



TRANSPORT AND RESOURCES COMMITTEE

Members present:

Mr SR King MP—Chair
Mr LL Millar MP
Mr BW Head MP
Mr JR Martin MP
Mr A Tantari MP (virtual)
Mr TJ Watts MP (virtual)

Staff present:

Dr J Rutherford—Committee Secretary
Mr Z Dadic—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE TOW TRUCK BILL 2023

TRANSCRIPT OF PROCEEDINGS

Friday, 21 July 2023

Brisbane

FRIDAY, 21 JULY 2023

The committee met at 9.04 am.

CHAIR: Good morning. I declare this public hearing for the committee's inquiry into the Tow Truck Bill 2023 open. My name is Shane King, member for Kurwongbah and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. With me here today are: Lachlan Millar MP, member for Gregory and deputy chair; Bryson Head MP, member for Callide; James Martin MP, member for Stretton; Trevor Watts MP, member for Toowoomba North, who is on the phone; and Adrian Tantari MP, member for Hervey Bay, who is also joining us via phone and is a substitution for Les Walker MP, member for Mundingburra.

On 13 June 2023 the Minister for Transport and Main Roads and Minister for Digital Services introduced the Tow Truck Bill 2023 into the Queensland parliament. The bill was referred to the Transport and Resources Committee, and the purpose of today's hearing is to assist the committee with its consideration of the bill. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. As parliamentary proceedings, under the standing orders any person may be excluded from the hearing at the discretion of the chair or by order of the committee. The committee will not require evidence to be given under oath, but I remind witnesses that intentionally misleading the committee is a serious offence.

You have previously been provided with a copy of instructions to witnesses, so we will assume that those have been read. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobiles phones off or to silent mode. I also ask that responses to questions taken on notice today are provided to the committee by 12 pm on Friday, 28 July 2023. Today we will hear from the following witnesses: Harvey's Towing Service, Barnes Auto Co., Clayton's Towing Service and Ready Towing.

ANDRISKE, Mr Scott, Facilities and Special Projects Coordinator, Harvey's Towing Service

FOAI, Ms Ashlee, ICT Manager, Harvey's Towing Service

GRAY, Ms Bridie, Assistant General Manager, Harvey's Towing Service

CHAIR: I welcome representatives from Harvey's Towing Service. Would you like to make a short opening statement, after which we will have some questions?

Ms Foai: We would like to thank committee members for the opportunity to provide feedback in response to the public submission on the Tow Truck Bill 2023. Harvey's Towing are a family owned and run business which primarily service the regulated south-east corner of Queensland. Harvey's Towing Service support the Tow Truck Bill 2023 for the most part, although there is a particular matter we strongly believe needs to be reconsidered as we feel as industry leaders there will be a significant impact on recruitment within the towing industry and, in turn, the safety of our consumers.

I would like to bring to your attention part 1, division 3, 'General provisions', which relates to matters to be considered when deciding if you are an appropriate person to hold a towing accreditation. We believe there are some inconsistencies with this process which is causing recruitment constraints across the towing community. We understand we need to protect consumers from rogue operators, but we believe that, just because someone had a recent speeding fine or made some wrong decisions in their youthful days and are now coming into their 30s, 40s or even 50s, it

should not restrict them from employment and making a living for themselves and their family and contributing to the community positively. These inconsistencies will cause not only people to lose jobs but also chaos on our roads and will affect road safety, particularly when vehicles are in dangerous locations or traffic is banking up. The safety of our consumers at Harvey's Towing Service is always first and foremost.

I would like to bring an example to the table in regards to the inconsistency. We had a driver start employment with us who had previously lost his driver's licence and obviously his towing licence. He was able to regain his driver's licence and towing licence and then was applying for his towing accreditation licence. Harvey's Towing showed support for this particular driver in applying for his towing accreditation where he was denied in the first instance. We then helped and supported this driver through the QCAT process to appeal the decision, where again he was denied. After that time, he had actually left Harvey's Towing Service and started employment with a different towing company and within a matter of weeks he was able to gain his towing accreditation. That is just one inconsistency which we obviously see.

There are a couple of solutions that we would like to put forward. One is the time limit on towing related offences, which perhaps could be brought up to five years max. We believe that particularly within a five-year period people can change their lives, mature and start contributing positively to the community and make a good life for themselves. Also, when it comes to determining whether you are an appropriate person to hold the accreditation, that process needs to be consistent throughout any check to ensure that it does not matter what towing company you work for. It needs to be across-the-board. Again, we would like to thank the committee members for giving us this time to provide feedback.

CHAIR: So what you are saying there is something like what happens in other contexts with licensing, tattooing and things like that. It is a spent conviction and you have done your time. Basically, what you are saying in a nutshell is that you have done your time for your speeding fine, for example, and you have paid your fine.

Ms Foai: Yes.

Mr MILLAR: Thank you for bringing that to our attention. I do agree. You can rehabilitate yourself over time. What sort of impact will this have on your operation and being able to get staff? It is hard getting staff now. What is your solution? Is it a five-year time frame?

Ms Foai: That is just the thing. At the moment, recruitment is already hard enough. They are already holding a standard car licence, and they are getting their towing licence to be able to operate a tow truck. I think that is enough to say that they are an appropriate person to continue to hold a towing accreditation as well. As I explained earlier, it should definitely be within five years. That is a lot of time to rehabilitate yourself and change your ways, actions or choices and become a law-abiding citizen and contribute positively to the community. They can help move the cars off our roads and help the community at a stressful time if they are involved in an accident.

Mr MILLAR: I have a follow-up question on that example of the individual you used. Was it speeding?

Ms Gray: He has previously been done for speeding. It was excessive speeding at the time he lost his licence. He then worked for us in our dispatch call centre for some time. I believe he lost his licence for 12 months. He then got into a tow truck and operated as a trade operator. The lack of an accreditation licence restricts them from earning more money. They are restricted in the work they can do—anything from insurance to police work and so on. It restricts their earnings heavily.

Mr MARTIN: Just following on from that, Bridie, how much of your business is in regulated towing and unregulated towing?

Ms Gray: It depends on the time of year. It can depend on the weather. It can depend on so much. If you are looking for a percentage, regulated towing would be a good 60 per cent of our business. Like I said, a lot of our drivers cannot do that work because they cannot get a licence. I understand the point of view that if they are not a fit-and-proper person to operate and hold a towing authority licence, do not give it to them—simple as that. We do not want rogue operators within our industry; we just want consistency. We are obviously not arguing the point that we do not like the licence. If they are not fit to hold a licence, do not give them one. We just want consistency. If they are fit to hold that licence then that is across-the-board.

Mr MARTIN: As an employer, would it be beneficial to have all of your employees accredited?

Ms Gray: It would be, but that is obviously not possible. Right now, we cannot do that because someone who had a speeding fine three years ago—and let us say they were doing 30 kilometres over the speed limit; yes, that is obviously not great—cannot get a towing licence.

Mr MARTIN: As a percentage, approximately how many of your drivers would not have the accreditation?

Mr Andriske: It would be 40 per cent.

Mr MARTIN: So there are 40 per cent of your employees—

Mr Andriske: When we say it is 40 per cent that includes drivers who do not want to do that work. That is totally fine. It is their discretion to choose to just do the day-to-day work. On the other side of things, there is a percentage in that figure—I am not quite sure what that is—who cannot get their smash licence because of those reasons.

Mr MARTIN: It would seem unusual to me that 40 per cent of your employees could not.

Mr Andriske: Yes, it is not 40 per cent who cannot.

Ms Gray: A lot of them do not want to. There are a lot of drivers for whom it is not the line of work that they want to go down. I have quite a few drivers who are just happy doing general trade towing and popping around to all our general customers. I would probably halve that—20 per cent do not want to and just choose not to and then the other 20 per cent genuinely cannot get them.

CHAIR: I know that when people are prosecuted for DD they can get a day licence because they made decisions in their private lives that affect their ability to earn money.

Ms Gray: Towing is not a day job.

CHAIR: No, I mean something along those lines. When you are working, you have a licence because you are operating a heavy vehicle. It is not speeding in a car down the highway because of whatever.

Ms Gray: To be honest, if someone has been done for DD I do not think they are a fit-and-proper person.

CHAIR: Sorry, I used that as an analogy.

Ms Gray: To get an exemption or something like that—

CHAIR: A work licence—let us call it that.

Ms Gray: Definitely.

CHAIR: Just as an option. It is a livelihood versus a personal choice. You may have made a mistake. You may like old cars like me—not that I speed. I have a race track in my electorate. I just wanted your thoughts on having something like a work licence.

Ms Gray: It is definitely an option, but these guys are in their trucks a lot. It would essentially be just giving them back their licence because they are in their trucks a lot.

CHAIR: Thank you.

Mr HEAD: I asked the department when they were in front of us—and I note your concerns in your submission around this—about inconsistency. You answered the question that I was going to ask. You said they went through that QCAT process. Did you go straight to QCAT or did you go through an internal appeal process first?

Ms Gray: We went through an internal appeal process first and then through to QCAT.

Mr MILLAR: I have scanned through clause 13 of the bill. It is really at the discretion of the chief executive. The bill does not say that if you have lost your licence you cannot reapply. It is really at the discretion of the chief executive.

Ms Gray: Which is the problem. There needs to be some consistency and guidelines around who is an appropriate person. At the moment I will have a driver come to me and say, 'Hey, I have done this. Do you think I can get a licence?' I am like, 'I don't know. I genuinely do not.'

Mr MILLAR: It is apply and see, isn't it?

Ms Gray: Yes. They obviously have to pay to do that. It is a cost to them. I literally do not know.

CHAIR: It is speculative.

Ms Gray: I am guessing that they would or guessing that they would not.

Mr WATTS: Can I ask a follow-up question on that?

CHAIR: Yes. I was just going to go through to you guys while we have you because the connection keeps dropping out.

Mr WATTS: Thank you. I guess there are two issues here. One seems to be the consistency where you have had a driver apply, they have been knocked back and then someone else has had the same driver apply and been accepted. I am interested to understand your thoughts on that. Is there any criteria that the court has accepted or anybody else has applied upon appeal? Are you aware of any criteria or is it just open slather discretion of the chief executive officer?

Ms Gray: From what we are aware, it is the chief executive who makes the decision.

Mr MILLAR: Depending on the day.

Ms Gray: Yes.

CHAIR: Member for Hervey Bay, did you have anything at this stage?

Mr TANTARI: Not at this stage. It is very difficult to follow the line of questioning with the technical difficulties.

CHAIR: No worries.

Mr HEAD: For the record, could you please explain the difference between regulated and unregulated towing and what licences or certificates you believe there should be for each of these?

Ms Gray: For standard unaccredited towing, it is just your general trade customer on the side of the road who has broken down and wants to be picked up and dropped home or whatever the case may be. All they need to hold is a tow truck licence, so a HR, MR or whatever is required. They do not need to have a towing authority licence to conduct that work. With regulated towing, you obviously have to have your truck licence plus a towing authority licence to attend an accident. That could be anything from just a small bingle on the side of the road right through to a fatality. To conduct police towing—so a hoon tow, a stolen vehicle, a seized vehicle or whatever the case may be—you have to have a towing authority licence. For private parking towing as well, you have to have a towing authority licence. For insurance work—where someone's had a small bingle or a huge bingle—they need that licence. That is the difference. The only difference from a trade operator is that you have to hold that towing authority licence.

Mr HEAD: Further to that—because you did raise some concerns about the ability of industry to participate in unregulated towing with the clashes and the requirements around the regulated towing—I did ask the department about that as well. They were very much of the view that this bill would not have an impact on the ability of operators to do that. I was hoping you might be able to elaborate on the concerns you had raised?

Ms Gray: Yes. The main provisions of the bill talk about the safety of the consumer and accreditation. That is where we were coming from. If we are starting to have difficulties recruiting because drivers cannot obtain a towing accreditation, it will mean it will be more difficult for us to get to consumers on the road in a timely manner or respond quickly. We will have vehicles and accident scenes left in the middle of the road for longer periods. Particularly at accident scenes, it is usually the first time consumer have had an accident. There are high emotions and/or serious injuries. For us it is about making sure we can recruit to our full capacity and about having the roads cleared quickly and safely for consumers.

CHAIR: Time has beaten us for this session. Thank you very much. We have asked if any questions on notice could be responded to by 12 pm on Friday, 28 July. We will accept late submissions because there has been a lot of interest recently. We did send material out, but a lot of people have only just become aware of the bill. If anyone wants to put in a written submission or add to anything they hear today to flesh it out, please get that to us. We want to go through this and make sure we produce a comprehensive report. Thank you very much for your time today.

CLAYTON, Ms Samantha, Director, Barnes Auto Co.

TAYLOR, Mr Matthew, General Manager, Barnes Auto Co.

CHAIR: Thank you for coming along. I will ask you to make a brief opening statement and then we will go to questions.

Mr Taylor: Good morning all. I am supported here today by our owner and director, Samantha Clayton. Barnes Auto Co. has had a presence in the automotive and service industry since its inception in 1903. During this time, Barnes has forged itself as a market leader in the heavy towing and recovery space. Our service area encompasses South-East Queensland, extends to northern New South Wales and as far west as the Northern Territory. We have forged strong working relationships with top-tier clients including: Brisbane City Council, National Transport Insurance, Energy Queensland and the ADF. We thank the committee for the opportunity to present feedback and we welcome change, provided it is done in the right way and in consultation with industry leaders to avoid any unintended consequences. We appreciate this allowance and the extension until 28 July, and are confident the committee will gain valuable insight from our submission.

Given the time frame today, I would like to raise two primary points for consideration with regards to this bill. We would like to address clauses 57, 69 and 70 in relation to damages. While we always do our utmost in relation to preventing further damage to vehicles involved in accidents, there are certain circumstances where this can be unavoidable. For example, multi-combination vehicles are not made to be overturned, and incidents are often high-risk, safety focused, time-sensitive tasks with multiple authorities and public interests in mind. Risk management, strategies and precautions differ between even the experts such as ourselves in the industry. These clauses detail that, if it is considered that all reasonable precautions are not taken to prevent damage, it can be deemed as a fineable offence to the company, assistant operator and/or the driver. These clauses introduce an unnecessary level of complexity, ambiguity and potential hardship for multiple parties involved in operations. The financial responsibility for any damage incurred already lies with the company. We advocate for the removal of all three clauses. I will go into more detail here in our submission.

The second point I would like to raise relates to clauses 64 and 78 and the requirement to obtain or attempt to obtain a towing authority. Currently, irrespective of current legislation, we are seeing where an operator can race to a scene in a motorbike, ute or a tow truck not capable of completing the tow in order to obtain a tow authority. Companies such as ours do not engage in this because of the traffic jams and the hindrance to emergency services and the general public that occur when a towing authority is signed but a capable tow truck is up to four hours away. There have been multiple submissions to TMR regarding this conduct. An amendment to this clause could solve this issue. We propose a subclause that states—

When obtaining a tow authority, the holder of the accreditation must have the tow truck nominated on the towing authority at the scene of incident and that nominated tow truck must be capable of towing the motor vehicle.

In summary and on behalf of Barnes Auto Co., for the most part we are supportive of modernising the act. We feel with strong collaboration and consultation between industry and government we will achieve the strategic goals of ensuring this industry delivers efficient and effective services in a safe and professional manner. Particularly given the implications of the wide scope of regulation-making power provided for in clauses 151 to 154, we strongly urge that it is imperative to consult with key members of industry before any further legislative instruments are introduced. Again, I thank the committee for their time today and welcome any questions.

CHAIR: Thank you very much. The line has dropped out again. I will go to the member for Callide and then we will grab the guys on the line.

Mr HEAD: I was trying to help my colleagues get back on the call. I think you mentioned clauses 57, 69 and 70, and then clauses 64 and 78. Did you mention another couple of clauses at the end?

Mr Taylor: They were the clauses, but I also mentioned clauses 151 to 154.

Mr HEAD: I missed those, I am sorry. From your point of view, across-the-board you think the bulk of the bill is very much needed and will assist industry in moving forward in the modern day?

Mr Taylor: Yes. We believe that modernising the act is very important. While we do agree with the submission put forward prior to ours, we do not necessarily face a lot of those implications ourselves. Being heavy towing we are a little different. We have less volume from that perspective. However, yes, to answer your question. We feel it is much needed. A lot of it we are across at the moment anyway. There are just some key clauses we wanted to raise today.

Mr HEAD: You were talking about your concerns around differences in how people might recover heavy vehicles and turning them upright. Could you elaborate on that? You touched on that in your opening statement.

Mr Taylor: Sure. Quite often with this regulated piece that we are talking about today, smash tows for us are not just a car that has run up the backside of someone else. We are talking about multiple combination vehicles. We are talking about fully loaded trucks with it could be freight, it could be livestock, it could be whatever. The piece around damages for us that is important is, in a lot of cases, we are not just under time pressure to do these things to get the road clear for other operators. We also have safety in mind, the public in mind and those sorts of things. When one of those trucks goes over, there is a lot of time involved. There is a lot of potential for damage and risk around that that we take on as a business. A semitrailer rolling over on its side involves a couple of tow trucks onsite to stand it back up again and then clear the roadway. As I said, when freight is involved there can be a lot more involved there with clean up and that sort of thing.

Mr MARTIN: Are holding yards an issue for you guys? The bill proposes new requirements for holding yards. Is your company confident that you can meet those? Have you had any security issues yourselves with holding yards or damage?

Ms Clayton: We do have holding yards. We have holding yards in Brisbane, on the Gold Coast and out to Toowoomba. We only found out about this bill in the last seven days so I cannot speak to its entirety, but I have not seen anything in the bill that details specific requirements. I assume that will be in the regulation to come and we hope we will be part of that conversation.

Holding yards do pose risks for all towing companies. There are numerous attempted break-ins because often there is QPS work involved and there are people with criminal charges who have had vehicles seized and things like that so we do have heightened security requirements already. A lot of the reputable towing companies have that already so I assume it will be to a level that is already there. However, I am not aware of anything in this particular bill in terms of the specific requirements.

Mr MARTIN: Going back to damages and to get into the specifics of what you are suggesting, the bill will bring in a requirement that all reasonable efforts should be taken and then if it is found that reasonable efforts were not taken the company can be fined. What you are saying is that you already take on the risk of transporting that vehicle anyway. Isn't there an argument to say that if you are a regulated tow truck operator then you have to take all the reasonable steps anyway? How can you justify removing that?

Mr Taylor: When I mentioned the example of a rolled over vehicle, in a lot of instances—and I mentioned time pressure—we absolutely do our utmost to avoid any further damage to the vehicles that may be laying on their side because a lot of them can be repaired rather than written off straight away. However, it is the case, with that time pressure, that we are required to get it off the road as quickly as possible and there is the potential that further damage could come from that.

Mr MARTIN: Like dragging it off the road or something?

Mr Taylor: Correct, dragging it off the road or splitting the combination because it is quicker to roll up or whatever the case may be. There is that extra element of risk involved with that.

Ms Clayton: I guess our point is that it is now a fineable offence on top of the usual civil process in terms of a business paying for any damages or the usual processes make it a fineable offence for not just the company but the operator—putting that risk. We spoke earlier about our staff shortages. To put that responsibility on the driver as well that if it is not seen that it is reasonable practice, which as we mentioned could be different from towing company to towing company—to then put that as a fineable offence for the operator as well we feel is going too far.

Mr Taylor: We certainly do not want to avoid the subject of mitigating any further damage.

Ms Clayton: No.

Mr Taylor: It is part of our processes on a daily basis. When we are liable, if we are ever liable, we take full ownership but it is just in terms of the operator only and assistant operator being legally liable, we think that might be a bit too far.

Mr MARTIN: Are you aware in the industry of stories of other operators who may have been a bit cavalier and not taken reasonable efforts and caused damage?

CHAIR: Without naming any other operators.

Ms Clayton: I would say overall there is not a major issue in the industry. We could say that our procedures are perhaps different to another towing company that we feel minimise damages more, but I would say we are not aware of any major industry issues in regard to that.

Mr Taylor: Obviously talking from a heavy towing perspective, we know that other operators take every care and they also have that mitigation process built within their business as well. I cannot say there is anyone rogue from a heavy towing point of view.

CHAIR: I can understand where you are going.

Mr WATTS: I am trying to understand, from the towing company's point of view, the pressure between trying to move something quickly and any legal obligations you have versus trying to move it more gently to minimise any potential damage or repair. Obviously this bill would put some responsibility on you for that. I am trying to understand the competing pressures at an accident scene.

Mr Taylor: Good question. From our perspective, we would absolutely love full lane closures and road closures when these sorts of incidents happen but that is not reality. A lot of time we are operating in the middle of the night and under terrible conditions and we are under pressure from authorities, of whatever kind, to clear that road as quickly as possible. Obviously there is no risk to people but there is risk for us of potential further damage. It could be that unperceived pressure too behind the scenes—we potentially put a little bit of it on ourselves—to get that road clear as quickly as possible. You are talking regional areas; you are talking one lane each way a lot of the time. You do not know if emergency personnel need to get passed quickly or those sorts of things. There is definitely that pressure. In a perfect world we would absolutely love to block the road and do it completely safely in the time that we want and we would not damage a single thing, but it is not reality.

Mr TANTARI: I have a question a little out of left field. As I was listening to some of the commentary being made there I was thinking about safety, particularly for your crews out in the field. Do you have any procedures in place in particular around the challenges that may come these days from electric vehicles? I know that fire services and others often talk about the difficulties they have with electric vehicles. From a towing perspective and managing those that are damaged, do you have any particular challenges regarding that and procedures in place to protect your workers from electrically charged vehicles?

Mr Taylor: Good question again, thank you. We are heavily involved with industry—buses; I will throw that example out there—Brisbane City Council and a few others, which I will not mention, and working on those committees to understand the risks involved with electric vehicles. As I say, we are heavily involved. From our point of view, though, if there is ever an electrical fire or something like that then we are not first responders. We are not there, obviously, to douse out or whatever. From the perspective of disconnecting batteries, making the area safe and the vehicle less of a risk, we absolutely do that. It is still very much in its infancy. For us as a business, we have been heavily involved in working with these companies to try to understand some of the risks. It is probably 12 to 18 months too early to talk about real examples there. We have not had any. But we are involved with talking about them at the moment.

Mr MILLAR: You mentioned all those clauses. What sort of advocacy have you had with the department and the department has had back with the towing industry? Do you think it has not been enough? Have you had an opportunity?

Mr Taylor: I can talk to the point around the licensing and class of vehicle attending. We have made multiple submissions to the authority about that. I feel that we have probably not had the action that we have been looking for there, hence bringing it up today. For us, we play by the rules in regards to that. I have seen operators that can run out and be first on scene at an accident in a ute or a pushbike or whatever the case may be, but we do not do that.

Mr MILLAR: I think Samantha said that you only learned about this seven days ago. What was the process prior to seven days?

Ms Clayton: Many years ago there was a forum that was quite generalised in terms of getting industry together and it was quite broad. I think there might be further discussions by other companies today about when there has been legislation pushed through in the industry without consultation with the industry. Certain topics we have been contacted about, via email, to give opinions on. In terms of the consultation before today, I would say it was quite limited. As I said, it was only parliament that gave us notice of this bill so we have spent the week trying to go through the bill and see how it impacts our business. We find we need more time and more consultation. There are probably more clauses in here that we hope we can detail in our submission by 28 July that we may find may need to be reviewed to make sure there is not unintended consequences to the industry. I would say that overall we have not been overly satisfied to date and would like it to be better. Part of that is consulting with the key industry players, which you are doing today so thank you for that.

Mr WATTS: Just to clarify so that I am absolutely clear: you are saying that the department, in preparing this bill, has not spoken to senior industry stakeholders that you are aware of?

Ms Clayton: We cannot speak for others, but we have not been contacted about the particulars of this bill. There might have been emails years ago or that general forum but nothing in particular to this bill. We received an email on Monday from TMR in regards to this bill, notifying us that it was put into parliament, but we found out on Friday afternoon through a parliamentary email about the bill.

Mr WATTS: So no round tables, meetings of industry groups or anything like that that you are aware of?

Ms Clayton: No. I attended a forum, I would say, in probably 2019 or 2018. That was a general forum.

Mr Taylor: To add to that, we are part of association and industry bodies, QTA to name one.

Ms Clayton: I am a director on the Queensland Trucking Association Board and I was not aware of the bill until Friday.

CHAIR: I was going to ask about the industry groups.

Mr MILLAR: I think that is pretty clear, what you have said.

CHAIR: I appreciate that. Are there any last questions on the phone before we wrap up this session?

Mr WATTS: I am fine, thank you.

Mr TANTARI: I am fine, thank you.

CHAIR: Thank you very much for your time. While we call up the next witnesses from Clayton's Towing Service, we will change over this phone. Members, you will drop out but we will change out the phone and try to get a better one.

CLAYTON, Mr Mike, Chief Executive Officer, Clayton's Towing Service

MORRIS, Mr Troy, General Manager, Clayton's Towing Service

CHAIR: Welcome. I invite you to make a brief opening statement.

Mr Clayton: Thank you for having us along today. I am the CEO of Clayton's Towing Service. I am also the president of the Sunshine Coast Regional Towing Association and the Moreton Bay Regional Towing Association which encompasses multiple other towing companies in those areas. Those associations have been going for over 20 years. Mum and dad started Clayton's Towing 53 years ago with one truck. Mum and dad are still working there seven days a week. I am the son who has come up the line. We now have 180 employees and 150 units, with about 90 of those being licensed across regulated and unregulated areas through the state. We cover one of the largest geographical areas. We cover from Burpengary up to Bowen, which is 1,200 kilometres of highway, plus also out into the Toowoomba region. I would like to note that we found out about this bill last Friday, so I cannot say that I am across every part of it. I have done the best I can to present what I can here today and I will put more in my submission.

I agree with Harvey's in relation to their situation about getting an operator's licence. I have come across the same situation, and I will put more in my submission later about that. I also agree with Barnes about the damage caused. I think that needs to be taken out. It is very open to issues. That is clauses 57, 69 and 70. Also, clauses 64 and 74 in relation to towing authorities need to be greatly bolstered as described before by Barnes. I agree with them there.

My part of the discussion today is basically to talk about clause 3(1) (c) (ii) in regard to the future regulating of charges. This leads to my main point I would like to convey here today—that is, we need to make sure the main stakeholders are all consulted before any regulation changes are made. As an example, we used to provide a private property tow away service on the Sunshine Coast. It was a service where we had no issues or complaints. Even when issues happened in other areas and they were brought up, there were no issues in our area. However, those issues brought in regulations that we felt were rushed through. They are regulations that we could not work with and it was also unviable due to the capping of low storage fees and towing fees. We stopped the service. We could not provide it any longer and there are not many operators who provide it. In the Sunshine Coast region, there is no operator. If your vehicle is illegally parked on a property on the Sunshine Coast, no towing company will do it. It is just not a service that is available. On statistics, it probably looks good. There are probably no complaints from the general public because there are not many cars getting towed away. My concern is if that process is ever taken with accident towing, without good consultation, where storage fees are capped at a low rate or regulated areas, that type of change, it could greatly affect the services out there.

For myself, I have 14 depots up the Queensland coast, with 1,200 kilometres of highway. It is a lot of cost to have equipment on stand-by, holding yards and that type of thing for rapid response. An example we had the other day was an accident just south of Rockhampton with multiple semitrailers, an army tank and that type of thing. We had equipment on site within an hour. The public is used to it getting cleaned up quickly, but if things get changed and things start becoming unviable, situations like that could lead to companies like ourselves having to cut back on services that the public is used to.

The main point I would like to bring away from today is that there could be unintended consequences if all parties are not consulted before any changes in regulation are brought into place. Obviously, the main stakeholders are here today. I am open to questions. I was trying to keep it short and our submission will add to what I have said.

CHAIR: I appreciate that. You spoke about consultation before there are any changes to regulations. The industry body would be part of that consultation and you guys would consult regularly with the industry bodies. Is that how it works? I am just trying to follow the line.

Mr Clayton: Basically, what we are having here today is regulation coming into place. There is an opportunity today because I am going to guess that there are 60 to 70 per cent of the towing industry sitting here in the real scheme of it. Often we see that the problems can be in a small minority and we do not want that small minority to affect the businesses of the good operations that are sitting in the room here today. We think this is a great forum to have that.

CHAIR: As part of our process, we will write a report back to the parliament before the bill gets passed and the minister will take into account our report and the findings in our report. The information you are giving us is valuable. Is there a consultative process where you would feed to the industry body that would then feed to TMR? As you said, you are mostly here today. Do you meet regularly with an industry body as a group?

Mr Morris: To be honest, not really. As I think Barnes mentioned, we have had consultations briefly in the past with a couple of forums four or five years ago, and I would say it has not been ideal. We do have opportunities to discuss with TMR certain issues that come up from time to time, but realistically I think today is all about honing in on the fact that we need to be consulted. Some of the changes that are throughout this bill have real consequences and will affect the viability of people's businesses. I cannot reiterate enough how much you guys need to take into account the things that can change and then come back to us again and continue to consult with us.

CHAIR: We need to let that be known. I appreciate that.

Mr MILLAR: Just on that, I come from agriculture and when changes come in agriculture we have bodies or groups like AgForce and QFF. Does the towing industry have an advocacy group?

Mr Clayton: The Queensland Trucking Association has some involvement but there is probably not one central point as such. The associations I am involved in have multiple smaller operators in them, but there is not one central point. Perhaps that is something that will come from this. We are all sitting here talking about this, and maybe something we could take from here is that point of there being one key spokesman.

Mr MILLAR: Given the importance of this industry, I am a little surprised and concerned that you only found out about this bill on Friday.

Mr Clayton: So are we.

Mr MILLAR: It is the Tow Truck Bill 2023 and you only found out about it on Friday.

Mr Clayton: That is when the email came, yes.

Mr MILLAR: I think that is concerning.

Mr Clayton: I do not know what to say. We got it and we thought there was a lot to read. I totally agree. That is correct.

Mr HEAD: You said in your opening statement that you are chair of the Moreton Bay Regional Towing Association. What was the other one?

Mr Clayton: The Sunshine Coast Regional Towing Association.

Mr HEAD: How many members are in both of those organisations?

Mr Clayton: The Sunshine Coast has six other towing companies, and Moreton has seven other towing companies.

Mr HEAD: As a chair representing 14 towing companies—this is for the record—you are saying that those towing associations had no knowledge that this bill was being brought forward?

Mr Clayton: Yes. I received no information about that. Neither of them received anything in relation to this bill.

Mr WATTS: Just further to that conversation, what advice would you give to the department about how to consult in this process? Should there have been a meeting called of all these groups before this was developed? Should it be by correspondence? Do you think this could have been done in a better way?

Mr Clayton: Obviously, we could have had more time to look at it. If we had received it a month ago and had this opportunity to sit here today, it would have been a lot better. I would say the same with the regulations that come into place. Before they come into place, we should have plenty of time to read them and give feedback on them and have the same opportunity we are having today, whether it is in front of you or somebody else who makes those decisions. Obviously, it is good to have conversations and sometimes a forum can be held but we do not want a forum to be held just to tick a box and say, 'Yes, we held a forum,' and then what is said just goes through anyway. Sometimes that is how it happens. You have forums, for example, but in the end it just gets pushed through. There could be ways to fix a problem, but nobody does it. That is kind of how it feels. That is the truth of it.

Mr TANTARI: Mike, you indicated you have not seen the bill or looked at the bill in detail. The other two submitters who were before the committee today generally believed that the bill was moving in the right direction with the changes. In your view, and given the short time you have had to look at it, do you have any concerns with regard to what the bill is addressing?

Mr Clayton: I think the bill is definitely going in the right direction. Sometimes you read it and then you read it again and you pick up another point. That is what I found with the part about the regulation of fees being mentioned in one line, and is that opening it up to something happening after without any consultation? The damages one was a big one that I feel needs to be looked at. Generally speaking, overall, I think in all the parts it is good. If you look at today, you are seeing that all the parties here so far are having the same idea. We have the same opinions on the same things. With consultation like this, yes, I do not see the bill has major issues with it. It is just those points that have been brought up.

CHAIR: You mentioned the caps and making certain works unviable for parking towing and that sort of thing. You get a minimum charge to do that. Can you go a bit further into that so I understand it?

Mr Clayton: When they do private property tow aways, the cap fee is about \$25 a day, for example. Just go and park in a car park outside and try to find one for \$25 a day. We have to set up secure complexes. Our yards are all police property points. Queensland is different to other states. The police do not have their own yards. We look after the vehicles for the Queensland Police Service. That is a high cost to have these yards, especially for my Mackay depots, with the number of stolen vehicles and the number of people who after their car is stolen want to come back in and get back into the place. It is like Fort Knox to try to keep them out. This is all a cost to the business.

Then someone comes along and says it is \$25 a day. If that flowed on from private property, it would not be viable. These yards cost millions of dollars to operate, and everyone has the same thing. That is one of the points. I see some operators have put in about that type of situation, but they do not have that type of infrastructure in place that we have. At the end of it, if things change, it is going to be a cost for the government to have their own infrastructure in place like other states. At the moment, Queensland saves the government and the public costs with us operators doing it.

Mr Morris: It is not just the infrastructure; it is the staff and administration involved as well. As we have spoken about earlier, getting staff these days, certainly in some of the locations that we operate in such as Mackay and Rockhampton, can be challenging at best.

CHAIR: Well, \$25 a day is \$25 an hour down here.

Mr Clayton: Exactly.

CHAIR: I understand your point.

Mr HEAD: I understand that Clayton's does both heavy vehicle and light vehicle towing.

Mr Clayton: That is correct. We tow everything from cars to semitrailers, B-doubles and that type of thing. Yes, that is correct.

Mr HEAD: I would just like to get your take on this. You heard Barnes' submission around heavy vehicle recovery and things like that. Have you had a chance to think about potential concerns around the offences that are listed?

Mr Clayton: I have the same concern about damages, and it does not matter whether it is light car towing or semitrailer towing. For example, if you went to your local mechanic and he made a mistake repairing your car, he would have to cover the consequences. This bill basically says that the mechanic himself would get fined by government and also the operator and he has to fix the damage. It is a multiple situation. If an operator goes out to a car accident and he is rushing and in that situation he hooks onto the wrong suspension arm, makes a mistake—human error, anybody can make a mistake—yes, fix the damage. But now we are saying that we are going to fine the tow truck operator and the licensee for an error? It is hard enough now to train operators. Are we now going to say to operators, 'By the way, if you make a mistake you can be fined for making that mistake'? If that clause stays in you are going to wreck the industry; it is as simple as that.

People are very open to have their own opinions—'I would have done it this way'; 'I would have done it that way'—but whose way is the right way? There is no industry training. There is no training centre on how to operate tow trucks. There are no courses, not like with cranes. My opinion may not be the same as someone else's opinion. This is just opening up a massive can of worms. I do not know why it is in there because I have not heard of any issues. I would love to hear why this is in the bill. Something must have come up somewhere for it to be mentioned. I do not know what it is. I would love to hear about it, because I live and breathe the towing industry and I have not heard about it before. I have never heard that issue pop up in any of the towing associations, so I am not quite sure what it is about.

CHAIR: It is a bit of a concern because, as you said, you are making a decision on the side of the road in poor conditions and, as Barnes said, you may be splitting a multicomination vehicle as well. You have to make all of these decisions while someone is saying, 'Hurry up, hurry up, hurry up.' It is just not an ideal environment and sometimes the wrong decision can be made. Why would you be fined? I hear you.

Mr Clayton: That is right. With the new cars now, the electric cars—Teslas and all these type of things—where are the towing points? You have to try and make sure the location you hook onto is set right. It is like we are penalising people if they make a mistake, so across all areas I think it is just—

Mr MARTIN: Following on from your point around holding yards and capped fees, are you saying that you do not believe there should be any capped fees or is it the amount of the cap? The reason there are capped fees, obviously, is that some people have been doing the wrong thing. They do not have a secure yard; it is a field somewhere. People are leaving cars and then charging high rates. Could you respond to that?

Mr Clayton: Basically, if you have a field it is not a licensed holding yard, so you should not be able to do that anyway because the regulations are already in place about what your holding yard should be, so those people would be taken into account. There is always an industry standard, like anything, about what are acceptable storage fees. It has to be written on your total tow before you do the tow. If capped fees were brought in there would have to be an industry discussion about what a fair and reasonable fee is. At the moment, from what I have seen so far, the industry has not gone silly with it because, in the end, insurance companies are only going to pay what is classed as an industry standard fee anyway. If you charge \$100 a day it may be a reasonable fee, but if someone starts charging \$1,000 a day it is not an industry standard fee. You are just putting in more regulations that are not needed.

CHAIR: The member for Callide wanted to highlight something.

Mr HEAD: We have run out of time. Further to being fined for damage to vehicles, if you could perhaps include in your submission that you are already probably paying pretty high insurance costs to cover things like that. If you could outline that in your submission for us, that would be very much appreciated.

Mr Clayton: No worries.

Mr Morris: Lastly, can we just make this the start of consultation and not the last?

CHAIR: We definitely hear you loud and clear.

PAGE, Mr Damien, Operations Manager, Ready Towing

READY, Mr Mark, Managing Director, Ready Towing

CHAIR: Welcome. I invite you to make a brief opening statement.

Mr Ready: Good morning everybody. My name is Mark Ready; I am the managing director of Ready Towing. I thank the committee for the invitation to speak today.

Ready Towing was founded in 1961 by my grandmother, Rita May Ready. We have over 200 trucks and over 300 employees. Our company is the oldest towing company still run as a family business. We are now into our fourth generation. We have been the RACQ contractor for Brisbane for 34 years, Suncorp for 48 years, QPS for 31 years and Brisbane City Council for 31 years. We also, like every operator in this room, cater for heavy haulage, car and motorbike work.

In 2018 we attended a government forum that went for a few hours—I think it was in the capital building—and in 2019 we attended a forum the same way. The state government employed an outside consulting business to run a review of the towing industry, and that review was carried out over about four years. It was quite extensive. We received emails from the government in relation to the outcome of that inquiry and all of the recommendations that came from that which have gone into formulating this bill. We received the bill probably in April, and we have gone through it extensively in order to reply to it today.

Mr MILLAR: You have been aware of this bill. You have been to a forum and there was an outside consultant but, as we have seen, other parts of the industry have only heard about the bill in the last seven days. I find that concerning because collectively the industry should have realised. First of all, are you happy with the bill? Are there any concerns?

Mr Ready: We have a few concerns, but the bill is moving in the right direction to modernise the towing industry.

CHAIR: In our report we should be loud and clear on the question of consultation.

Mr MILLAR: Are you happy with the bill?

Mr Ready: Currently we have a few concerns.

Mr MILLAR: What are your concerns?

Mr Ready: On page 33, division 3, 'Immediate suspensions', clause 44(2) states—
Without limiting the chief executive's powers under (1), it is enough to immediately suspend an accreditation if—

- (a) a person complains in writing to a police officer about the conduct of the holder of the accreditation and, having regard to the nature of the complaint, the chief executive reasonably believes the conduct complained of justifies taking action under subsection (1) ...

We would like to know where there is due process. It could engender vexatious complaints from towing operators or members of the public if all that has to happen is they write a complaint to a police officer and there is no conviction or appearance in court for it to be tested. I believe the transport department can suspend an operator's licence for up to 56 days and they can continue to apply for further extensions until the court case is heard or there is a result. That particular process will lead to a flood of inbound calls and complaints that could be considered false or vexatious. I think that needs to be reworded somehow.

Part 4 on page 42, 'Offences and notifying particular matters', subsection 60(2), states—

- (2) The holder of the operator accreditation must comply with the request within the period, and in the way, prescribed by regulation.
- (3) However, subsection (2) does not apply if—
 - (a) the holder of the operator accreditation has imposed a charge under this Act on the owner of the motor vehicle in relation to—
 - (i) the towing, storage, viewing or accessing of the vehicle; or
 - (ii) the taking of property from the vehicle; and
 - (b) the charge has not been paid.

That is a contradiction with the regulation. In particular, the terms 'viewing, accessing and taking of personal property' are in direct contravention of section 32 of the Tow Truck Regulation in that it prohibits charges of said nature. We would be seeking some clarification on that as well because there is a contradiction between the act and the regulation. On page 52, section 74(1) states—

This section applies to the holder of an accreditation if any of the following persons (each a *relevant person*) is charged with, or served with an infringement notice for, a notifiable offence of the accreditation.

We would seek further clarification regarding this or the removal of the term ‘infringement notice’. Basically, I could get a parking ticket and I would have to notify TMR or it could be a fineable offence for me not to notify you that I have an infringement notice. The notifiable offences are listed in the act, but that one term ‘infringement notice’ could become quite onerous.

CHAIR: You are seeking clarification on that. Okay.

Mr Ready: On page 57, ‘Offences of dishonesty and coercion’, section 81(d), states ‘use force or undue influence to obtain or attempt to obtain a towing authority’. Our concern relates to the use of mobile devices at accident scenes that link websites which wrongly state the holder or the driver of an accreditation is an approved agent of an insurer—when they are not—or states that they have premises or holding yards as defined under schedule 3 that are not actually owned or leased or do not actually exist. Some towing companies just put suburbs on their cards but they do not have a holding yard there. We do not have as big a problem as some of the other operators in relation to approvals for people with criminal offences or traffic offences, although it does come up.

What my colleague Bridie from Harvey’s was talking about is quite a problem, where you have one guy who fails to get a licence with one company and then can go to another company and get a licence straightaway. There seems to be an inconsistency there across the board. Our biggest problem is just testing. The Queensland department of transport has the Q-SAFE test. If you have held a truck licence for three years or longer then you do not have to do any test. You just apply. If you are found to be an appropriate person then they issue the certificate and the accreditation. If you have not held that licence for three years continuously then you have to do a driving test and then a towing test.

We would say that in some instances some people have had a truck driver licence for 10 years but they might have let it lapse. We had one guy whose lapsed for two days. It was due on a Friday and he renewed it on a Monday. He had held a licence for 10 years but not consistently in the last three, for two days, so they deemed that he had to do a driving test and a truck driving test. He also had to do a load and unload test. We would say that there is nobody at TMR who is capable of testing a tow truck driver. There is no-one there who has the knowledge or the understanding or is trained in how to operate a tow truck. Secondly, with the driving test, the guy has a licence. He has already been approved for a truck licence from TMR so why did he have to do a driving test? This holds up employees. We have one guy in particular I was just talking about. He went for his first driving test and they failed him. We do not know what for. It took 12 weeks to get that appointment. Now he has another 12-week wait before he can apply again.

Also, with the staff at TMR, if you have a new truck then trying to get it licensed can take weeks if not months. Getting our super-tilts licensed took 12 months. For trucks that were previously licensed for 30 years it took us 12 months and loss of income to get those trucks licensed, simply because the transport inspectors at Carseldine could not be bothered or did not have time or thought they could interpret the act. They say now they cannot license these trucks although the same trucks are licensed across Queensland and with our other colleagues here today. That is a problem—getting drivers licensed and trucks licensed and the way in which they interpret the act. They need to be schooled in that.

CHAIR: It seems that they are so prescriptive. Like you said, it was two days late and he had a 10-year record. There is no grey area there—

Mr Ready: Zero.

CHAIR:—but other areas seem grey.

Mr Ready: It is very grey.

Mr HEAD: If you go to the department to seek clarity or see where things are at—you say you wait 12 months to get a truck licensed to operate—are they forthcoming with information and assistance? If there is a new bill coming in, I am wondering whether it is going to help somehow if there is one clear bill that outlines everything and perhaps the department might then make things easier for you, if it was not seen as easy in the first place.

Mr Ready: The lower level of TMR, with the transport inspectors, is very difficult. I do not know what sort of training they have had or where they came from or what they do, but they do not seem to understand the Tow Truck Act and regulation. They interpret it incorrectly most times. Further up the chain you can get some good advice or consultation from members of TMR.

Mr MARTIN: Thanks for your submissions, Mark. It sounds like in terms of consultation there have been industry meetings in 2018 and 2019 and the majority of the clauses in this bill have come through that process.

Mr Ready: I think they have rewritten the complete act, but a lot what is in the 100 pages or whatever is in the old act. A lot of it has not changed. There are only a few minor changes in that act. It would be daunting if you did not understand that and you were given that to look through, thinking that this is a complete, wholesale change of the act. However, most of it is in the current act and there have only been a few changes. Those changes were highlighted in documentation sent out by the department of transport from the external company that they used to do it.

Mr MARTIN: It has been mentioned before that there is not a Queensland tow trucking association. Is that something that could be worthwhile?

Mr Ready: In the past 40 years there have been three different iterations of a towing association. Basically, what has occurred over the last, say, 20 years is that most of these people here are with the RACQ. They are RACQ towing contractors in South-East Queensland. We are probably more aligned with the RACQ in our consultation. The trouble with the RACQ in the last five or six years is that they have gone in a different direction. They do not really want to be involved in accident towing. We had a meeting with them the other day and they said they were not going to take part in this meeting, in the public meeting. They wanted a private meeting with the government behind closed doors. For us, that is probably not on.

CHAIR: We have not had a meeting as such. With legislation, often people will want to have a confidential because there may be names and things like that that they want redacted. That is the process, but I hear that. Member for Toowoomba North?

Mr WATTS: I am interested in understanding the elements and you have explained some of them. Our purpose is to review this legislation and try to put forward some serious recommendations that might make it better. I am interested in your comments around the caps and/or the storage of vehicles. How does that currently operate or is potentially going to operate and is there an alternative that you think should be looked at?

Mr Ready: I did not speak to those things but I can answer that. Currently, you have the maximum tow fee for a car at the scene of an accident. The pricing mechanism to increase that fee on a yearly basis was linked to the CPI. In the last two years something strange has happened at the department of transport because that no longer takes place. They have moved the tow fee into a section for government fees and offences, which it is not; it is a commercial fee rate that we charge for a service at the scene of an accident. It was originally set I think in 1999, with all of industry agreeing with the government to put that in place. Somehow that mechanism has changed without consultation with the industry.

Instead of being increased by CPI increases, they have gone back to the government charge fees. For example, this year the CPI rate would be around 6.8 per cent and we received an increase of 3.4 per cent, although fuel has gone up 200 per cent so it does not equate. Further to that, the actual rate that they base it on is now the 2021 rate—the first day—and not last year's rate, so there is something strange that has gone on there. That is for the first tow fee, which also includes the first 50 kilometres that the vehicle is towed and three days free storage.

The 50-kilometre rate is also onerous to most people. If you drive an Uber or a taxi or any other type of transport business and in our unregulated business, we charge a kilometre rate. There is a kilometre rate set and capped under the fee, which is now \$8.05. That kicks in after 50 kilometres. You have to send a truck to the accident scene, sign the car up, clean up the accident scene and tow the vehicle, and if it goes 50 kilometres you get no more than the first fee, which is now \$405.30. Then you have to store the car for three days for free on top of all of that. It is onerous. Now that they have changed the mechanism without consultation, we are not even getting the full effect of CPI.

As for storage and second tows when the car goes from the holding yard out to another place, they are uncapped. There is no cap for storage fees for accident vehicles. What Mike Clayton was talking about was private property towing. In 2018 you introduced legislation to stamp out the rogue activities of some towing operators in Queensland that would charge \$1,000 to tow a car away. They were fishing at sites, setting up cameras to watch people, driving to car parks and then towing them away. They could tow them 50 kilometres away, down the back of nowhere, make them pay cash at midnight and if they did not pick the car up then charge them another \$500 for storage the next day, so they brought in fees and caps. The problem was, again, the government took submissions and the RACQ's recommendation was these lower fees, obviously because they do not understand the business of towing and tow-aways. At that point the commission adopted those cheaper fees which then basically put a lot of the more respected towing companies out of that field in doing those tow-aways.

CHAIR: Member for Hervey Bay?

Mr TANTARI: Given the time, Chair, I will defer to you.

CHAIR: Member for Stretton?

Mr MARTIN: I do not have any more questions, thanks.

CHAIR: If you have a question, member, you are more than welcome to ask it. Are there any further questions from anyone on the phone?

Mr TANTARI: No thanks.

CHAIR: Thank you very much. As I said, late submissions will be accepted up to midday next Friday, 28 July. Once again, thank you for your time. A transcript of these proceedings will be available on the committee's webpage in due course. That concludes this hearing. I declare the public hearing closed. Thank you all very much for your time today and for the submissions you will be putting in. It is much appreciated.

The committee adjourned at 10.27 am.