



*Dedicated to a better Brisbane*

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10 December 2019

National Transport Regulatory Reform  
Productivity Commission  
Level B2, Collins Street East  
MELBOURNE VIC 8003

Dear Sir/Madam

Thank you for the opportunity to provide a submission on the Australian Government's *National Transport Regulatory Reform – Productivity Commission Draft Report* (Draft Report).

Previously, Brisbane City Council (Council) provided comments on the Australian Government's *National Transport Regulatory Reform – Productivity Commission Issues Paper* (Issues Paper) focusing on its relationship with the National Heavy Vehicle Regulator, and its support for productivity improvements to maintain and enhance national competitiveness. It is pleasing that the Productivity Commission has acknowledged the contribution of Council to the Issues Paper in its Draft Report.

Attached is Council's comments on the draft recommendations contained within the Draft Report and comments on the text itself. Council's comments are focused on road regulation, with some comments regarding other aspects of transport regulation where necessary.

If you have any further questions about Council's submission, please contact Ms Marie Gales, Manager, Transport Planning and Operations, Brisbane Infrastructure,

Yours sincerely

Colin Jensen  
**CHIEF EXECUTIVE OFFICER**

Enc. Council's submission on the Australian Government's *National Transport Regulatory Reform – Productivity Commission Draft Report*



No.	Draft recommendation	Council's response
4.1	<p>The Transport Infrastructure Council should request that the National Transport Commission undertake a review of significant derogations from the Heavy Vehicle National Law and the Rail Safety National Law, with the aim of reducing regulatory inconsistency.</p> <p>The Council of Australian Governments should commit to altering or removing derogations, or altering the national laws, to achieve best practice regulation.</p>	<p>Although this lies outside the jurisdiction of Council, Council supports the objective of this review in the interest of industry productivity, safety and clarity for industry. It is recognised that each jurisdiction has its unique characteristics, so Council believes that harmonisation should be the key objective in the first instance.</p>
4.2	<p>The national regulators should phase-out Service Level Agreements (SLAs) with State and Territory agencies by absorbing these functions at the earliest opportunity.</p> <p>Where there is a business case to use SLAs with third parties, those parties should act under the direction of the national regulators to ensure consistent decisions across jurisdictions.</p>	<p>Although this lies outside the jurisdiction of Council, Council supports the intent of state and territory regulators acting under the direction of the national regulators, to ensure that regulation is truly 'national' and cross border.</p>
5.1	<p>State and Territory governments should seek to improve general road users' understanding of driving safely in the vicinity of heavy vehicles through education and enforcement measures.</p>	<p>Council supports this draft recommendation.</p>
5.2	<p>The Council of Australian Governments should amend the Heavy Vehicle National Law to give the National Heavy Vehicle Regulator (NHVR) greater scope to provide concessions from prescribed aspects of fatigue management regulation, where the NHVR is satisfied that more effective systems of fatigue management are in place, such as technology-enabled management systems, and/or accredited management systems.</p> <p>Driver fatigue laws should continue to set outer limits on driving hours.</p>	<p>This issue lies outside the jurisdiction of Council, however, Council supports this initiative to improve industry safety.</p>
5.3	<p>The Council of Australian Governments should commission an independent review of the fatigue management laws applying in the rail sector to examine the scope for further harmonisation. This could be included in the broader review into derogations proposed by this inquiry (draft recommendation 4.1).</p>	<p>This issue lies outside the jurisdiction of Council, however, Council supports this initiative to improve industry safety.</p>
5.4	<p>The Australian Maritime Safety Authority should improve:</p> <ul style="list-style-type: none"> <li>incident reporting by owners of domestic commercial vessels</li> <li>its public disclosure of safety incidents by increasing the depth and detail of reported incidents.</li> </ul>	<p>This issue lies outside the jurisdiction of Council, however, Council supports this initiative to improve industry safety.</p>

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	<p>Reporting should include a state-by-state and vessel-type breakdown of fatalities and injuries.</p> <p>The Australian Government should request and fund the Australian Transport Safety Bureau to conduct investigations and publish research on safety incidents and accidents among domestic commercial vessels.</p>	
5.5	<p>The Council of Australian Governments (COAG) and the Australian Maritime Safety Authority (AMSA) should begin to wind up the grandfathering of safety regulations under the Marine Safety National Law (MSNL), with priority given to ending grandfathered exemptions from vessel survey requirements. AMSA should not maintain grandfathering of survey requirements through marine orders or exemptions.</p> <p>COAG and AMSA should review all other grandfathering provisions under the MSNL. Unless found to be justified through a transparent, public cost-benefit assessment, all grandfathering provisions should be phased out within the next 5 years.</p>	This issue lies outside the jurisdiction of Council.
6.1	Local governments should share engineering expertise and agree to consistent access arrangements for shared roads. The Australian Government should work with States and Territories to encourage this collaboration. States and Territories should report to the Council of Australian Governments in early 2020 on the status of this work.	As outlined in Council's submission on the Issues Paper, Council has the resources, access to data and expertise to process applications quickly and efficiently. However, it recognises that many other local authorities do not have similar resources and any extra assistance by the Queensland Government and Australian Government to local governments would be beneficial. The draft recommendation is supported.
6.2	The Australian Government should seek simpler heavy vehicle classifications through the National Transport Commission's review of the Heavy Vehicle National Law for the purposes of access decisions. Additionally, the National Heavy Vehicle Regulator should provide more detailed and effective guidelines to road managers.	Complexity of vehicle classification has not been an issue to date for Council as permits are generally issued for conventional vehicles with higher mass or dimension. Council recognises that in some jurisdictions (for example, agricultural areas), this is not the case. Council supports simplification in principle but believes that any simplification be supported by credible research.
6.3	The National Heavy Vehicle Regulator should continue improving its data management processes, including how data are stored, integrated, analysed and reported.	Council supports this draft recommendation.

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6.4	<p>The Council of Australian Governments should direct road managers (including the state road authorities) to work with the National Heavy Vehicle Regulator to rapidly expand key freight routes covered by notices and allowing as-of-right access for larger vehicle types. The focus of this work should include:</p> <ul style="list-style-type: none"> <li>expanding the networks available for heavy vehicles with performance characteristics equivalent to B-doubles (including Performance-Based Standards (PBS) level 2A and 2B B-doubles) and type 1 and 2 road trains (including PBS equivalents)</li> <li>where there are classes of vehicles for which permit applications are almost universally approved, developing notices covering these vehicles</li> <li>meeting infrastructure requirements such as truck stops and logistics centres near major urban centres, allowing larger vehicles to be broken down into smaller units where required by urban road network constraints.</li> </ul>	<p>Council supports:</p> <ul style="list-style-type: none"> <li>the expansion of heavy vehicle access where appropriate to the network and surrounding land uses</li> <li>developing notices to remove the need for successive permit applications in locations where they are almost universally approved</li> <li>the provision of truck stops and logistics centres to allow larger vehicles to be broken down into smaller units.</li> </ul> <p>Council notes the Productivity Commission's statement on page 208 that there are no feedback mechanisms between increased truck access and greater revenue for local governments to cover the additional road maintenance task. This needs to be resolved by including local governments in any revenue sharing mechanism arising from any future heavy vehicle charging scheme.</p> <p>Council will not be delegating its decision-making authority to the State road authority or to the NHVR as canvassed on page 208 of the Draft Report.</p>
6.5	<p>The National Heavy Vehicle Regulator, the Office of the National Rail Safety Regulator and the Australian Maritime Safety Authority should monitor the compliance and administrative costs created by the national regimes and report on the level and change in these costs in periodic (say 3 yearly) reporting. The first report should be published in 2020 to establish benchmark costs.</p>	<p>The draft recommendation should include costs to the whole of this industry, not just the administrative costs of the regulator.</p>
7.1	<p>The Australian Government should lead efforts through the Transport and Infrastructure Council to reform the Heavy Vehicle National Law. It should encourage State and Territory governments to remove prescriptive material from the legislation and to include an explicit mandate for the National Heavy Vehicle Regulator to take a risk-based approach to its functions.</p>	<p>This recommendation is supported. This approach is consistent with the comments Council previously provided to the National Transport Commission (NTC) on its <i>Safety Assurance for Automated Driving Systems Consultation Regulation Impact Statement – May 2018</i> (Impact Statement).</p>
7.2	<p>The Transport and Infrastructure Council should agree to have all regulatory functions still held by participating jurisdictions transferred to the National Heavy Vehicle Regulator no later than 1 January 2022.</p>	<p>This issue lies outside the jurisdiction of Council, but Council supports this draft recommendation if it improves consistency and efficiency.</p>
7.3	<p>The Transport and Infrastructure Council should direct the National Heavy Vehicle Regulator to undertake the comprehensive collection and reporting of key safety risks and outcomes, similar to the Office of the National Rail Safety Regulator's annual <i>Rail Safety Report</i>.</p>	<p>Council supports this draft recommendation, as it believes that the comprehensive collection, analysis and presentation of consistently formatted data will assist greatly in policy development and improved safety outcomes.</p>

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7.4	<p>The Australian Government should negotiate with State and Territory governments to return responsibility for regulating Class 4 Domestic Commercial Vessels (Hire and Drive) to State and Territory agencies.</p> <p>The Council of Australian Governments should consider the benefits and costs of returning regulatory responsibilities for other vessel types to State and Territory governments.</p>	This issue lies outside the jurisdiction of Council.
8.1	<p>The Australian Government should amend the Australian Design Rules and in-service vehicle standards to allow for new transport technologies, including automated technologies, with proven productivity or safety benefits. The Australian Government should aim for national and international consistency of laws and standards where practicable, and accept safety devices adopted in other leading economies. The Council of Australian Governments should investigate whether a 'deemed to comply' approach would be practical for some technologies.</p>	This draft recommendation is supported. This approach is consistent with the comments Council previously provided to the NTC on its Impact Statement.
8.2	<p>The Australian Government should co-operate with stakeholders including Transport Certification Australia when developing the National Freight Data Hub. The Hub should include a regulatory framework for the collection, storage, analysis and access of transport data, including telematics data. This framework should specify the data access powers of regulators, enforcement agencies and accident investigation bodies, and should enable these bodies sufficient access to undertake their respective tasks, while protecting privacy and confidentiality.</p>	This draft recommendation is supported.
8.3	<p>The Australian Government should impose a general safety duty on all parties with a significant influence over the safe operation of autonomous transport technologies. The creation of a general safety duty should not preclude the use of prescriptive rules where the assessed risks are high.</p>	This draft recommendation is supported. This approach is consistent with the comments Council previously provided to the NTC on its Impact Statement.

No.	Draft recommendation	Council's response
9.1	<p>Governments (and their agencies) and industry should consider how best to harness logistics and telematics data to improve incentive-based safety regulation, with the aim of influencing behaviours that increase safety and productivity.</p> <p>Governments and regulators should aim to facilitate the adoption of technologies by operators to generate and share data by:</p> <ul style="list-style-type: none"> <li>• providing legal assurances about the acceptable use of such data</li> <li>• clarifying the value proposition to individual operators of their participation in data sharing regimes.</li> </ul>	<p>This draft recommendation is supported. Council recognises that some operators are already using telematics data to optimise their own operations. However, industry itself and leading industry bodies such as the Queensland Trucking Association and the Australian Logistics Council would be best placed to clarify the value proposition.</p>
9.2	<p>The Australian Government should direct the Australian Transport Safety Bureau (ATSB) to undertake a defined, targeted trial of incident investigation for heavy vehicles, with adequate additional resourcing for the task. Subject to the successful outcome of the trial, the Government should amend the <i>Transport Safety Investigation Act 2003</i> to confirm investigation of incidents involving heavy vehicles as a function of the ATSB.</p>	<p>This draft recommendation is supported. A consistent, cross-industry and nation-wide approach to safety investigations is supported as it will draw from a wider range of data and support more robust policy decisions.</p>
9.3	<p>The Australian and State and Territory Governments should:</p> <ul style="list-style-type: none"> <li>• formalise the role of the Australian Transport Safety Bureau to investigate all serious incidents involving domestic commercial vessels, and agree a funding model to support this role</li> <li>• agree a funding model to enable the Australian Transport Safety Bureau to adequately carry out its established role in the investigation of rail safety incidents</li> </ul>	<p>This issue lies outside the jurisdiction of Council.</p>
9.4	<p>The remit of the Australian Transport Safety Bureau should be extended to include any incident where autonomous technologies at or above SAE level 3 autonomy may have been involved.</p>	<p>This draft recommendation is supported. Council has previously supported a national approach.</p>
10.1	<p>The Council of Australian Governments should provide support to ensure local government has the financial and technical capacity to deliver its role as asset manager for local roads. Transparency and accountability of performance should accompany any additional support, particularly with respect to processing times for access permits and the use of notices to gazette heavy vehicle routes.</p> <p>This should be pursued in the context of broader changes under the Heavy Vehicle Road Reform agenda.</p>	<p>This draft recommendation is supported. Due to its size, Council has the resources, access to data and expertise to process applications quickly and efficiently. However, it recognises that many other local authorities do not have similar resources and any extra assistance by the Queensland Government and Australian Government to local governments would be beneficial.</p>

No.	Draft recommendation	Council's response
10.2	The national regulators (particularly the National Heavy Vehicle Regulator and the Australian Maritime Safety Authority) should move towards cost recovery arrangements in line with the Australian Government Cost Recovery Guidelines. Consistent arrangements across the three transport regulators will eliminate the risk of distorting intermodal choices.	<p>Council supports cost recovery for the regulatory function.</p> <p>Regarding intermodal competitiveness, Council notes that rail infrastructure providers are required to develop access undertakings that address costs in a transparent way. Access charges address cost recovery of the asset.</p> <p>Road network costing and distribution of funding is far more complex. A matter that is not addressed is that the revenue collected from road users (fuel excise and registration charges) is not fully distributed across the road network as local governments are not included.</p> <p>This discussion, although of interest from an overall transport policy perspective, does not appear to fit within the terms of reference of the Draft Report and should be studied by the Productivity Commission as a separate issue.</p>

#### Further comments

Text	Comment
Figure 1.1 Major freight flows in Australia	Grain rail lines (indicated by the dotted line) appear to be in the wrong location. The grain flows from regional Queensland, NSW, and Victoria to their respective ports are not indicated.
Box 5.4 Level crossing removals in Australia	Fourth bullet point. It needs to be noted that both the Queensland Government's Department of Transport and Main Roads and Council funded the removal of the two level crossings at Robinson Road, Geebung, and Telegraph Road, Bracken Ridge.