



Deputy President Asbury  
Road Safety Remuneration Tribunal  
Level 14 66 Eagle St  
Brisbane QLD 4000

Attention: Deputy President Asbury

Re. Submission for matter RTD 2015/1.

17<sup>th</sup> February 2015

## **RTD 2015/1**

Deputy President,

Thank you for allowing Lantrak to make a submission in relation to the above mentioned matter before the Road Safety Remuneration Tribunal. In response to the application and submission by the Transport Workers Union (TWU) Lantrak maintains a strong position that it's agreement with John Holland to provide trucks at a pay rate of \$63.00 per hour does not affect them to work in an unsafe manner.

Lantrak's submission is below stated:

1. The trucks operating at the John Holland Airport Drive extension are 'owner drivers', the vehicles are owned by the drivers and are generally run as single vehicle operating companies.
2. Owner drivers work for multiple plant hire companies as well as Lantrak including but not limited to Go Green, Eastern Plant Hire, Resource Co and Fleet. They also work on their own jobs that they organise themselves.
3. Trucks are remunerated in two different ways, there are hourly hire 'rates of pay' jobs, such as was the project in question, where Lantrak sales staff will compete with other plant hire companies and individual owner operators to provide hourly rates to customers such as John Holland. The customer will select one of the offers and contract with plant hire company to provide vehicle for a set amount of time at the specific rate. The plant hire will receive a commission or booking fee percentage and the owner operator will receive the balance.

The other form is contract jobs where Lantrak sales staff will price work on removal of material at a set rate which contains cost involving transport (payment to drivers) and disposal or 'tip fees'. The customer will select the most competitive rate and the plant hire company will then book in owner driver trucks to work on the project at the specific rate. Once again the plant hire company will receive a commission or booking fee percentage of the cartage fee with the remainder going to the drivers.

4. The operations teams within plant hire company book in the owner driver contractors to work on the individual projects. The normal course of business is for a member of the plant hire's operation team to contact an owner driver, nominate the project, type of remuneration (hourly

rate or contract rate) and the set remuneration figure and the owner drivers themselves will decide whether they will work on that individual project/job. Depending on the owner driver they may be contacted by several different plant hire companies with multiple different jobs offered to them.

5. The owner driver operators working on the John Holland Airport Drive extension project where booked in under this format. John Holland sought a 6 month contract for trucks that Lantrak competitively bid on and won in October 2014. The rate of remuneration and the hourly hire remuneration format where selected and nominated within the contract to supply vehicles to John Holland for that specific project. The project was offered to owner driver operators with the rate of remuneration specified. The project remained popular and keenly sought by owner driver contractors.
6. In November and December of 2014 Lantrak was engaged in negotiations with the TWU in relation to an agreement the TWU wanted Lantrak to enter into. This agreement set some rates the TWU aspired to raise the industry minimums to. The agreement was purely 'aspirational' and set no contractually required minimum rates of pay. Lantrak signed and entered into the agreement for 3 reasons:
  - i. Lantrak operates on a commission basis for generating revenue and therefore the greater the rates of pay are in the industry, the more profitable Lantrak's operations are. On this basis Lantrak agreed with the goals of the agreement as lifting industry rates would make Lantrak more profitable.
  - ii. Lantrak relies on the quality of its contractors and the strength of its relationship with them. The goal and notion of lifting industry rates would go to both the profitability and operating strength of its associated contractors and would therefore be positive for Lantrak's operations.
  - iii. In the months prior to the negotiations relating to the said agreement Lantrak had been victim of illegally organised industrial action. Owner drivers were organised to blockade Lantrak sites and projects and these actions greatly inhibited Lantrak's ability to carry out its business operations. Lantrak is of the belief the TWU was at responsible for the illegal industrial action. It was also made clear to Lantrak employees whom negotiated with the TWU, specifically with Luke McCrone, that if Lantrak did not sign into the agreement then the industrial action would begin again. In fear of these threats Lantrak agreed to enter into the agreement. It did however include a caveat that was included at the bottom of the agreement and allowed Lantrak to compete against industry competitors and book trucks out where the market rates dictated rates below those aspired by the TWU.
7. At no stage did Lantrak believe that paying owner operators the rates that where equivalent to current industry mean, rates that where below those aspired by the TWU, caused, or even had the slightest possibility to cause, owner operators to work in a way that was unsafe to themselves or third parties. Lantrak did not enter into the agreement as a way to increase



safety as Lantrak firmly holds there is not nexus between paying owner operators rates similar to those used at in question John Holland site and operating in an unsafe manner. Lantrak entered into the agreement on purely and economic basis.

8. Just prior to the conference relating to the RSRT title mentioned matter, the TWU has submitted a breakdown of costs and rates it believes are required to operate in an unsafe manner. The submission by the TWU is both misleading and deceptive.

Firstly in the submission by the TWU their breakdown proposes that in order to effectively cover costs drivers on the said project require \$80.27 an hour, yet in their rate agreement they negotiated and signed into in December 2014 they require only \$75.00 per hour in remuneration. If the submission figures are accurate why would the TWU negotiate an agreement that require their drivers to be remunerated in a way that would, but their reasoning, cause them to operate in a way that is unsafe.

Secondly the TWU both emits several important pieces of information and includes information which is at best misleading. Please note the breakdown of costs that was created by Lantrak in conjunction with several of its regular owner drivers to assure it commercial accuracy. The TWU have over stated several costs including but not limited to truck payments, fuel costs, travel wages to and from projects and breakdown costs. They have also sought to mislead this Tribunal on the basis that this matter relates to a specific project, the John Holland Airport Drive extension. Owner drivers on this project are on hourly hire and spend drastically less fuel expenditure and associated wear expenditure such as tyres and service requirements as they are generally turned off or idling on the job site. A driver on this John Holland project generally travels only 5% of the distance as they would be expected to on other projects.

It is for this reason that owner drivers are so keen to work on this individual project. While their net remuneration, \$63.00 per hour, may be slightly lower than would reasonably expected on other projects, the associated costs are much lower as well. The overall net profitability of this project is therefore far greater than on others available to these owner drivers. As can be noted from the attached costs sheet a normal required rate of remuneration is approximately \$54.00 per hour, including wage costs. Lantrak concedes that this will differ from project to project in relation to rate of project expenditure costs such as fuel, wear and toll charges. On this project however the associated costs are far lower and therefore at remuneration rate of \$63.00 per hour amounts to being relatively lucrative for the owner drivers on this project, hence the competition for spots on the John Holland Airport Drive extension.

In their costing the TWU have also made the misleading presumption that drivers will all be generally repaying the loan on their vehicles. The TWU has included this as the second most substantial cost at \$28,404.00 or 21.2% of the driver's total expenditure including their wage. In reality however a great number, perhaps even a majority, are operating vehicles that are already paid off or at the very least have much slower rates of repayment than this. The

figure included in Lantrak's return costings of \$11,580.00 is probably above the industry mean rate of repayment.

9. Owner drivers and their vehicles are put through several strenuous safety regimes to assure they are both project and road worthy prior to begin work on the John Holland project in question.

Lantrak employs multiple work safe systems that require owner drivers to submit registration, updated insurance information and road worthy certification to assure the quality of vehicles prior to going onto projects to work. Lantrak also completes random spot checks on vehicles and owner drivers to assure they are of adequate safety standards.

John Holland also conducts individual pre-start vehicles checks as well as requiring all associated licences, insurances, road worthy certificates and all other relevant information prior to the vehicle beginning work on the said work site. If there was an issue with any of the trucks taking shortcuts in order to make their operation more profitable than they would have or will be caught by either Lantrak's or John Holland's stringent checks.

10. In their form 6 application to the RSRT the TWU has requested the enforcement, by this tribunal, of the agreement between Lantrak and the TWU. Under *section 44* of the *Road Safety Remuneration Act 2012 (cth)* (the act) this Tribunal does not have the power to make such a decision.
11. Lantrak accepts that this Tribunal has the power under *sections 40 & 42* of the act to hear this application, the TWU has failed to show that Lantrak's rate of remuneration to the drivers is either inadequate to allow for proper expenditure or causes the drivers to work in a manner that is unsafe.
12. Per section 44(1)(c) of the act Lantrak will, under no circumstances, submit to arbitration of this dispute by this Tribunal.
13. The TWU are not seeking to increase industry rates as of a result to their connection to the safe operation of the owner drivers. As has been set out in this submission there is no temporal connection between paying owner drivers \$63.00 per hour on this project and being forced to operate in a manner that is unsafe. The TWU are seeking to increase rates for commercial reasons that are not related to the safe operation by owner drivers and the upkeep of their vehicles but rather to improve the profitability of the owner drivers commercial operations.

It is unfortunate that the TWU are seeking to both mislead this tribunal in relation to actual project cost but are also attempting to misappropriate this tribunal by masking a commercial argument in work safety drapes.





Lantrak thanks this Tribunal as well as the Deputy President for allowing us to submit this submission. If the Tribunal requires any further information, clarification or supporting documentation in relation to any of the information we have raised in this submission then please feel free to contact me at any stage.

Regards,

Lindsay Webb  
Lantrak Pty Ltd