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National Transport Regulatory Reform
Productivity Commission
LB2, Collins Street East
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Dear Sir or Madam

**Tasmanian Government Submission to the Productivity Commission's inquiry into
National Transport Regulatory Reform**

The Tasmanian Government is pleased to provide the attached submission to the Productivity Commission to support the inquiry into National Transport Regulatory Reform.

The Tasmanian Government will also be pleased to provide further information as the inquiry progresses.

I look forward to learning of the Commission's findings following the conclusion of this inquiry.

Yours sincerely

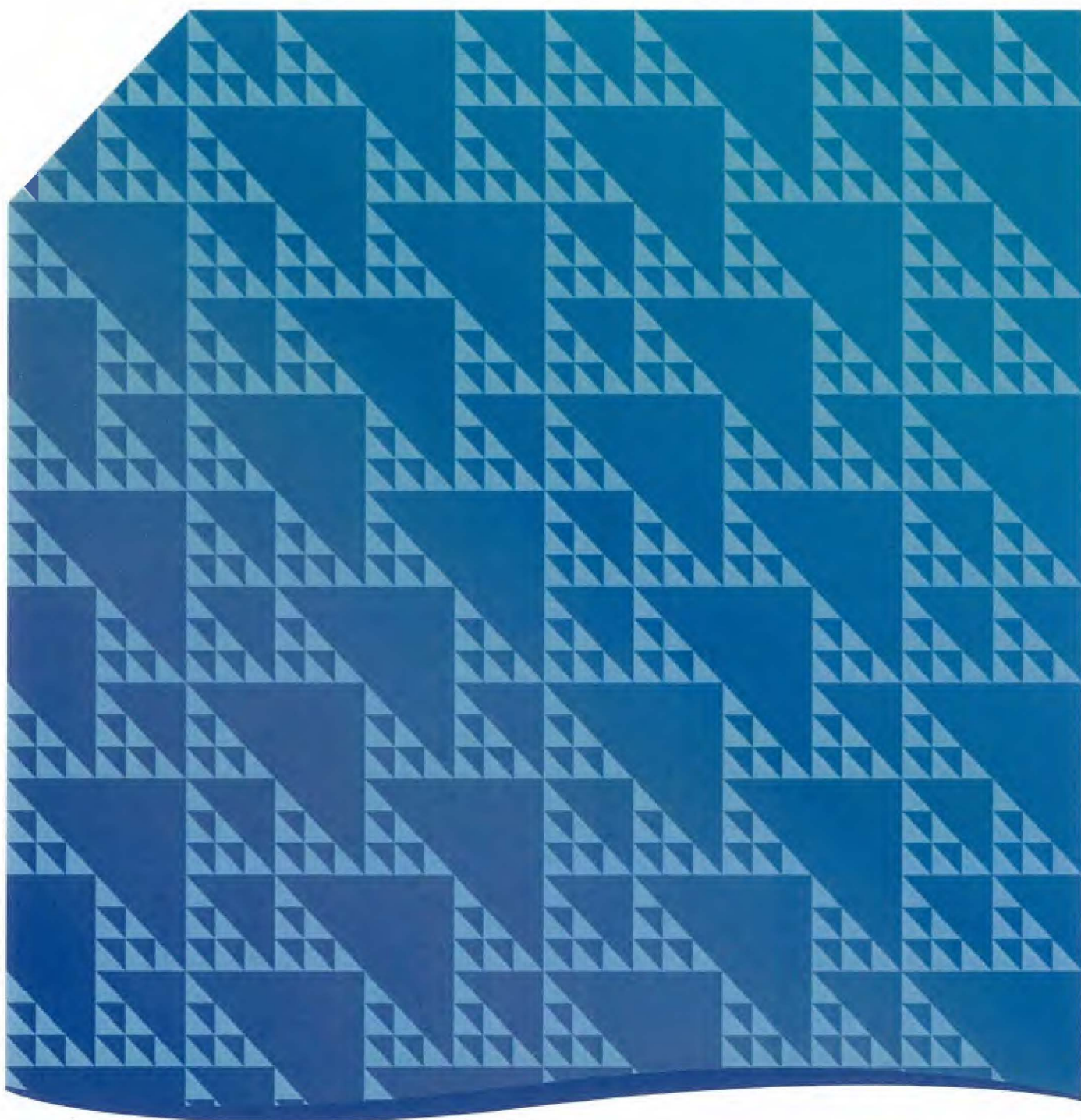
Hon Jeremy Rockliff MP
**Deputy Premier
Minister for Infrastructure**

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Productivity Commission Inquiry
into National Transport
Regulatory Reform

June 2019

Tasmanian Government Submission



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Executive summary

The Tasmanian Government is pleased to provide this submission to the Productivity Commission to assist its Inquiry into national transport regulatory reform.

The Tasmanian Government supports a nationally consistent approach to transport safety and productivity. Tasmania has been an integral part of national transport reform, entering into the national schemes at an early phase of each of the areas of reform subject to this Inquiry.

The Tasmanian experience of the establishment of the National Heavy Vehicle Regulator (NHVR), the Office of the National Rail Safety Regulator (ONRSR), and the National Maritime Safety Regulator (NMSR) has indicated that achieving successful national reforms presents a number of challenges. Reforms for each of these areas have involved distinct issues and were implemented on differing timelines.

Experience in the reform of national transport regulation highlights the critical importance of ensuring strong linkages between the policy intent of identified reforms and the implementation phase of these initiatives. Measuring the costs and benefits of reforms remains a challenge, particularly where reforms are effected at a national level, but the impacts are more readily identifiable locally.

In considering the timeframes over which the effects of reforms are measured, it is necessary to consider the scale of the reforms implemented.

Assessing the economic impacts, particularly quantifying the benefits, of recent transport regulation reforms may be difficult given the short timeframes since the reforms have been implemented. While there are some signs of benefits created under some aspects of the reform agenda, it may be some time before the long-run economic impacts of the regulatory reforms are wholly realised.

The Tasmanian Government will continue to work with national regulators to improve safety and productivity benefits for freight and passenger transport.

The Tasmanian Government will be pleased to provide further information to the Productivity Commission as the Inquiry progresses.

Introduction

The Tasmanian Government welcomes the Productivity Commission Inquiry into national transport regulatory reform. The Tasmanian Government has been integrally involved in the development and implementation of these reforms, which have been a significant undertaking, and ultimately affected a large proportion of the nation's transport sector. This Inquiry therefore provides an important opportunity to reflect on the reforms, and to assess how they have changed the national regulatory landscape.

The significance of the implementation task involved in each of the reforms, and the challenges they have posed, reflect the complexities and significant differences across the maritime, rail and heavy vehicle sectors and operating environments. Ultimately, we need to consider these reforms in terms of their impacts for both community safety benefits and the reduction of costs for industry.

The Government also supports the approach of the Inquiry to consider both the extent of the reform agenda achieved to date, as well as considering opportunities for further integration and harmonisation in the national freight market.

Tasmanian participation in national reforms

As a small jurisdiction, and an island state, Tasmania is particularly sensitive to differences in regulatory models that create barriers to the efficient movement of goods and people. The Tasmanian Government has therefore supported the development and implementation of the national regulatory reform agenda.

Tasmania has been an early adopter of the national regulatory frameworks:

- Tasmania, New South Wales, South Australia and the Northern Territory were the first states to transition to the Office of the National Rail Safety Regulator (ONRSR) on 20 January 2013;
- Tasmania applied the Heavy Vehicle National Law (HVNL) through the *Heavy Vehicle National Law (Tasmania) Act 2013* from February 2014;
- On 2 July 2018, the Department of State Growth transferred responsibility for heavy vehicle compliance and enforcement to the National Heavy Vehicle Regulator (NHVR), becoming the second jurisdiction (after South Australia) to achieve this part of the national heavy vehicle reforms, with the final step of the transition to the national maritime model occurring in conjunction with all jurisdictions in 2018; and
- Tasmania was the only jurisdiction to fully implement the National Standard for Commercial Vessels prior to the commencement of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2013* (MSNL).

In common with the rest of Australia, the Australian Maritime Safety Authority (AMSA) took responsibility for the delivery of maritime safety in Tasmanian waters from 1 July 2018.

Transport in Tasmania

Road

The Tasmanian road network supports heavy vehicle movements in Tasmania. The entire Tasmanian road network is in excess of 36 000 kilometres. The Department of State Growth's road assets include about 3 700 kilometres of roads, 1 300 bridges and major structures and 9 500 hectares of land.

Unlike other asset classes across Government, responsibility for roads is vested in a number of agencies. The Department of State Growth, Sustainable Timber Tasmania, Hydro Tasmania, and Parks and Wildlife Service are all custodians of the State-owned network of roads. The skills and management capability varies across agencies considerably, with some holding roads as a core responsibility and others managing them as ancillary to their core business. This leads to considerable differences process, management and practices, with there being no central responsibility. In addition, there are 29 local governments that have ownership and management of a network of local roads within their own jurisdictions.

The road network carries approximately 78 per cent of the State's freight task in terms of tonne-kilometres - equivalent to 22.8 million tonnes a year.

Rail

Rail operations on the Tasmanian Rail Network are exclusively managed by TasRail, a State Owned Company responsible for the management and operation of a vertically integrated railway under the *Rail Infrastructure Act 2007*. The Tasmanian Rail Network consists of 611 kilometres of operational line, and 232 kilometres of non-operational line.

The Tasmanian Rail Network is an open access network, as set out in the *Tasmanian Rail Access Framework Policy*. This policy commenced on 1 August 2018.

Prior to rail operations being undertaken by TasRail, rail activities on the Tasmanian Rail Network were undertaken by a private operator, Pacific National.

Since the inception of TasRail under the *Rail Company Act 2009*, the Tasmanian and Australian Governments have made significant investments into the Tasmanian Rail Network. This investment coincides with the establishment and implementation of the national rail safety regulator.

Rail freight operations on the Tasmanian Rail Network are diverse, with around 3.5 million tonnes carried a year. Key commodities carried on rail include:

- cement and coal;
- mining products;
- intermodal freight (including zinc, paper and retail goods); and
- logs.

In addition to the freight task managed by TasRail, there are a number of tourist and heritage rail organisations that operate passenger activities on privately owned lines across Tasmania.

Sea

As an island State, Tasmania has a particularly strong affinity with maritime industries. Approximately 99 per cent of freight enters and leaves the State by sea.

The Tasmanian Government continues to participate in commercial maritime operations through TT-line- the operator of the Bass Strait vehicle/passenger ferries, as well as the Bass Island Line, operated by TasPorts.

A changing economy and developments in the transport system have seen the number of local freight carrying vessels decline to very low levels (predominantly servicing the Bass Strait Islands), while the number of commercial vessels engaged in tourism has grown. Overall, Tasmania supports a significant proportion of Australian flagged freight vessels.

Over many generations, Tasmania has developed its maritime knowledge and skills, with the State recognised for its world class capability in vessel production and support. Tasmania possesses unique capabilities in design, manufacturing, testing and support of specialist vessels and delivers world leading maritime services.

A number of Tasmanian firms are engaged in the supply of robust, reliable and safe, specialised watercraft. Vessels designed and constructed in Tasmania are delivered to clients across the globe. Tasmanian companies also produce a range of highly specialised and premium quality maritime accessory products used in various applications, including research, defence aquaculture and the supply and logistics industries. Maintaining a vibrant maritime industry in Tasmania is a priority for the Tasmanian Government.

The Australian Maritime College (AMC), based in Launceston, is Australia's centre for maritime education, training and research. The AMC forms part of the University of Tasmania. The AMC is a strategic partner in the Naval Shipbuilding College, based in Adelaide. The AMC offers courses in maritime engineering, marine environment, maritime environment, maritime logistics and seafaring, and attracts students from across Australia and overseas.

The seafood industry remains the mainstay of the Tasmanian domestic commercial vessel fleet. Vessels engaged in the seafood industry operate over a range of activities including inshore marine fish farms, coastal and offshore fisheries. The seafood industry is characterised by small businesses, and outside of the major aquacultures businesses, is very decentralised.

Experience of national reforms in Tasmania

Heavy vehicle safety and productivity

The introduction of the NHVR has created formative challenges, but also benefits, for Tasmania.

The key challenge for the Tasmanian and Local Governments has been to develop a consistent state-wide system that maximises heavy vehicle access across Tasmania's roads, with the least administrative burden, while managing the risk to road network assets and community safety.

In response to the national reform, the Tasmanian Government has taken a proactive approach to heavy vehicle access through the commitment of budget resources and strong collaboration and partnering with Local Government, the heavy vehicle industry and the NHVR. This collaborative approach had led to:

- a comprehensive State-wide understanding of road and bridge assets, in the context of heavy vehicle access;
- enhanced and simplified heavy vehicle access across the State Road Network, through pre-consented heavy vehicle networks via gazetted Notices, with a significant reduction in red tape;
- expedient road manager responses which enable faster issue of permits by the NHVR; and
- for the first time in Australia, an on-line tool for heavy vehicle operators to map routes for specific vehicles against pre-consented networks and conditions of access.

Tasmania is the first jurisdiction to introduce access arrangements where networks are determined using a comprehensive vehicle classification framework which is based on a particular vehicle configuration, taking into account its potential impact on infrastructure and safety.

Under this approach, the Department of State Growth has pre-consented the majority of heavy vehicle access to the State Road Network through Notices published by the Regulator, removing the need for individual journey permits in many cases. Innovative approaches to regulatory efficiency, including assessing access for constrained structures, are one of the most cost-effective means for governments to increase productivity.

The Government is committed to continuing to work with the NHVR, local government road managers and industry to responsibly manage road infrastructure. It is anticipated that, over time, as road managers gain more knowledge of the networks against contemporary heavy vehicle access demand, access to networks under Notice will increase, further reducing the need for permits.

While the overall implementation of the NHVR in Tasmania has proceeded relatively smoothly, there are cases where local industry bodies, such as the Tasmanian Farmers and Graziers Association, continue to hold concerns regarding the regulatory burden imposed by the NHVR and particular in relation to the Chain of Responsibility laws.

Rail safety

Under the funding arrangements established to support the ONRSR, a combination of government contributions and fixed and variable charges paid by accredited and registered rail transport operators are made to ONRSR. The amount recovered by industry has increased proportionally following the commencement of the national reform. In jurisdictions that are not fully cost recovering, including Tasmania, the proportion of cost recovery by industry increases by 5 per cent each year. Tasmania's proportion of cost recovery paid by industry is expected to be 72 per cent in 2018-19 and 77 per cent in 2019-20. TasRail's fee is anticipated to increase to \$244 000 in 2019-20.

Rail safety activities in Tasmania are considered to have met the objectives of the implementation of a single, national rail safety regulator. ONRSR retains an office in Hobart with dedicated Tasmanian based staff and access to resources from interstate when required. This is a vital service for Tasmania's unique rail environment which, unlike its mainland counterparts, features no high speed rail, currently has no passenger rail services, and (in common with the Northern Territory) has no sections forming part of the Australian Rail Track Corporation but involves a high proportion of level crossings with a low frequency of services.

Given the continuity of the resourcing and maintenance of the local office, it appears that the level of service and quality of outcomes has been maintained in Tasmania since the commencement of ONRSR in this State. In addition to regulatory oversight and enforcement, local resources also fulfil an important role in relation to guidance and education for new players seeking to start rail operations - for example tourist and heritage operators and also public rail safety generally.

The national approach to safety regulation caters for a broad range of operations, consisting of large commercial businesses and very small tourist and heritage groups that often heavily rely on volunteers. Under the national arrangements, the capability, expectations and requirements of small operators in particular have not always been fully understood. For some heritage and tourism rail operators it remains an ongoing challenge to meet the national regulatory standards.

In Tasmania, achieving a common understanding between parties has been an ongoing challenge since passenger activities ceased on the Tasmanian Rail Network - prior to the national safety reform. Other owners of infrastructure that interact with rail lines, such as local governments, have also experienced a heightened level of safety requirements, including for railway crossings, since the introduction of the national regulations in Tasmania.

Tasmania participates in a number of national rail safety and productivity initiatives, including the National Rail Plan. The National Rail Plan will set out a number of priority rail policy development areas and a program of reform activities to enhance Australia's productivity, competitiveness and liveability.

Once again, Tasmania is in a unique position, as its railway does not interconnect with any other jurisdictions, and does not operate passenger rail services. Accordingly, some aspects of the National Rail Plan will have limited relevance to Tasmania.

Maritime safety

Maritime and Safety Tasmania (MAST) is a statutory authority that was established on 30 July 1997 to ensure the safe operation of vessels, provide and manage marine facilities and manage environmental issues relating to vessels.

In 2013, with the commencement of the MSNL, the Australian Maritime Safety Authority (AMSA) assumed responsibility for the safety of Domestic Commercial Vessels in Tasmania. MAST continued to provide service delivery of the MSNL to domestic vessels operators, through delegation from AMSA. During this time MAST was able to ensure the Tasmanian domestic commercial vessel fleet conformed to all national maritime safety requirements, and was able to achieve this under a full cost recovery model through an Administration Fee and Fee for Service. In 2018 service delivery responsibilities were transferred from MAST to AMSA, in accordance with decisions made by the Transport and Infrastructure Council.

Through the development of the maritime reform package, Tasmania's regulatory model placed it in a unique position with regard to the financial and service model proposed, which in turn created different pressures with regards to expectations from industry with regard to benefits from the reform.

Tasmania was not required to contribute to transition funding, due to existing arrangements in the State. Prior to this national reform, Tasmania was the only State to undertake a full cost recovery model that ensured the Tasmanian domestic commercial vessel fleet conformed to all national maritime safety standards.

Following transition to the new nationally consistent national system, the Tasmanian Government notes that the Tasmanian Seafood Industry Council, among others, has raised legitimate concerns with regard to the reduced level of service provided to Tasmanian commercial fishers and recreational boat users under the new structure in comparison to the former Tasmanian model.

General comments

Implementation

Experience has shown that transition to a nationally consistent model can be a lengthy and difficult process. In this context, it is important that the policy rationale that leads to the reform takes into account and reflects a realistic transactional cost of implementation.

While reform is achieved at a national level, the impacts of change are often most visible, and felt, at a local level. This is particularly the case where there have been significant differences in approach between jurisdictions prior to the reform.

The complexity of implementation is also heavily influenced by the participants in the relevant sector, and their capacity to maximise opportunities that may arise - a point noted in the Issues Paper. The example provided in this submission, in relation to management of access to the state's road network, is a case in point. Having recognised a potential problem for road managers, the Tasmanian Government, working with the national regulator and Councils, has been able to bring resources together to utilise the new national regulatory structure to achieve a more efficient outcome for industry.

Benefits

Assessing the economic impacts, and, in particular quantifying the benefits, of recent transport regulation reforms may be difficult given the short timeframes since the reforms have been implemented. While there are some signs of benefits created under certain aspects of the reform agenda, it may be some time before the long-run economic impacts of the regulatory reforms are wholly realised.

In some instances, it may also be difficult to separate benefits arising from the regulatory reform as from other initiatives implemented over the same time frame. In Tasmania, the rail network passed back to State ownership in 2007 and the establishment of TasRail and as a State-Owned Company in 2009. Since then, approximately \$700 million has been invested in the rail network, delivering dramatic increases in service reliability, capacity and safety. This investment has occurred over the same time period as the transition from a state-based safety regulation model to the ONRSR.

Opportunities to further integrate and harmonise the national freight market

As an island-state, the efficiency of inter-modal transport is a critical determinant of costs of business. This is highlighted in the *Tasmanian Integrated Freight Strategy*, which targeted the delivery of a single, integrated freight system in Tasmania. In promoting greater integration between sectors, the Freight Strategy identified the importance of:

- aligning objectives, planning and investment across freight infrastructure and service providers

- a focus on transparent, coordinated project evaluation
- data to inform public and private sector freight planning.

The Tasmanian Government would be prepared to consider further opportunities to improve integration and harmonisation of activities across the three modes nationally. Given that work to achieve national consistency within transport sectors remains ongoing, any such decision would need to be made cognisant of priorities within the relevant sectors. Any further steps towards harmonisation would also need to take into account the complexities and significant differences in risk levels across the maritime, rail and heavy vehicle sectors and operating environments. To this end, the capacity of end users to respond to different approaches must always be considered.

The significant differences in operating environments, skills and capacity of sector participants and sector risks suggest that the regulatory frameworks and models would continue to need to reflect the particular characteristics of the rail, road and maritime sectors. A strong understanding of the specific needs of each sector, and how current regulatory models address those needs, is critical to any future steps towards seeking a greater level of harmonisation between models.

Achievement of objectives

Safety

The Issues Paper notes the difficulty of separating the different influences on safety outcomes.

In relation to maritime safety, the implementation of the MSNL has resulted in changes to nationally agreed standards and the regulatory oversight of certain vessels. While these changes may be reflective of the approach to safety that was undertaken in some jurisdictions prior to implementation of the MSNL, it is considered to be a reduction from the approach that was taken in Tasmania. There are significant differences in the operational marine environment in various parts of Australia and it is important to note the effect these environmental differences can have on the approach to safety.

With reference to heavy vehicle safety, it is difficult to attribute changes in crash rates involving transport modes to any one factor alone, or to attribute any impact specifically to the efficacy of national transport reforms. Generally, heavy vehicles have a very good safety performance relative to other road users. However, data indicates that heavy vehicle crashes continue to result in road trauma in Tasmania, and particularly injury resulting from single vehicle, heavy vehicle crashes.

Industry feedback suggests that the transfer to the ONRSR in Tasmania has not adversely affected safety outcomes in the state. The activities of the ONRSR in Tasmania are aligned with national priorities of level crossing safety, track worker safety and the tourist and heritage sector

The Tasmanian Government is committed to reducing trauma across transport modes. Improvements to the safety performance of road, rail and maritime sectors will help achieve this objective. The NHVR, ONRSR and AMSA clearly have important roles to play for transport safety in Tasmania.

Nationally consistent regulation

The Tasmanian Government has been supportive of the introduction of nationally consistent regulation. It is recognised, however, that implementation of a uniform model is not necessarily the pathway by which consistency can best be achieved in all circumstances.

The Issues Paper identifies the differences in approach between the introduction of the maritime safety national law, on the one hand, and the heavy vehicle national law and rail safety national law on the other. It is considered that the relatively recent transition to the full national model for maritime safety makes direct comparison with experience of the other models somewhat fraught.

In Tasmania's experience, each national reform has brought with it a range of challenges that have reflected the attributes and structure of the relevant sector including the scale of the major operators in the sector, the extent of direct and continuing engagement by State and Local Government and the extent of the change in the operating model from the user's perspective. In this context, the relative simplicity of the rail safety transition, from the Tasmanian perspective, may be contrasted with the experience in the road and maritime environments where there were a far larger number of business and infrastructure owners, with a much greater variation in resourcing capacity to adjust to the new regulatory environment.

Reduced regulatory burden

In relation to rail safety, Tasmania has ceased to have a direct administrative role, while the ongoing responsibilities of state regulators with respect to road and maritime safety are noted in the Issues Paper.

With respect to maritime safety, seafood industry concerns on issues associated with the change in service models have been noted in this submission.

From the perspective of state regulatory responsibilities, the introduction of the national regulatory systems has resulted in a reduction of the State's administrative burden as a regulator. Tasmania's experience with regard to the national heavy vehicle regulator, and initiatives Tasmania has been able to pursue to support heavy vehicle access, reflect decisions made with regard to resource allocation in direct response to the introduction of a national model.

Productivity and efficiency

The Tasmanian Government notes the discussion in the Issues Paper with regard to the assessment of productivity and efficiency benefits. In particular, the complexity of isolating the impact of regulatory reform from other advances in what are dynamic and technology driven sectors. The Tasmanian Government considers the characterisation of productivity, as described in the Issues Paper, to be a reasonable one.

Conclusion

The Inquiry is an important step to enable regulators and participants to reflect on, and assess, the implications of the significant national transport regulatory reform that has been implemented over the last decade.

The Inquiry provides an important opportunity to review how reforms have been implemented and to what extent the reforms may be considered to have achieved their original objectives. In that context, the Tasmanian Government considers that, as with any reforms of this scale, the costs and benefits, and their dispersal, will only become more apparent over time, as the systems mature and evolve. It would be unreasonable to expect that, in moving from such dramatically varied models, a mature, evolved national framework could expect to be achieved in a single step. However, the staging of reforms has created its own risks and challenges for participants in each sector. It is important that their concerns are considered and reflected through this process.

Future reforms could benefit from further consideration of implementation issues at the policy approval stage and should have regard for potential net benefits and the allocation of these benefits geographically and across time.

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