



Chamber of Commerce
and Industry WA

Application by Transport Workers' Union of
Australia and Australian Road Transport
Industrial Organization
(MS2026/1)

Submission

14 September 2026

1. INTRODUCTION

- 1.1 On 26 August 2026, the Expert Panel issued a Statement inviting parties who either wished to have the operative obligations in the Road Transport Contractual Chain Order – Fuel Cost Recovery – 2026 [MS900102] (**Order**) re-enlivened or revoked.¹
- 1.2 The Chamber of Commerce and Industry of Western Australia (**CCIWA**) acknowledges the substantial impact the Middle East conflict has had on the global energy market and supply chains. However, the Order should not be re-enlivened in any form.
- 1.3 CCIWA's submission is intended to provide a Western Australian context to the impact of the Order by reiterating the financial impost of the Order and highlighting the significant administrative burden on Western Australian businesses.
- 1.4 CCIWA's submission should be read in conjunction with Australian Chamber of Commerce and Industry's (**ACCI**) submission to the review of the Order.

2. ADMINISTRATIVE IMPACT OF THE ORDER FOR BUSINESS

- 2.1 The Order generated uncertainty across the road transport industry regarding its scope and practical application. In particular, there is a lack of clarity about whether businesses fall into the bounds of such an arrangement because their interaction with road transport may only be tangential in nature.
- 2.2 More specifically, it included uncertainty around how far up a contractual chain the Order extended, how it applied to mixed operating models involving contractors and employees, and whether it applied where there were no regulated road transport contractors or employee-like workers in the chain.
- 2.3 With little guidance around how costs should be apportioned, there was a risk of both under- and over-recovery by either the secondary parties or the road transport contractor and made compliance difficult to assess confidently.
- 2.4 The short consultation and implementation timeframes compounded these issues, given businesses needed to identify affected contractual chains, review contracts, obtain legal advice and engage with counterparties.
- 2.5 CCIWA members noted that they already had contractual and commercial mechanisms in place to respond to changes in fuel costs before the RTCCO commenced. This included contractual fuel indexation and out-of-cycle market adjustments. They also made proactive additional out-of-cycle adjustments in response to fuel price increase before the Order came into effect.
- 2.6 As a result, the main impact of the Order was not additional fuel payments that would otherwise not have occurred, but the additional legal and administrative effort required to determine its application, review contractual arrangements and ensure compliance.
- 2.7 For example, a member described the Order as creating additional administration and, therefore, additional costs by forcing reviews of operations that were already required

¹Application by Transport Workers' Union of Australia and Australian Road Transport Industrial Organization [2026] FWCFB 226.

in their contracts. For one of their medium-sized clients, the Order generated a debate over terms, negatively impacting their relationships.

3. FINANCIAL IMPACT OF THE ORDER FOR WA BUSINESSES

3.1 The financial impact of the Order on Western Australian business is substantial, due to the tyranny of distance that Western Australian businesses face. This, coupled with being at the end of most global and national supply chains, makes some transportation routes, particularly for regional Western Australia (**WA**), extensive and challenging.

3.2 The CSIRO's TraNSIT model data demonstrate that WA's fuel costs are already substantial, which correlates with the sheer distance travelled by all freight in WA.

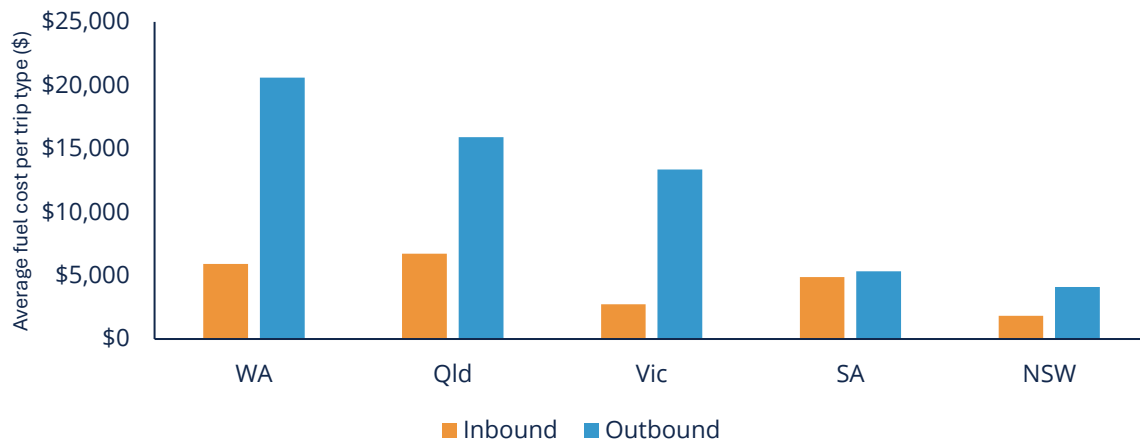
3.3 As shown in **Figure 1**, WA's average fuel cost per kilometre sits at \$26.67 per kilometre, which is slightly less than Queensland at \$30.48, and significantly more than New South Wales at \$10.70. Cost variations exist for a variety of reasons, including the types of loads, distance of driving, type of traffic and other variables.

Figure 1: Average annual fuel cost per kilometre, Australian states²



3.4 WA's outbound road freight cost is the highest, sitting above \$20,000 per average trip, as shown in **Figure 2**.

Figure 2: Average fuel cost per trip type³



² CCIWA, CSIRO TraNSIT. Data ranges 2018 to 2024.

³ CCIWA, CSIRO TraNSIT. Data ranges 2018 to 2024.



- 3.5 This Order could add further costs on top of WA's already high transport costs, putting transport-reliant sectors across the State at risk.
- 3.6 The impacts on businesses reliant on these routes will flow through into their pricing broadly. For example, CCIWA members have said:
- 3.6.1. *The increased costs in freight charges [have] a knock on effect to our suppliers which in turn has then been passed on to us. In order to absorb those additional costs it is expected they will be taken into consideration when pricing up customer projects. With the current state of the economy our customers are not prepared to wear the additional costs unless the job is a necessity, thus a decline in quote conversions and workflow.*⁴
- 3.6.2. *I've been told just today that freight costs will double. I now have to think about what I order as it's hard for small businesses to onforward [costs] to products.*⁵
- 3.7 The process of fuel recovery should depend on individual contractual arrangements and allow for flexibility so parties can appropriately negotiate levels of recovery.
- 3.8 Unfortunately, the Order has not readily accommodated the complexity of existing freight pricing arrangements. Existing contractual fuel recovery mechanisms can account for both increases and decreases in fuel prices, effectively managing short-term volatility with nuance.

4. PROPOSED RECOMMENDATIONS

Operation of the Order

- 4.1 CCIWA submits that the Order should be revoked.
- 4.2 At the very least, it is appropriate that there should be a sunset clause for the operative function in clause 4 to ensure that the fuel recovery mechanism under the Order is only operational on a short-term temporary basis. This would then meet the intent of mitigating the impacts of a temporary fuel price shock.
- 4.3 If elevated prices are maintained for a sustained period, commercial arrangements would likely factor in the longer-term higher cost of fuel, making the Order unnecessary. If higher fuel costs became entrenched, these elevated costs would flow through contractual and pricing structures across the economy as well.
- 4.4 Additional guidance should be provided by regulators on how the Order applies, including on the methods to apportion costs, particularly for small operators and contracts with existing cost recovery provisions.

Current contractual arrangements and interaction with the Order

- 4.5 CCIWA is of the view that if contracts include cost recovery provisions, they should be expressly directed to infer compliance with any Order.
- 4.6 It should be the Commission's priority to ease additional regulatory burden of the Order.

⁴ Small business in construction.

⁵ Retail business in regional WA

