doing the sums and my contracting was subsidising the trucks. Let me be very clear, I was working to pay for my trucks and employees. My wife and I decided to sell the trucks and continue with the contracting. It was simply not viable to keep the trucks.

Why is the industry so unviable? Well, the short answer is we are for the most part 'Price Takers'. We do not get input into rates, just like we do not get input into costs. Let me give you an example. A single trailer unit running the East Coast of Australia will do approximately 220,000 km a year. That same truck will use about 1 litre of fuel every 2.2 km. That means an annual fuel burn of 100,000 litres. If fuel goes up by 1 cent, it adds \$1,000 to the annual fuel bill. That would not be an issue if we could get cost recovery, however currently we are 'Price Takers', and we have no legislated tools in our pocket to assist in sustainable rates. Fuel was around 117 cents per litre in 2016 when the RSRT was repealed and the co-alition government were given a (still) blank canvas to create a better replacement. Fuel is now around 225 cents per litre. That has increased the running cost of a

single trailer unit by \$108,000 per year. This is on a business model that generates around \$400,000 per year.

Where does this money come from? From workers Superannuation, from Vehicle maintenance, from the quality of tyres and brakes purchased and even to how far those consumable items are used before hopefully being replaced prior to failure.

Since selling our trucks I have kept up the fight to get the Transport Industry the legislation it NEEDS to become viable. This has come at significant cost to my family and business. Both financially and personally. I have absolutely nothing financially to gain from this reform. Just like the politicians that have the power to create this life saving legislation, I know it is morally the only thing that I can do, and I can only hope and pray the human beings that make up the Australian Parliament who have the ability already, share the desire to do the right thing. To the people that we voted in, and that will be voting on this legislation may I please ask you to do the right thing and vote to turn the 'Closing The Loopholes' draft legislation into life and business saving legislation.

Who knows, if we make the industry viable, I might just buy a truck, or even 2 and go trucking with my truck driver son.

Thanks for reading this submission, A G Mackinlay.

Glyn Castanelli

To Senate Education and Employment Legislation Committee

I'm a 53-year-old truck driver, former owner driver, a registered NHVR/WAHVA auditor and a heavy vehicle compliance specialist. I've held my Heavy Vehicle licence for 34 years, and for the past 20 years I've worked as a long-distance truck driver, owner driver and compliance advisor in the transport industry.

Every night thousands of drivers negotiate the highways between our states moving the essential goods our country needs for everyday survival. These men and women risk their lives away from family and loved ones in a hope to provide a better life for themselves and their families. They are making decisions to go the extra mile to survive, breaking laws to remain viable, to keep the customer happy so they have a job tomorrow, to pay the bills and to not fail their families. These decisions are such a regular occurrence that the risk of catastrophic outcomes including death are real. The viability of those at the bottom of the supply chain with the least influence in the contract chain depends on the risks they are willing to take.

I have been an owner driver and have taken these risks to survive and when fate delivered me the opportunity to leave with nothing to show for my efforts except a broken marriage and strained relationships with my children, I took it.

I remain in contact with hundreds of owner drivers through my advocacy with the National Road Freighters Association and discuss the pressures of this system of being captured in a business model of no influence that needs to take chances every night with their lives to survive.

What option do they have, admit failure to their families for following their dream to be an independent owner driver. These heroes of the highway put everything including the family home on the line to be a successful owner driver. The pressures to keep everyone happy, to maintain the business, pay the bills, get paid on time are enormous for the independent owner driver.

Our country cannot wait any longer to protect these heroes of the highway. For decades, the inability for safe, viable and sustainable businesses has led to risk taking and carnage on our roads. You only have to stop at the many truck driver memorials around our nation to see the devastation left behind. Every one of these drivers killed pursuing their passion of independence on the road has left families broken and devastated.

As a society we owe it to these heroes who keep us in the lifestyle we enjoy, to ensure they are given every opportunity to make ends meet safely and legally without taking risks.

Our industry is managed by Heavy Vehicle National Law (HVNL). These laws are enforced on the road at the driver. That is where they stop, we have seen very little penetration up the contract chain with Chain of Responsibility (COR). Chain of Responsibility has mostly been used after a death or serious injury has occurred with little impact. Publicly it sounds good, but we only need to look at the outcome in Victoria with 4 police officers killed in an avoidable accident, but what is the outcome, a Driver jailed and ?? nothing.

Now our industry has moved into the death throes of a dying beast with experienced operators and businesses leaving in droves. Historically they would have passed the business on to the next generation or sold as a going concern, but without a safe, viable and sustainable future they are choosing to sell their assets and close taking generations of experience with them.

Luckily, we have a new breed of operator coming along with limited experience and little knowledge of laws or regulations ready to fill this void. They are keen to make a new life and provide for their families. They too are ready and willing to take the same risks for the chance to provide for their families.

We need to stop this race to the bottom facilitated by corporate greed at the top of the contract chain and put in place safety measures to ensure the same mistakes are not repeated.

We need the ability as an industry to set enforceable minimum standards that meets the needs of all, that provides safe, sustainable, and viable futures for everyone in the transport industry.

Never have we had Drivers, Owner Drivers, Small Business, Large Business, Multinational Business, Industry Groups, and Unions coming together to fight for the same reform for our industry.

We need the Closing the Loopholes Transport Reforms now before it is too late to save the most essential of all of Australia's Industries. The Transport Industry.

Please support the closing the loopholes bill.

Glyn Castanelli

Submission by Mark Reynolds.

I am writing today to show my support for the **Fair Work Legislation Amendment (Closing Loopholes) Bill 2023**, and the proposed amendments. I have been involved in the road transport industry for as long as I can remember. My family has been involved in this industry for generations. It is all I know. I am deeply saddened by the current state of the industry, and its recent downward trajectory. This proposed legislation is the last chance we have to make meaningful changes before irreversible damage is done.

Members of the public, Government and business believe the transport industry is highly regulated, with close oversight by the relevant Government and law enforcement bodies. Nothing could be further from the truth. The current system is purely reactive. Most operators are completely unaware of their legal obligations until something goes wrong and the spotlight is on them. It's all too late by then. When I audit transport operators, I find many are completely unaware of their obligations under heavy vehicle national law (HVNL.) The acronyms NHVR and HVNL may as well be NRMA and NBN for all the relevance they convey to the average operator.

With no real barrier to entry, and no real world ongoing enforceable minimum standards, the industry is in tatters. Anyone can start a transport company with no assets, experience, licenses, or insurance. They can they quote on, and win, work without any concept of the costs or operating conditions of a compliant, safe transport operator. We have operators like this dragging down the rates and conditions for the whole industry. By the time they either go broke or are forced from the industry by ongoing and continual non-compliance, the damage is done. The next operator will take their place, following their template. They conduct little or no maintenance and often have insufficient or no insurance coverage. No safety management systems or accreditation. Between sham contracting, drivers on student visas, no workers compensation and non-payment of super, these operators have a tremendous financial advantage over safe, legitimate operators.

A safe and viable transport sector is tremendously important. It's not just about the safe and efficient movement of freight. It's about the safety of everyone working within the transport industry, and the general public. Few industries have such a direct impact when things go horribly wrong. We must do all we can to prevent the type of accidents that headline nightly

news bulletins. When I see another truck approaching on a narrow two-lane road, I want to believe the driver is well rested, well trained, and experienced. I want to believe that the truck and trailers are well maintained and securely loaded. The changes we are seeking with the Fair Work Legislation Amendment (Closing Loopholes) Bill 2023, and the proposed amendments will go a long way towards improving the safety and viability of our industry.

It is no exaggeration to say things are getting worse. The transport industry is plagued by poor health, bankruptcy, relationship breakdowns and mental health issues. Experienced operators are closing and sending their equipment to auction. These experienced operators are often being replaced by the type of operator I have previously described. Experienced drivers are leaving in droves. Our industry, and society suffers as a result. We desperately need an intervention.

We have been told that help was coming. HVNL 2.0 was going to help. It has taken years and the draft changes have been watered down to the point where these changes won't bring the change we desperately need. Chain of responsibility was supposed to help. That too has failed us. The chain goes nowhere. No one beyond the driver has been effectively targeted. It has made no difference at the top of the supply chain. Where change is needed most.

The transport industry cannot strive to improve safety and efficiency when it is on its knees. We can't improve our sustainability and productivity when we consider breaking even a miracle. We must first become viable. Those at the top of the supply chains must be held to account.

The provisions provided by the Fair Work Legislation Amendment (Closing Loopholes) Bill 2023 will finally give us a mechanism to establish minimum standards. Being able to refer these unsafe operators, and more importantly the suppliers using them, to the Fair Work Commission's transport advisory panel will make a tremendous difference. It is critical that this bill, with the seven proposed amendments is passed through the parliament.

Mark Reynolds

Owner driver at MKR Transport Pty Ltd.

NHVR and WAHVA certified auditor.

Board member of the National Road Freighters Association.