

30 October 2020

Phil Pennington
Radio New Zealand
Phil.Pennington@rmz.co.nz

Dear Mr Pennington

I refer to your email of 27 July 2020, to WorkSafe New Zealand (WorkSafe), requesting information in relation to the Sharifi-Mosaferi case and Dynes Transport:

1. *all the documents WS got from Dynes re its truck movements and practices of its drivers, such as exceeding work hours, not taking breaks, etc; (put 23 July)*
2. *A copy of the information WS got regards Dynes Transport, that identifies who/which entity it got this info from, being the info that WS has pointed to when it said the issue of fatigue and workplace safety was raised with it in Dec 2018. This may include but not be limited to the summary of all its truck movements Dynes gave Police. Worksafe separately says that in Dec 2018 (put July 21).*
3. *Any communications within WS, or between WS and police, (but not including mere administrative comms) regarding:*
 - a. *police wanting or not wanting WS to investigate under HSWA 2015, or advising it about that*
 - b. *the decision by WS to not investigate*
 - c. *the decision by WS later on, to investigate*
4. *Any substantive WS internal comms re matters raised in its investigation report:*
 - a. *Dynes previous logbook offences and fatalities;*
 - b. *claims of time pressures (Hall and 2015 Takaka hill crash);*
 - c. *Barber not receiving Dynes' written fatigue material;*
 - d. *Dynes not using realtime Telematics;*
 - e. *Dynes not using relief drivers on this run*
 - f. *3 components of the 2 trucks at this crash not up to COF standard*
5. *Any substantive document assessing WS's response and handling of this case, eg a review*
6. *The WS investigation report on p10 said it "has no evidence to support DTTL were instructing drivers to reach deadlines". Re this and/or Dynes putting time pressure on drivers or otherwise, pls detail:*
 - a. *Driver Barber's response to being asked about this by WS*
 - b. *Driver Hall's response to being asked about this by WS*
 - c. *How many other DTTL drivers, management or other staff WS asked about this*
 - d. *How many if any former DTTL drivers management or other staff WS asked about this*
 - e. *What if any follow-up WS made of driver Hall's comment to police on p10 about having to have the load of win delivered by a certain time*
7. *The relevant that NZTA provided to WS about Dynes' record referred to on p20 of the WS investigation report and is noted as 21000 - 15.01.19*

Your request has been considered under the Official Information Act 1982 (OIA).

As advised in our email to you on 24 August 2020, we extended the timeframe to make our decision regarding your request to 30 October 2020. WorkSafe requires more time to make a final decision about releasing information that was supplied to us by Dynes which relates to question 1 of your request. You can expect to receive our final decision in respect of this by 10 November 2020.

We have made our decision to release the following information for questions 2 to 7 of your request:

- Documentation provided to WorkSafe by NZ Police (Crash Analysis Report and the Summary of Facts in relation to the Takaka 2015 incident);
- Email correspondence between WorkSafe staff, and between WorkSafe staff and NZ Police; and
- WorkSafe Inspector Notebook entries.

Under the OIA, some information is being withheld for questions 2 to 7 pursuant to:

- Section 9(2)(a), to protect the privacy of natural persons; and
- Section 9(2)(h), to maintain legal professional privilege.

NB: Pages 1 to 26 in relation to question five, has been removed in full pursuant to section 9(2)(h) of the OIA. In addition, some information considered to be out of scope has been marked as such in our release.

As per section 9(1) of the OIA, I do not consider that, in the circumstances of this case, the withholding of the information referred to above is outweighed by other considerations which render it desirable in the public interest to make the information available.

We are refusing to release information in relation to questions 4c and 4f pursuant to section 18(e) of the OIA as the documents alleged to contain the information requested do not exist.

In relation to questions 6a to 6e, WorkSafe did not raise this matter with Mr Barber as he refused to have a formal interview with WorkSafe. The matter was raised with Mr Hall, however he denied that he mentioned to the Police that he was under any time pressure and declined to continue discussing the matter any further during his formal interview with WorkSafe (refer to 'Q6b and Q6e WS notebook entries'). WorkSafe did not raise the matter with any other Dynes staff as our focus for this investigation was on the drivers involved in the incident, Mr Barber and Mr Hall.

You have the right, by way of complaint under section 28(3) of the OIA, to request an investigation and review of this response by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you require any further information, please contact oia@worksafe.govt.nz.

Yours sincerely
PP



Simon Humphries
Head of Specialist Interventions