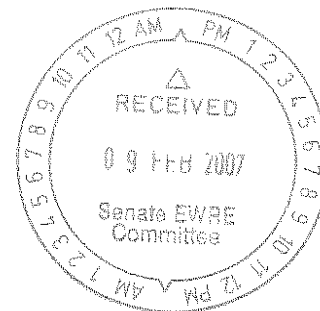




Deputy Premier
Minister for Transport
Minister for Police



RML 85554

Senator Judith Troeth
Chairman
Standing Committee on Employment, Workplace Relations and Education
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Troeth,

I refer to your correspondence received by me on 4 October, 2006 regarding the Standing Committee on Employment, Workplace Relations and Education Inquiry into Workforce Challenges in the Transport Sector. I apologise for the delay in responding.

I would like to thank you for the opportunity to comment on this matter. The attached NSW Government submission incorporates advice from the Ministry of Transport, WorkCover, the Office of Industrial Relations, the Department of Education and Training and the Cabinet Office.

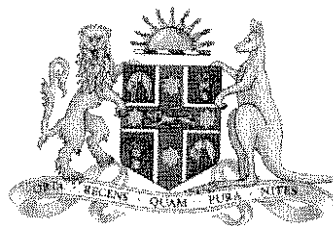
I trust this information will be of assistance to the Committee.

Yours sincerely,

John Watkins MP
Deputy Premier
Minister for Transport
Minister for Police

ML06/15105

- 2 FEB 2007



**SUBMISSION BY THE
NEW SOUTH WALES GOVERNMENT**

**TO THE INQUIRY BY THE SENATE STANDING
COMMITTEE ON EMPLOYMENT, WORKPLACE
RELATIONS AND EDUCATION**

**INTO WORKFORCE CHALLENGES IN THE
TRANSPORT INDUSTRY**

JANUARY 2007

NSW GOVERNMENT SUBMISSION TO THE SENATE STANDING COMMITTEE ON EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION INQUIRY INTO WORKFORCE CHALLENGES IN THE TRANSPORT INDUSTRY

INTRODUCTION

The NSW Government welcomes this opportunity to provide input, in keeping with the terms of reference, to the Inquiry into Workforce Challenges in the Australian Transport Industry, currently being undertaken by the Senate Standing Committee on Employment, Workplace Relations and Education.

The purpose of this submission is to put forward the NSW Government's views on the workforce challenges facing the transport sector, particularly as they affect NSW.

The information and data for this submission has been obtained from a variety of sources including Commonwealth and NSW Government agencies, and relevant research.

Key issues relating to the present skills situation and longer term issues such as industry structures, employment terms and conditions and demographic trends are discussed.

OVERVIEW OF THE TRANSPORT AND LOGISTICS INDUSTRY

The transport sector in NSW is viewed by industry stakeholders as part of an emerging transport and logistics industry (the T&L industry).

There is no single agreed definition of the T&L industry, with a range of terms applied to it and the processes involved. However at its broadest level it can be defined as:

the movement of people and freight from one place to another for economic and social purposes

This implies a move beyond a traditional, modal-based perspective of the transport task to a more integrated, customer focused view of transport in all its forms, including:

- Rail
- Road
- Maritime
- Aviation
- Warehousing and Distribution
- Logistics, and
- Supply Chain

It is estimated that the T&L industry in Australia constitutes 8% to 15% of all economic activity in the nation, depending on the measures used, and that it employs (directly and indirectly) approximately 450,000 to 500,000 people¹.

The T&L industry is the key enabling industry in the Australian economy. No sector of the economy can operate without some attention being paid to T&L matters. It is the "glue" that binds the economy and the community together. Thus while it is a large employer and business sector in its own right; it is also central to the success of many other sectors e.g. tourism, mining, retail and more.

In the coming decade the national freight logistics task will double, and the public transport task is also likely to grow, dependent to an extent on the impact of fuel prices and available public transport infrastructure.

NSW constitutes approximately 50% of total economic activity and employment in the Australian T&L industry. It is estimated that NSW has at least 200,000-250,000 people working in the T&L industry in the State, across a wide range of modes, inter-modal activities and locations, including:

- Ports
- Terminals
- Regional Hubs
- Interstate and Intrastate businesses
- International Businesses
- Warehouses
- Distribution Points
- Freight and passenger modes

THE CENTRAL ROLE OF SYDNEY IN THE T&L INDUSTRY

There is little doubt that Sydney is the major hub for passenger transport and logistics in NSW and in Australia, highlighting the scale and importance of the T&L industry in NSW. It has been referred to as 'Australia's logistics and transaction gateway'.²

Most international visitors enter Australia through Sydney. Perhaps more importantly, they conduct their business and move goods through Sydney. In 2005, 54 per cent of all overseas visitors entered Australia through Sydney, and business visitation to Sydney increased by 61 per cent between 1997 and 2002. Sydney offered 500 weekly international flights and 143,000 weekly seats in 2005. The next busiest airport was Melbourne with 237 flights and

¹ Estimates concerning the scope of the T&L industry are difficult to arrive at due to the lack of a consistent definition and the fact that available data is either mode specific or related to generic categories of occupations. This is one of the challenges in attempting to identify the nature of the T&L industry and emerging trends.

² Professor J West, A Strategy to Accelerate Innovation in NSW, Australian Innovation Research Centre, 2006

64,441 seats per week. It is estimated that by 2012, visitation to Sydney will have increased by 150 per cent since 1999³.

Sydney is also Australia's major logistics hub. Sydney airport moved 26.4 million passengers in 2001, with 8.7 million from overseas. This number is expected to increase to 35 million by 2010 and 49 million by 2022. More than 50 per cent of Australia's international air freight traffic was handled by Sydney in 2006, and Sydney moved 220,000 tonnes of rail freight each day. More than 150 freight forwarders and integrators were located within five kilometres of Sydney airport.⁴

The result is that the T&L industry makes a substantial contribution to Sydney's economy. Sydney airport alone provided 33,500 jobs directly in 2006 and another 33,000 indirectly, amounting to 4 per cent of Sydney's total workforce. Sydney's role is not limited to physical export—it also dominates services trade, especially transaction facilitation (described in the national accounts as 'business services').

While Sydney accounts for 22 per cent of the Australian population, and 23 per cent of national value added, Sydney accounted for 41 per cent of Australia's services exports in 2005, with transportation and business travel services comprising 41 per cent and 45 per cent of Australia's totals respectively. In terms of national figures for other services exported, NSW accounted for 65 per cent of insurance, 57 per cent of financial, 79 per cent of computing and information, 80 per cent of professional services, and 81 per cent of services between affiliated enterprises.⁵

FREIGHT LOGISTICS

Freight logistics is a key part of the T&L industry, highlighting many of the challenges facing the T&L industry. Here much work has already been undertaken by the Commonwealth Government:

The Bureau of Transport Economics (BTE) has estimated, conservatively, that in 1999–2000, freight logistics activities represented approximately nine per cent of Australia's gross domestic product (GDP)—or \$57 billion. While this is acknowledged as a broad estimate due to difficulties in determining the scope of increasingly complex freight logistics chains and the lack of industry data to quantify the sector's significance, it makes the freight logistics sector one of the biggest sectors in the Australian economy.

For the same period it is estimated that approximately \$31 billion worth of freight logistics activities was performed in-house. The remaining \$26 billion represented activities performed by the freight logistics industry, comprising those firms providing freight logistics services to private and government customers. Services provided by freight transport logistics operators are

³ NSW Tourism Task Force

⁴ Bureau of Transport and Regional Economics; derived from ABS customs data.

⁵ ABS Cat. No. 5368.0.

estimated to have accounted for \$23 billion while services provided by non-transport logistics operators are estimated to have totalled approximately \$3 billion.⁶

For NSW, in-house freight logistics are estimated to be worth in the order of \$15 billion, with costs of \$13 billion incurred between organisations via the NSW freight logistics industry.

It is also in the area of freight logistics where there is growing recognition of the workforce challenges facing the T&L sector. According to the Freight Action Agenda, endorsed by the Australian Government in 2002:

“The freight logistics sector must do more to raise the skills and knowledge of its workforce and adopt practices and technologies that transform information and experience into knowledge. There must be a greater understanding of the importance of developing the right skills and attitudes to foster better relationships with all those participating in freight logistics chains.

This need reflects the view that business connections are becoming less transactional in character and more based on relationships.

The freight logistics industry finds it difficult to attract young employees. As freight logistics is increasingly becoming a knowledge industry, the ability to attract well-trained and flexible staff is vital. Similarly, the increasing dependence on communications and information technology means the industry must also attract more school leavers and tertiary graduates. This reflects younger people’s tendency to be more comfortable with the latest technological advances.

The freight logistics industry’s inability to attract young employees is not helped by its image. When asked, few young people would nominate freight logistics as their desired career path— regardless of the financial rewards to do so. The image of freight transport as a dirty, nuts and bolts—or old economy—industry contributes to this perception. It is an impediment to attracting female employees in particular and significantly reduces the potential employee pool.

While attracting young employees is crucial to the industry’s long-term performance, relying on youth will not be enough. The industry must also look to its current workforce. It must do more to invest in its people to make sure its employees develop the skills and knowledge that the industry needs. At the same time, the industry must also make sure it adopts best practice in occupational health and safety. This investment in its people needs to occur at all levels of the industry and needs to be increased significantly”⁷

⁶ Freight Action Agenda 2002

⁷ Ibid.

THE T&L WORKFORCE

Unlike some other sectors in Australia, the T&L industry is not a centralised, well organised industry due to its disparate structure. It is also an emergent industry representing many diverse interests. Indeed, there are many who regard the very idea of an “industry” as an academic concept, instead seeing “competitors”.

A brief look at other industries provides some perspective. The mining industry in Australia comprises approximately 2,000 public and private sector organisations, with around 20-30 major corporates managing the majority of the economic activity in the sector.

The utilities sector (water and energy) across Australia comprises approximately 3,000 organisations, of which a smaller number of public and private organisations (at least 100) control the majority of the economic activity of the sector.

In comparison, the T&L industry nationally is comprised of in excess of 160,000 organisations, with the bulk of them employing fewer than 5 people. There is constant movement at the higher end of the corporate sector of the T&L industry as organisations merge and acquire assets to consolidate supply chains. There are presently a handful of major public and major private organisations which dominate the T&L industry, but this number is changing over time.

Thus the T&L industry faces unique challenges at every level. It is highly fragmented, geographically dispersed, and reliant on government for major infrastructure e.g. roads, railways and ports. In NSW there are over 80,000 organisations of varying scale, location and with access to differing technologies, which comprise the T&L industry.

Coupled with these factors, the freight sector of the T&L industry has traditionally worked on very thin margins – around 2% in most cases. Volume is the key to success, and this comes at a price in terms of overheads, fuel, people and regulatory costs.

Private T&L companies are very territorial and highly competitive. This dynamic carries over into relationships with customers and suppliers, making for a diverse mix of business models, management attitudes and employee behaviours.

For example, there are over 120 associations and groups who claim to represent some or all of the industry’s interests. The membership of these groups is usually less than 500. In NSW there are over 100 of these associations in existence⁸.

⁸ Transport and Logistics Centre (TALC) commissioned research, 2006

On the other hand there are large public transport operations such as RailCorp in NSW which employs over 14,000 people and which occupies a critical part of the social fabric in Sydney; along with other providers (both public and private) of bus, ferry and taxi services. The NSW Government spends in excess of \$3 billion per year to provide public transport services across the state.

At the heart of the T&L industry are its people and their skills and capabilities. However it is apparent that this is not an industry with a well organised skills development culture.

The best available evidence indicates that the industry spends in the order of \$1 billion per year on education and training⁹. In this expenditure approximately 50%, or \$500 million, is spent in non accredited areas i.e. not spent on AQF vocational courses or at Universities. Of the remainder, it is estimated that the certification component (licensing, compliance work) comprises approximately \$200 million, the vocational component comprises around \$150 million (at TAFE colleges or with private Registered Training Organisations – RTOs), and the higher education component comprises around \$50 million.

In NSW expenditure on education and training, based on an assumed 50% share of the T&L industry, is estimated at approximately \$500 million per year, with \$250 million on non accredited programmes, \$100 million on certification matters, \$75 million on vocational courses and \$20-\$25 million on university courses.

The high rate of expenditure on non-accredited programmes and the relatively low rate of outlay on higher education is cause for concern. Such figures make sense, however, given the educational profile of the T&L industry.

Research indicates that approximately 50% of the national T&L workforce has no post school education, 30% has some form of vocational training, and 20% has some higher education qualification¹⁰. Thus it is an industry that has relied to a considerable extent on unqualified people to manage and deliver the movement of people and freight. Training and continuing education have not traditionally been seen as a high priority.

Over the past decade the number participating in higher education through national T&L related courses has risen nationally from 2,500 to 8,000; and the number attending relevant vocational courses at TAFE and other providers has risen nationally from 35,000 to over 90,000¹¹. These are significant increases, but below the NSW and national average for participation in higher education and vocational training. More work needs to be done at the national level to promote T&L courses provided by higher education and vocational institutions, amongst employers in both the public and private sectors.

⁹ Research undertaken by the NSW Transport and Logistics Centre of Excellence in 2002, and updated for inflation to 2006 baseline.

¹⁰ TDT Australia, 2006

¹¹ TALC, commissioned research, 2006

VOCATIONAL TRAINING IN NSW

OVERVIEW

Since 1995, there has been significant growth in apprenticeships and traineeships in NSW. As at 1 October 2006, there were over 138,000 apprentices and trainees currently employed in NSW – 52,000 of these people are trade based apprentices.

There has been a large expansion in TAFE, with overall enrolments jumping from 417,000 in 1996 to 513,000 in 2005. Enrolments of 15-19 year olds in TAFE have increased from 100,000 in 1995 to 134,000 in 2005.¹²

T&L TRAINING

The NSW Government continues to actively support T&L related courses at TAFE Colleges in key locations e.g. Hunter Institute of TAFE in the Newcastle region. The actual industry take-up of TAFE courses is largely a matter for T&L companies.

NSW had approximately 20% of the total national vocational T&L enrolments in 2005.

One of the main challenges in training is the low completion rate for vocational T&L courses generally. However, TAFE NSW stands out against the trend with an average of 54% completion rate in T&L courses in 2005. This includes completion rates of approximately 80% in logistics areas and 50-60% in road transport and maritime areas.

The reasons for low levels of course completion in T&L are various, but one of the main reasons postulated appears to be that students only attend courses to gain the specialized knowledge they need from one or two units in a full course before they return to work. For this reason it may be more useful to judge student attainment in T&L training at the module completion level, where rates are frequently much more favourable. This situation would appear to highlight the need for greater support and recognition of the Australian Qualifications Framework (AQF) and its application in T&L organizations (discussed further below).

Vocational training needs to be: delivered flexibly, accessible for shift and regional workers and adequately funded to achieve industry defined, compliance outcomes.

¹² It should be kept in mind that approximately 90% of training and enrolments in NSW in T&L related courses occur through private providers and in-house training.

In recognition of this, TAFE NSW is undertaking a range of strategies to better meet participant and industry needs and to provide flexibility as evidenced by the following examples:

- The Western Sydney Institute's focus on transport, distribution and logistics has increased since 2001 with the introduction of new training packages based on national competencies. These allow for greater flexibility as packages can be customised to the needs of the industry. For example the 'Logistics Training Solutions' package involves workplace assessment of workers' existing skills and on-the-job gap training against national competencies, providing workers who may have been in the industry for many years with a nationally recognised qualification.
- The Western Sydney Institute also recently hosted a collaborative forum involving industry, educators and government agencies to provide an opportunity to discuss solutions to recruitment and educational needs for the T&L industry in Western Sydney.
- Blacktown College's automotive section and the Heartland Holden Group recently won a national award for Innovative Business Training Strategies. The training model developed by the partnership resulted in improved participation and retention rates among apprentices and a higher level of technician involvement in the apprentices' training, as well as a reduction in training time from the traditional three years to two and a half years.

Building on the above, TAFE NSW is undertaking research to further identify reasons and develop strategies to improve completion rates in T&L courses.

HIGHER EDUCATION

There were approximately 8,000 students across Australia in higher education in T&L related courses in 2005 within a general university student population in excess of 900,000¹³.

It is also estimated that of the 8,000 T&L students enrolled at university, approximately 50% are international students who are unlikely to remain in Australia after the completion of their studies. This indicates that the total number of university students in T&L related courses in Australia who are likely to be available for work in the industry may be as low as 4,000. This is unlikely to meet the industry's workforce needs in the coming decade. A compounding factor is the 3 to 4 year time lag associated with completion of university degrees.

Of the 26 universities offering the 220 T&L courses available in 2006, only 7 are prepared to accept qualifications recognised under the Australian Qualifications Framework (AQF), which includes TAFE Diplomas, as immediate entry to undergraduate programmes, and to offer any credit for such qualifications. The bulk of the universities offer qualified entry and case-

¹³ What is not known is the number of students in general courses e.g. Arts and Business who intend to make a career in T&L at some later stage.

by-case credit¹⁴. Some have indicated that they would not recognise AQF qualifications under any circumstances, seemingly on the basis that such qualifications may not be up to higher education standards.

This makes it difficult for those in the T&L industry with vocational qualifications to move on to further studies and to upgrade their qualifications to meet the need for university-trained staff in a range of specialised areas. As well as frustrating those who are keen to move ahead and creating barriers to gaining new skills, it can also mean the exodus of qualified and experienced staff who may leave to improve their career prospects.

EDUCATION AND TRAINING – AN INDUSTRY VIEW

The Australian Logistics Council (ALC) is a national forum of senior industry and government representatives which advises the Australian Transport Council (comprising state and commonwealth transport ministers) on logistics issues. Its November 2006 statement and 2006 action plan recognised the challenges facing the T&L industry as indicated by the following extracts:

ALC Statement (November 2006)

- We are a labour intensive industry at a time of national labour shortage
- It is true that the overall size of the T&L task is continuing to grow and to outstrip GDP growth
- It is often overlooked, however, that as well as solid, sustained growth, the task itself is becoming more complex and demanding. This is driven by customer expectation, made possible by technology.
- This all means that we need better skilled people in greater numbers.
- We also operate on very thin commercial margins so are limited in pay and conditions growth.
- We need to work quickly to deliver “Safe T&L” and to take practical and effective steps to improve our image and our performance
- Our recent research confirmed that logistics is not even thought of when career seekers start their hunt. Added to this is the challenge that the T&L task, if done well, is invisible. It happens quietly in the dead of night with minimal environmental impact. The shelves are fully stocked when the customers arrive in the morning and few stop to wonder how it happened.

This all means the challenge is to:

- Lift the profile and community understanding of T&L (branding etc)

¹⁴ TALC, commissioned research, 2006

- Increase the recognition of the contribution made to the economy and the community
- Increase the influence and priority that the industry attracts in government decision making and resource allocation
- Drive improvement in the performance of the industry on key issues such as pay, safety, career structures, equity target group representation, immigration etc
- Establish learning and skilling that is more effectively driven by the needs of industry and the emerging demands of integrated logistics domestically and internationally
- Work to ensure people don't drop out of the system i.e. cross over points, innovation, mentoring etc ¹⁵

2006 Action Plan: Priority 2 – Capable People

The Issue

The logistics system must have the right people, well led, with the right skills in the right numbers and in the right place at the right time to work. Indeed investment in infrastructure must be matched by investment in people. The logistics system requires sufficient numbers of capable people in employment and in training.

The objectives and targets

- Continued efforts at a whole of logistics level are needed in 2006-07 to ensure:
- Job seekers join the sector in sufficient numbers and with the requisite knowledge and skills and career paths
- Industry is consulted in the development of curriculum at secondary and tertiary levels
- Work takes place in a safe and secure environment
- The understanding and profile of Transport and Logistics in the general community is improved
- Research and support for innovation continues to develop strongly

Specific actions in 2006-07

In regard to Careers – Attraction and Retention:

- Improve the level of general understanding and the image of Transport and Logistics (T&L) through leadership of national industry branding initiatives
- Provide a forum for the sharing/dissemination of promotional materials and projects to minimise duplication and maximise co operation.

¹⁵ ALC 2006 Report to Council

¹⁶ Ibid.

- To provide input to the (ALC) Data Working Group with specific reference to Career Related data definitions and information requirements.
- Development of consistent, positive and accurate public media articles focussing on opportunities and achievements of individuals in Transport and Logistics

In regard to Education, Skills, Innovation and Research

- Identify and lead actions to improve 'cross over points' and transition points in education and skills development such as:
 - Between School and TAFE
 - Between TAFE and University
 - Between Study and Work
 - Between generalist skills and qualifications and specialist logistics
- Support focused research into priority areas for logistics
- Identify and lead concrete actions to improve the practical success for innovation in logistics
- Support knowledge sharing across logistics

In regard to Safety (Occupational, Environment, Management System)

- Identify and promote best practice safety in logistics
- Promote adoption of a National Charter for Safe Logistics
- Manage and promote the National Operating Guidelines for Retail Logistics¹⁶

The ALC has also indicated its support for those aspects of the February 2006 Council of Australian Governments (COAG) Communiqué on Human Capital considered relevant to T&L organisations:

- The need to assist to increase the proportion of young people meeting basic literacy and numeracy standards, and improve overall levels of achievement
- The effective implementation of full mutual recognition of skills qualifications across the T&L sector
- Portability and recognition of skills and training
- Supporting strategies for dealing with skills shortages in regional areas

The NSW Government is undertaking a range of strategies to address these issues.

REGIONAL AND REMOTE AREAS

The NSW Government has been active in developing strategies to address skills shortages in regional areas.

In November 2005, the Premier announced the *NSW Drive for Talent programme* to attract migrants with skills in a range of sectors to regional NSW, as well as to Sydney.

The NSW Government recognises the potential need for regional employers to access skilled migrants in sections of the T&L industry where specific skill shortages have been identified.

During 2005-2006, NSW regional development boards and other regional organisations certified or sponsored 471 visa applications under regional migration programmes – an increase of almost 30% from 2004-2005. These visas secured a range of trades and professional staff to regional areas.

However, it is important that this approach to meeting skills shortages is carefully balanced with the need to address skill shortages in the longer term by attracting Australian workers to the industry through providing training opportunities and decent pay and conditions.

Since 2002 over 50 projects have been developed in regions to address skills shortages, many by regional bodies and communities, with the support of the NSW Government. The most recent of these, directly related to the T&L industry are referred to in detail later in this submission.

In terms of broader initiatives to support the Australian Apprenticeships Scheme to tackle skills shortages, the NSW Government has:

- Invested, between 2003 and the end of 2006, some \$20 million in pre-apprenticeship and pre-traineeship training for more than 12,000 people in skill shortage occupations
- Assisted apprentices from regional and rural areas by doubling their living away accommodation allowance
- Enabled first and second year apprentices to be eligible for a \$100 rebate on the cost of their car registration
- Invested an extra \$1 million in group training and placing 800 apprentices with employers who need them the most, especially small business and employers in regional and rural NSW
- Continued to participate in COAG working parties examining human capital and skilled migration issues
- Continued to support applications for school based apprenticeship provisions in state awards

EMPLOYMENT AND WORKFORCE CHALLENGES IN T&L

As noted previously, it is estimated that the T&L industry in NSW employs over 200,000 people and contributes to over 10% of the state's economic activity. As such it is a key enabler of the national economy.

It is an industry that faces a number of employment and workforce challenges with long term implications, including:

- The demands to skill up workforce participants in an environment of increasing workforce mobility between careers, organisations and industries;
- Failure of the sector to attract and retain new people from schools and elsewhere, at levels necessary to replace the number of people leaving in the next ten years;
- The potential loss of industry and corporate knowledge resulting from the ageing of the existing workforce;
- The need to transport knowledge and information across sector and organisational boundaries so that the industry may benefit from best practice, research and development; and
- Increasing fragmentation within the industry impeding knowledge transfer between generations in the workforce and between organisations.

Training more people is not the only solution to these challenges. In addition to building student numbers over time, the NSW Government believes that targeted programmes are needed to address the crisis in industry capability.

RESPONDING TO THESE CHALLENGES

The Transport and Logistics Centre (TALC) was jointly established in 2003 by the then NSW and Federal Transport Ministers, with the objective of "priming the pump" in workforce capability matters for the T&L industry, firstly in NSW and later across Australia. It was not intended to duplicate existing education and training programmes, but to create new ways and means of building capability across the T&L sector in NSW and Australia.

TALC works with industry and government authorities to build capability across the national transport and logistics industry through a combination of:

1. Developing education and training strategies and initiatives to support and enhance competencies
2. Developing strategies to assist industry to attract, recruit and retain staff, and

3. Designing strategies to assist industry in creating, sharing and sustaining modal, organisational and individual knowledge.

This work is in addition and complementary to:

- National Industry Skills Councils e.g. TDT Australia, Industry Business Skills Council (IBSA)
- Various technical Universities and vocational providers (there are over 26 Universities and 1,000 Registered Training Organisations (RTOs) servicing the T&L industry in Australia)
- The Australian Logistics Council (ALC) – the national advisory forum of senior industry and government representatives
- Freight Councils in each State, each with its own particular programmes e.g. LINC in South Australia as a jobs and career on-line search engine
- Various national and local industry associations e.g. the Chartered Institute of Logistics and Transport in Australia (CILTA), the Australian Trucking Association (ATA), and Australasian Railways Association (ARA)
- Various state government structures and forums e.g. the Industry Capability Branch in Queensland Transport, the Victorian Transport and Distribution Roundtable

TALC has developed a number of programmes designed to facilitate workforce change in the industry over time. These programmes have been created after industry consultation and research and include:

- School programs such as careers promotion, curriculum support and matching schools with T&L businesses to offer students the opportunity to participate in a diverse range of activities.
- The Traineeship and Apprenticeship Program which is designed to increase the number of apprenticeships and traineeships offered in the industry.
- Support and promotion of mentoring in the T&L industry through development of educational material, establishing mentoring pilot programmes and developing an on-line mentoring program.
- Fostering professional development through the establishment of two new certifications for professionals in the T&L industry.

THE IMPACT OF WORK CHOICES ON WORKFORCE CHALLENGES IN THE NSW TRANSPORT AND LOGISTICS SECTOR

Despite NSW's efforts to address industry capability through innovative and practical programmes such as those mentioned in this submission, and to promote decent, well-paid careers in the T&L industry, these efforts are being made more difficult by the Federal Government's new Work Choices legislation.

The NSW Government opposes the Federal Government's Work Choices package of industrial relations legislation. This legislation encourages employers to remove conditions of employment which have been carefully developed by industries under the supervision of the independent industrial relations umpires, the Australian Industrial Relations Commission and the Industrial Relations Commission of New South Wales and their predecessors, to respond to workforce challenges in the specific labour market segments.

The *Industrial Relations Act 1996* (NSW) allows individual workplaces broad scope to determine work practices and wage outcomes best suited to their workplace, arrangements that encourage equitable, innovative and productive workplaces. These arrangements are underpinned by a robust award system, which ensures a level playing field for employers, employees, and their unions.

The approach endorsed by the NSW Government is one where employers and unions seek to work together in a consultative, open and accountable environment. Where disputes do arise the NSW legislative framework provides for a simple, easy-to-use independent umpire with conciliatory and arbitral powers to resolve disputes.

Further, the NSW Government recognises that collective bargaining is a vital and effective negotiating strategy which delivers positive outcomes for all parties involved. This is especially the case in public transport and in freight logistics.

It should also be pointed out that the Federal Government's legislative agenda extends beyond Work Choices: subsequent legislative action by means of the *Independent Contractors Act 2006*, and important amendments to the *Trade Practices Act 1974* will also have significant impacts in the T&L industry.

The NSW *Industrial Relations Act* recognises that not all work relationships in the T&L industry are employment relationships at law, and Chapter 6 of that Act provides owner-drivers with protections similar to those available to employees by means of awards and agreements. The unfair contracts jurisdiction provided by Ch2 Part 9 of the *Industrial Relations Act* provides parties to a contract with a low cost and simple means of redress in the event that the terms of the contract are, or become, unfair.

The *Independent Contractors Act 2006* directly threatens current owner driver provisions, and directly overturns current NSW unfair contracts provisions.

While current owner driver provisions remain intact, they are to be 'reviewed' in 2007¹⁷. It appears that there is substantial pressure from Government backbenchers to overturn such provisions¹⁸, so their future appears to be uncertain at best. As far as unfair contracts provisions are concerned, the *Independent Contractors Act* replaces the current NSW jurisdiction with a more narrow and rigid set of provisions in the federal jurisdiction, accessible only via the Federal Magistrate's Court or the Federal Court.

Recent amendments to the *Trade Practices Act*¹⁹ specifically exclude unions from acting as bargaining agents in contract negotiations. Given that unions such as the Transport Workers' Union already perform such a role in relation to road transport, the impact on the T&L industry is likely to be significant.

Work Choices and allied legislation will, in the NSW Government's view, have a detrimental impact on the T&L industry workforce, and the T&L industry sector's capacity to meet the current and future challenges facing the industry. In this context, we offer the following comments:

Adverse impact of Work Choices on employment in T&L

The T&L labour market encompasses a wide and diverse range of occupations, for example, drivers, warehouse operators, IT specialists, managers and tradespeople. As there are so many different occupations that make up total employment in the T&L industry, it is difficult to provide a meaningful picture that describes whether employees are predominantly covered by state or federal industrial awards, enterprise agreements or in the federal jurisdiction, Australian Workplace Agreements.

In general terms, since the enactment of the Work Choices legislation:

- employers and employees of trading, financial or foreign corporations;
- waterside, maritime and flight crew employers and employees involved in particular trade and commerce;
- employers and employees of the Commonwealth, ACT and NT governments; and
- most employees and employers in Victoria,

will be covered by the federal system, while employees of other bodies may remain within state systems. This new industrial relations system is especially complex in the road transport sector with its tens of thousands of truck drivers in a diverse range of employment relationships.

The potential loss of conditions now permitted in the federal jurisdiction will increase rather than decrease workforce challenges in the T&L industry. Penalty rates and shift allowances provide significant incentives for employees to work on days and at times when the vast majority of the workforce is at home with their families. Penalty rates and shift allowances provide additional remuneration for employees arranging care for dependents

¹⁷ *Independent Contractors Bill 2006 Explanatory Memorandum* 22 June 2006 p26.

¹⁸ Coalition MPs attack trucks exemption' *Australian Financial Review* 17 July 2006 p5

¹⁹ *Trade Practices Legislation Amendment (No.1) Act 2006 (Cth)*

on weekends and at nights when the greatest costs for provision of care are incurred.

The adverse impact of Work Choices on skills

Skills and learning are integral to the productive growth of the economy and the workplace. In this context, skills and learning are important in determining the income which workers will earn in their jobs, and the career options available to them throughout their working lives. Obstacles to skills formation, or the building of the learning in the workforce, can limit opportunities for economic growth.

Although skills shortages may occur for a number of reasons (including, for example, the emergence of new industries, technologies and location and demographic changes), a key factor is the lack of interest in particular industries shown by potential job seekers. Industrial relations arrangements, including remuneration and conditions of employment, impact on the attractiveness of particular industries and occupations. Furthermore, the growth of non-standard forms of employment is a fundamental impediment to the development of a skilled labour force.

The NSW Government strongly submits that the industrial relations agenda embodied in Work Choices and other relevant legislation does nothing to address the current skills shortage and will, in fact, create disincentives for employers and employees to invest in training and skills development, as well as on-the-job learning.

This view is supported by economic forecasters BIS Shrapnel who report a chronic shortage of skilled labour is set to act as a permanent constraint on Australia's growth. According to BIS Shrapnel, to improve growth the economy needs measures that improve labour productivity and increase the pool of skilled labour, but the Work Choices legislation 'will do little to improve either and is deflecting the debate away from how to grow the pie bigger, to how best to cut it up'²⁰.

In addition, a group of 151 labour market and legal academics note that the Work Choices legislation does not meet the need to increase skills development and that it provides little more than a piecemeal response to the challenges concerning skill formation in a modern economy.²¹ Rather, it will be harder to find skilled workers because Work Choices provides disincentives for both employers and employees to invest in training and skill acquisition.

The Work Choices legislation impacts negatively on skills development by:

²⁰ Media Release 26 June 2006, *Labour shortages usher in new era of constrained growth*
www.bis.com.au

²¹ 151 IR, labour market & legal academics, (2005) *Research evidence about the effects of the Work Choices bill*, Submission to the Senate Inquiry, p. 28

- Providing incentives for employers to compete on the basis of cost minimisation rather than on skills and innovation by enabling the removal of provisions in state and federal awards and agreements.
- Acting as a disincentive to the up-skilling and training of Australia's future workforce through the removal of wage and skills based classification structures from awards, and their rationalisation; and
- Reducing the incentive for employers to form long term employment relationships and invest in the education and training of their workforce by removing unfair dismissal laws.

The *Independent Contractors Act 2006* also fails to provide any assistance in dealing with skills development issues. In fact, by promoting independent contractor arrangements, this legislation effectively encourages employers to shift the full burden of risks and costs onto their employees, making skills development even more unlikely²².

Adverse impact of Work Choices on pay and entitlements

The Work Choices legislation requires the removal of all wage and classification structures from awards to create Australian Pay and Classification Scales (APCS). These APCS will be used by the Australian Fair Pay Commission (AFPC) in the setting of wages. In order to make APCS more easily useable for the AFPC, the Award Review Taskforce has proposed several ways of rationalising the classification structures and wage rates.

In particular, the Award Review Taskforce has proposed rationalisation through broadbanding wages by monetary amounts. This may result in banding together similar wage rates to provide a short cut for the AFPC to assess wages and possible wage rises. However, such an approach is likely to severely reduce the role of classification structures.

Classification structures in awards provide for wage rises based on skill level. They permit employers and workers to determine what wage rates are payable given the skills of the employee. They also provide an indication of skill requirements and envisage a career path that provides incentives, for both employers and employees, to up-skill through an occupation or industry. Employees will cease to be classified on the basis of their skills if the broadbanding of wage rates based on monetary amounts is adopted.

If this does occur, future employees will enter an industry or career with little or no guidance as to what skills and competencies they need to obtain in order to progress. Employers will also struggle without the guidance of classification structures to determine how to classify their workers and how such workers will achieve a higher wage rate under APCS. In short, this is likely to result in confusion over the wage entitlement of employees and may

²² See NSW Government Submission to the Senate Employment, Workplace Relations and Education Committee Inquiry Into the Independent Contractors Bill 2006 and the WRA (Independent Contractors) Bill 2006, paras 261- 274

act as a disincentive to training and up-skilling. This is likely to exacerbate the current skills shortage.

The Work Choices legislation will also erode leave entitlements by enabling a worker to trade annual leave for cash. This is likely to exacerbate existing safety and well being issues associated with workers not taking their annual leave. A recent report by AC Nielsen²³ found that nearly 60 per cent of Australian full-time workers do not take their entire annual leave and more than one third do not take any annual leave. The AC Nielsen report further found that Australian employees have stockpiled 70 million days of annual leave, which is equivalent to approximately \$11 billion dollars in wages.

Lack of certainty in relation to wage rates and the potential erosion of this and other entitlements will have social and economic impacts beyond the stockpiling or trading of annual leave. As can be seen from the next section, the adverse impact of work choices legislation on the heavy vehicle sector of the T&L industry is a case in point.

The impact of Work Choices legislation on safety in the heavy vehicle sector of the T&L industry

Fatigue management in the heavy vehicle industry is a major issue for both industry and government. This reflects the historical tendency for truck drivers to work long shifts. It is suspected that a number of fatalities involving truck drivers can be linked to fatigue caused by long hours worked, the use of drugs to overcome fatigue and remuneration systems which pay per kilometre driven rather than time worked.

Information drawn from the NSW Roads and Traffic Authority (RTA) indicates that between 1998 and 2001, working vehicles were involved in approximately 20% of all fatal motor vehicle accidents. Of the working vehicles considered, larger vehicles such as articulated trucks were more likely to be involved in fatal crashes.

The economic cost to NSW of fatalities as a result of articulated truck crashes/incidents alone in 2002/03 is estimated at more than \$178m. The ongoing loss to families and the community cannot be measured. The cost of injuries as a result of these incidents is additional.

While not all incidents in the industry are related to fatigue, there is strong anecdotal evidence to suggest that extended and irregular shift patterns and strict time pressures are significant contributing factors in incidents involving heavy vehicles.

The full bench of the Industrial Relations Commission recently held²⁴ that in the road freight industry "...there is a direct link between methods of payment and/or rates of pay and safety outcomes." The Full Bench also noted uncontested evidence²⁵ that driver pay has a strong effect on safety outcomes. Low rates of pay provide an incentive for drivers to extend their working hours in order to maximise their pay,

²³ AC Nielsen (2005) *Unused Leave and Travel Intentions Study Wave 2*.

²⁴ Transport Industry - Mutual Responsibility for Road Safety (State) Award and Contract Determination (No. 2), Re [2006] NSWIRComm 328, (at 34)

²⁵ Assoc Prof M. Belzer's written evidence in the same case, cited at 34 and 35

thus increasing the risk of fatigue and the use of drugs to help overcome the effects of fatigue, leading to unsafe work practices and the risk of serious incidents and fatalities – both for the truck driver and also other road users.

The NSW Government has recognised fatigue as an issue for workers in the road freight industry and is committed to supporting the industry achieve high standards in occupational health and safety and injury management.

The NSW Government has acted on its commitment to implement recommendations from the Workplace Safety Summit 2002, to convene an Industry Forum inclusive of all regulatory agencies and to develop and implement a memorandum of understanding (MOU) for the transport industry. At the November 2003 Road Freight Safety Forum, government and industry partners, union and employer associations committed to developing an MOU.

The NSW Government is presently entering into an MOU with signatory road freight industries. The MOU contains a range of practical and achievable strategies that will provide significant road safety benefits in NSW, including the provision of induction; occupational health and safety and injury management training; consultation on workplace safety and injury management matters; and taking a risk management approach to workplace safety.

In addition, the NSW Government amended the *Occupational Health and Safety Regulation 2001* in June 2005 to allow for the investigation of whether unrealistic and dangerous delivery timetables contribute to incidents involving long haul trucks. It requires employers of drivers and head carriers, undertaking this type of work, to ensure that the risk of harm arising from truck driver fatigue is either eliminated or appropriately managed. They also need to develop and implement Driver Fatigue Management Plans in consultation with their affected employees/drivers. In some circumstances consignors or consignees also have legal responsibilities to reduce the risk of fatigue of truck drivers.

At the national level, the National Transport Commission released a draft regulation on heavy driver fatigue for comment in 2006 and it is understood that a final fatigue package is being sent to the Transport Agency Chief Executives for endorsement. The NSW Government is currently reviewing the draft regulation and considering its relationship with the NSW driver fatigue regulation.

The NSW Government is very concerned that the Work Choices legislation may have a negative impact on work place safety in this sector, and hinder the progress made in this area in recent times. It is anticipated that as a consequence of the legislation there will be increased pressure to cut pay rates for truck drivers, leaving truck drivers out of pocket or pressured into working longer hours to maintain their current living standards. This will no doubt increase the risks of injury associated with truck driver fatigue and potentially result in an increase in death or serious injury to truck drivers and other road users. . This outcome would not only undermine the objective of NSW regulation, but also the model fatigue regulation developed by the National Transport Commission.

The adverse impact of Work Choices on apprenticeships and traineeships

The Work Choices legislation is likely to exacerbate the high level of drop out rates for apprentices and trainees by reducing wages and conditions, including those that facilitate both on and off-the-job training.

Many state awards in NSW prescribe the terms and conditions that assist structured training and facilitate the enhancement of skills progression for (junior and adult) apprentices and trainees.

Under the Work Choices legislation, there is no specific requirement that trainees and apprentices receive remuneration for off-the-job training or that they be released during work time to attend such training. Award conditions that facilitate training, such as explicit proportionate ratios between apprentices and tradespersons, the reimbursement of training fees, tool and travel allowances may all be 'bargained away' should an apprentice or trainee enter into a workplace agreement with their employer.

Unlike various NSW state awards there is also no explicit provision under Work Choices to provide a rate of pay applicable to adult apprentices and trainees. As it is estimated that 45 per cent of employees undertaking an apprenticeship or traineeship in NSW are aged over 25 years²⁶ there are concerns that such individuals will be forced to train on junior wages for up to four years. Such conditions will (evidently) undoubtedly continue to create a disincentive to enter structured training and impact detrimentally upon the skills base of NSW.

Young workers often do not have the skills and confidence to effectively negotiate agreements that best suit their needs. Accordingly, they may not be able to bargain effectively to include conditions currently available in NSW awards in individual workplace agreements.

²⁶ NCVER – *Australian vocational education and training statistics: Apprentices and trainees* – September quarter 2005, Summary

The adverse impact of Work Choices on conditions of employment

The Work Choices amendments to the federal Workplace Relations Act make it a vast, complex and far-reaching piece of legislation. One of the primary effects of these changes will be to place significant downward pressure on the pay and conditions of employees in the federal system, resulting in a 'race-to-the-bottom'. The encouragement of bargaining – particularly individual bargaining – without adequate protections for employees means that conditions previously protected by awards and agreements may be removed unless employees can bargain to keep them. As a result, employees may be eligible to receive no more than the five minimum terms and conditions of employment provided by the Australian Fair Pay and Conditions Standards (AFPCS)²⁷.

These developments open the way for reductions in take home pay and conditions of employment by removing penalty rates, shift loadings, annual leave loadings and allowances.

Further, the removal of important workplace rights such protection from unfair dismissal, access to the AIRC for dispute resolution, access to union representation, and the absence of a right to collective bargaining can only exacerbate such downward pressure on pay and conditions. Such provisions may also have significant effects on occupational health and safety, by, for example, discouraging employees from raising OH&S issues for fear of arbitrary dismissal.

Researchers point out that permitting employers to reduce wages and conditions in this way will encourage the pursuit of a cost minimisation strategy in which employers are unlikely to invest in firm-specific training. They argue the changes will provide incentives for low wage and low skill employment.²⁸ Such an approach will encourage a 'race to the bottom' where firms compete by cost cutting rather than by investing in skills and innovation.

If anything, such a work environment could be expected to actively undermine the culture of 'working together' proposed in the federal governments Freight Action Agenda²⁹.

In short, the NSW Government strongly submits that current federal industrial relations legislation at best offers no assistance to, or at worst poses a serious threat to, the resolution of many important issues in the T&L industry. Any serious attempt to address these issues must start from a significantly more cooperative and innovative viewpoint.

²⁷ Joint State Governments Submission to the Senate Employment, Workplace Relations and Education Committee Inquiry Into the Workplace Relations Amendment (WorkChoices) Bill 2005, Section 3

²⁸ Burgess, J & Waring, P (2005) *The Productivity Question* The State of the States 2005, Evatt Foundation

²⁹ See footnote 6 above