



Minister for Transport; Planning

Our ref: 72-23640

MWS External Reference
National Transport Regulatory Reform
Productivity Commission
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To Whom It May Concern

DRAFT REPORT ON NATIONAL TRANSPORT REGULATORY REFORM

Thank you for the opportunity to comment on the Productivity Commission's Draft Report on National Transport Regulatory Reform.

The Western Australian (WA) Department of Transport has prepared a whole-of-government response consolidating views from WA government agencies, including Main Roads Western Australia, the Public Transport Authority, Road Safety Commission and the Department of Mines, Industry Regulation and Safety (Worksafe).

I look forward to seeing the final report of the inquiry and the Commission's recommendations on further improvements for rail, commercial vessels and heavy vehicle safety regulation.

Yours sincerely

HON RITA SAFFIOTI MLA
MINISTER FOR TRANSPORT

07 FEB 2020

Att: Response to the Productivity Commission Draft Report



PRODUCTIVITY COMMISSION DRAFT REPORT ON NATIONAL TRANSPORT REGULATORY REFORM

Background

The Productivity Commission (PC) has been tasked to investigate the long-term economic impacts of transport regulatory reforms agreed by the Council of Australian Governments (COAG) in 2008-09, relating to heavy vehicle safety and productivity, rail safety and maritime safety, and to make recommendations for further reforms towards a more integrated national market for transport services.

Further to an issues paper that was released by the PC in May 2019, the PC is seeking comments on the draft report with a view to complete the inquiry by April 2020.

This whole-of-Government response has been prepared by the Department of Transport in consultation with the following Western Australian (WA) Government agencies:

- Main Roads WA;
- Public Transport Authority;
- Road Safety Commission; and
- Department of Mines, Industry Regulation and Safety.

In addition, the Western Australian Local Government Association was consulted on relevant recommendations.

The following agencies have reviewed the submission and provided additional comment:

- Department of Treasury; and
- Department of Premier and Cabinet.

This submission is structured in two parts, with high level comment provided in the response and specific comments on recommendations are provided in Attachment One.

Introduction

WA participated in national transport regulatory reforms in rail and maritime safety, but did not sign the COAG Intergovernmental Agreement on Heavy Vehicle Regulatory Reform.

Rail safety regulation

All rail safety regulation in WA has been undertaken by the Office of the National Rail Safety Regulator since 2015. WA chose to adopt the *Rail Safety National Law (SA) Act 2012* using mirror legislation. Since then, amendments made to the *Rail Safety National Law (SA) Act 2012* have not been made to the *Rail Safety National Law (WA) Act 2015*. This has resulted in inconsistencies developing between the laws over time. The WA Government is considering a change of legislative mechanism from mirror law to applied law for the purposes of incorporating the outstanding amendments into the *Rail Safety National Law (WA) 2015*, thereby addressing the current inconsistencies.

Cost recovery for rail regulation has not been a significant issue in WA as there is full cost recovery from industry of costs associated with rail regulation. The State Government provides a small subsidy towards the cost of regulation for tourist and heritage rail operators.

Heavy vehicles

WA has not adopted the Heavy Vehicle National Law. Very little freight moves by truck across WA's borders. Most interstate freight is transported by rail for export. The heavy vehicle transport task in WA is essentially an intra-state movement, although some products are delivered by heavy vehicles to ports for export. WA considers that its own regulatory regime for heavy vehicles is more appropriate for the circumstances that exist in the State. The WA approach is more flexible than the national arrangements, has enabled better productivity outcomes, and provides significant benefits to the State and the trucking industry.

To support harmonisation and consistency where possible, WA does participate in national transport forums and collaborates with other jurisdictions on heavy vehicle policy matters. Comments on the recommendations pertaining to the regulation of heavy vehicles have been provided in this context.

Maritime safety regulation

WA no longer has any involvement in the regulation of domestic commercial vessels. All responsibility for the regulation of such vessels has rested with the Australian Maritime Safety Authority (AMSA) since July 2018. The state is no longer resourced to regulate or administer domestic commercial vessels.

In this context, WA has significant concerns with recommendation 7.4 which states:

"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.

COAG should consider the benefits and costs of returning regulatory responsibilities for other vessel types to State and Territory governments."

In the view of the WA Department of Transport, this recommendation is not clearly scoped, and invites the piecemeal return of regulatory responsibility for classes of domestic commercial vessels to the States and Territories without adequate justification.

To sustain a recommendation of this type, the Department of Transport considers that the Productivity Commission would need to make a finding that AMSA has not succeeded as a national regulator of domestic commercial vessels. In so doing the Productivity Commission would need to:

- Provide reasons for why AMSA has not succeeded;
- Demonstrate that the thinking underpinning the passing of responsibility for the regulation of domestic commercial vessels to the Commonwealth some years ago was flawed;
- Demonstrate that the objectives of the reform had not been achieved;
- Specify the reasons why States and Territories may be better placed to regulate domestic commercial vessels than the Commonwealth; and
- Show that industry and indeed the public would be better off if States and Territories resumed the role of regulating commercial vessels.

However, as is noted in the Productivity Commission draft report:

- AMSA only became responsible for delivering services under the Marine Safety National Law in all States and Territories in July 2018.
- AMSA is in the early stages of its role in regulating domestic commercial vessels.
- AMSA is still developing its capabilities that it requires to be an effective regulator.

In the absence of a strong finding that AMSA is not a suitable body for the regulation of domestic commercial vehicles, it would appear prudent to give AMSA time to grow into its role and resource and skill itself to undertake the role originally envisaged for it.

The part of the recommendation that proposes returning responsibility to States and Territories for regulating Class 4 commercial domestic vessels is troublesome because it would:

- Make an artificial distinction between Class 4 vessels (Hire & Drive) and other commercial vessels;
- Result in States and Territories having to re-resource themselves to undertake this function without being able to take advantage of scale (noting that hire and drive represent only 11% of domestic commercial vehicles);
- Mean that those States and Territories that have removed their legislative power to regulate commercial vessels having to re-legislate which will be costly and take time;
- Blur accountability for the regulation of domestic commercial vessels by having different laws, rules and regulators for certain classes of domestic commercial vessels; and
- Scuttle the benefits originally envisaged for the national system and defeat the purpose of having a single national system for domestic commercial vessels with one national regulator.

Reducing the scope of AMSA's responsibilities is not an objective in its own right - the true test is whether returning responsibility to States and Territories is likely to result in a better outcome.

Road safety relating to heavy vehicles

In WA, the Road Safety Commission works in collaboration with WA Police, Department of Transport, Main Roads WA Heavy Vehicle Services and industry stakeholders to identify and develop countermeasures to address heavy vehicle transport safety.

While draft recommendation 5.1 is sensible, enforcement against light vehicle drivers may not necessarily address the issue and more should be done to reduce the incidents involving heavy vehicles to enable a paradigm shift.

Practical measures are needed to complement the education and enforcement measures. Some suggestions would include:

- Reduction of speed on busy routes involving heavy vehicles;
- Separation of vehicles and use of technology to effect better spacing of vehicles;
- Doubling the audible lines in the centre of busy roads with high numbers of head-on accidents; and
- Widening the shoulders of roads, particularly regional roads.

It is worth noting that Main Roads WA is progressively implementing several of the above measures, but Commonwealth Government funding assistance is necessary for these measures to be implemented within a reasonable timeframe.

There may be merit in the Australian Transport Safety Bureau (ATSB) conducting no-blame investigations into very serious road accidents as these may result in systems improvement recommendations. However, much thought would need to be given to referral procedures and the circumstances where road accidents were referred to the ATSB. No blame or no-fault approach to incidents investigations is supported but presumably police investigation and coronial inquiries which are blame-based enquiries would also apply.

Road safety relating to automated vehicles

Australian Design Rules provide for national consistency in vehicle safety standards and should be actively managed to ensure that they address contemporary road transport risks and productivity requirements. The pace of recognition at the international level may not support the timely introduction of technology with road safety benefits and further the pace of recognition in Australia could cause delay in introduction here.

There may be merit in an independent body such as the ATSB investigating crashes/incidents involving level 3 and above autonomous technology, particularly in the trial phase and early adoption phase of mass market deployment. However, WA questions why this recommendation has been put forward when the National Transport Commission has been tasked by the Transport and Infrastructure Council to work with jurisdictions to identify appropriate options in the regulation of autonomous vehicles and their safety. Recommending the ATSB as an automated vehicle crash investigator is not core to the scope of this inquiry, neither is it considering the issue in the appropriate context of consistent, effective and efficient overall regulation of automated vehicles.

Conclusion

WA is comfortable with the general direction of the Productivity Commission's draft report. While WA is not participating in the National Heavy Vehicle Law, WA is supportive of the recommendations and will participate in any review, national forums or working groups to contribute toward better practice regulation.

WA is concerned about recommendation 7.4 that the Australian Government negotiates with the States and Territories for the return of responsibility for regulating Class 4 Domestic Commercial Vessels (Hire and Drive) to State and Territory agencies and that consideration be given to returning regulators responsibility for other vessel types. There are specific concerns raised in this submission.

WA is committed to participate in national transport reforms where there is a benefit to the State in doing so and look forward to the findings of the Productivity Commission's inquiry.

Specific Comments on Productivity Commission Draft Report – National Transport Regulatory Reform

Draft Recommendations	Specific Comments
<p>4.1 The Transport Infrastructure Council should request that the National Transport Commission undertake a review of significant derogations from the Heavy Vehicle National Law (HVNL) and the Rail Safety National Law (RSNL), with the aim of reducing regulatory inconsistency.</p> <p>The Council of Australian Governments (COAG) should commit to altering or removing derogations, or altering the national laws, to achieve best practice regulation.</p>	<p>Supported.</p> <ul style="list-style-type: none"> • WA supports the harmonisation of regulations or adoption of the HVNL where there is a demonstrable benefit to the State. • WA would welcome participation in any review looking to achieve best practice regulation. WA is currently working with the National Heavy Vehicle Regulator (NHVR) to identify any opportunities for alignment / mutual recognition. To this end, Main Roads WA and the Department of Transport have representatives on working groups, national reviews and committees such as: Remote Areas Consultative Group, HVNL review / working group(s), National Heavy Vehicle Accreditation Review, Austroads Freight Taskforce. <p>WA's decision to implement the <i>Rail Safety National Law (SA) Act 2012</i> using mirror legislation has resulted in variations.</p> <ul style="list-style-type: none"> • The WA Government is considering a change of legislative mechanism from mirror law to applied law for the purposes of incorporating the outstanding amendments into WA legislation thereby addressing the current variations and enabling future consistency. • WA has participated in the Office of the National Rail Safety Regulator (ONRSR) led reviews related to the Drug & Alcohol and Fatigue Management provisions of the RSNL (SA) and is committed to assisting the ONRSR with any future reviews that may address the current derogations related to these areas.
<p>4.2 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>Noted.</p> <p>WA does not have any SLAs with the national regulators.</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>Supported with further suggestions.</p> <ul style="list-style-type: none"> • In WA, the Road Safety Commission work in collaboration with WA Police Force, the Department of Transport, Main Roads WA Heavy Vehicle Services and industry stakeholders to identify and develop counter-measures to address heavy vehicle transport safety. • Main Roads WA has produced education campaigns aimed at educating road users on how to interact with Oversize Over-mass (OSOM) loads. This includes print media articles, infographics, pamphlets and videos detailing how road users should interact with OSOM loads and adhere to the direction of Traffic Escort Wardens and Heavy Vehicle Pilots. • Main Roads WA promotes educational campaigns undertaken by other agencies (Road Safety Commission / NHVR) on its social media platforms. • In early 2020, the Road Safety Commission will partner with Transafe WA to install signage with road safety messages on 28 heavy vehicles to educate the broader motoring public about the shared responsibility to prevent crashes involving heavy vehicles on our roads. • While recommendation 5.1 is sensible, enforcement against light vehicle drivers may not necessarily address the issue and more should be done to reduce the incidents involving heavy vehicles to enable a paradigm shift. • The majority of WA's road safety education addresses the highest risk activities, and this may reduce the focus on a low volume event at a State level. • Heavy vehicle road accidents are mostly unintentional, caused by fatigue and/or error of judgement. • The Road Safety Commission highlights the most recent trends¹ with respect to heavy vehicle crashes: <ul style="list-style-type: none"> ➤ Heavy vehicles are still disproportionately involved in fatal crashes given they are involved in around 12% of all fatal crashes, but only represent 4% of the registered fleet. ➤ Heavy vehicle fatal crashes are trending down, with 2018 recording the lowest numbers for the period between 2014 and 2018.
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¹ Road Safety Commission Data 2017 and 2018

		<ul style="list-style-type: none"> ➤ Speed and fatigue remain the greatest contributing factors involved in heavy vehicle crashes. ➤ Approximately 50% of the time the heavy vehicle operator is considered at fault. • Practical measures are needed to compliment the education and enforcement measures. These could include: <ul style="list-style-type: none"> ➤ Reduction of speed on busy routes involving heavy vehicles; ➤ Separation of vehicles and use of technology to effect better spacing of vehicles; ➤ Doubling the audible lines in the centre of busy roads with high numbers of head-on accidents; and ➤ Widening the shoulders of roads particularly on regional roads. • It is noted that Main Roads WA is progressively implementing several of the above measures, but Commonwealth funding is necessary for these measures to be implemented within a reasonable timeframe.
5.2	<p>COAG 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>Noted.</p> <p>WA will continue to manage transport fatigue management through the Occupational Safety and Health Regulations 1996. However, there are no objections to recommendation 5.2 for other jurisdictions.</p>
5.3	<p>COAG 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>Supported.</p>

5.4	<p>The Australian Maritime Safety Authority (AMSA) should improve:</p> <ul style="list-style-type: none"> • incident reporting by owners of domestic commercial vessels • its public disclosure of safety incidents by increasing the depth and detail of reported incidents. <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>	Supported.
5.5	<p>COAG and 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>	<p>Supported.</p> <p>The phasing out of all grandfathering provisions will provide consistency for MSNL.</p>
6.1	<p>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 COAG in early 2020 on the status of this work.</p>	<p>Supported in principle.</p> <p>Support for local governments is likely to bring access improvement for heavy vehicles. WA has well-established collaborative arrangements with local governments to manage the WA network. Much of what is recommended by the Productivity Commission already exists in WA.</p>

		<p>In terms of collaboration, Main Roads WA and local government in WA already have an extensive and long-standing relationship for managing the WA road network.</p> <ul style="list-style-type: none"> • The “State Road Funds to Local Government Agreement” provides certainty and a collaborative approach in the way both levels of government meet the challenge of maintaining and improving the State and local government road networks. • Central to these arrangements are Regional Road Groups (RRG’s) which include elected representatives from local government and are supported by a technical committee and Main Roads. RRG’s seek to make investment decisions that maximize community benefits and improve the WA road network. Some of the key principles and elements in the agreement include: <ul style="list-style-type: none"> ➤ Promoting and applying the Safe System approach to road safety and safe road infrastructure. ➤ Facilitating the efficient movement of freight and people. ➤ Autonomy by local government in the allocation of road funding based on locally and regionally identified priorities, and principles agreed by Main Roads Western Australia and Western Australian Local Government Association (WALGA). This includes the establishment of Regional Road Groups that includes local membership. ➤ Sharing of revenue from vehicle registrations in proportions agreed between the State Government and WALGA (20% of the State Budget estimated motor vehicle licence fees for that year). ➤ Greater funding certainty for local government for the term of the Agreement. ➤ Continuity of the successful partnership between State Government and local government to preserve and enhance the State’s vital road network. ➤ Application of good asset management practice. ➤ Funding programs that include strategic and technical support (including support for a common road inventory system, an asset preservation model amongst other tasks). ➤ Prioritisation process to facilitate funding to upgrade and maintain significant commodity routes (grain, timber, agricultural lime, iron ore, etc).
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		<ul style="list-style-type: none"> The Commissioner of Main Roads WA is empowered under the <i>Road Traffic (Vehicles) Act 2012</i> to approve 'Restricted Access Vehicle' (RAV) access on the entire public road network. Main Roads WA Regions play a key role in consulting with Main Roads Heavy Vehicle Services and Local Governments in this process. Main Roads WA also provides information in relation to planning, maintenance construction and operation that may impact the RAV Network. <p>While there are ongoing arrangements in place between the WA Government and local government, there are a few issues highlighted by WALGA:</p> <ul style="list-style-type: none"> Local government engineering expertise is not evenly distributed across WA and many rural and remote local governments rely on consultants to provide this expertise when required, as assessment of roads for RAV and OSOM access is not a statutory requirement in WA. Local governments suggest that developers should fund engineering expertise to facilitate heavy vehicle access for development that triggers a significant freight task. RRGs are effective, although inconsistent heavy vehicle access levels remain, and would benefit from periodic reviews. Efficiency in freight may not have been limited primarily by regulation, and could be limited by first and last mile access. <p>Overall, there is a very high level of access across the local government managed road network to RAV 4 (27.5m road train).</p>
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 NHVR should provide more detailed and effective guidelines to road managers.	<p>Noted.</p> <p>WA has its own heavy vehicle classifications.</p> <ul style="list-style-type: none"> The Commissioner of Main Roads WA has the sole authority to approve RAV access on the WA road network. This is delegated to Main Roads WA Heavy Vehicle Services who manage the access application and network expansion process. Main Roads WA work with local governments in the provision of RAV access in WA.

		<ul style="list-style-type: none"> Main Roads WA makes its RAV access assessment guidelines and frameworks available via its website and has created a specific guideline for road managers to use when considering support for RAV access applications within their road networks. <p>WA intends to make its own decisions regarding access to the State's road network and retain its own road classifications.</p>
6.3	The NHVR should continue improving its data management processes, including how data are stored, integrated, analysed and reported.	Noted.
6.4	<p>COAG should direct road managers (including the state road authorities) to work with the NHVR 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"> 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) where there are classes of vehicles for which permit applications are almost universally approved, developing notices covering these vehicles 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. 	<p>Noted.</p> <ul style="list-style-type: none"> Main Roads WA operates under a state-wide network approach to the provision of RAV access to the WA road network, with the exclusion of the movement of some OSOM loads. Main Roads is currently expanding its network approach to include commonly used PBS combinations. Currently, there are more than 30 state-wide RAV networks currently available (Standard RAV combinations (Articulated / Rigid), Oversize, Low Loader, Concessional, Tri Drive etc). These networks are updated on a weekly basis. Main Roads WA looks to introduce Orders (Notices) where practicable – i.e. transition from Class 2/3 permit to order, Harvest Mass Management Scheme gazette, agricultural combinations order, agricultural machine order & five in one agricultural bins notice (order). WA actively works to identify efficiencies – particularly around cross border freight tasks. This is facilitated through various platforms e.g. RACG / cross-jurisdictional access working groups. Main Roads WA continues to provide road train assembly areas at strategic locations and at major urban centres around the State to allow for break-down of larger vehicles where the need is justified.

6.5	The NHVR, the ONRSR and AMSA 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.	Supported.
7.1	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 NHVR to take a risk-based approach to its functions.	Noted.
7.2	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.	Noted. WA is not a participating jurisdiction to the Heavy Vehicle National Law.
7.3	The Transport and Infrastructure Council should direct the NHVR to undertake the comprehensive collection and reporting of key safety risks and outcomes, similar to the ONRSR annual Rail Safety Report.	Noted. WA has its own heavy vehicle accreditation. <ul style="list-style-type: none"> The Western Australian Heavy Vehicle Accreditation (WAHVA) is a mandatory system audit scheme for operators who wish to operate RAV's within Western Australia to perform any transport task as part of a commercial business - including interstate operators. The objectives of the scheme are: <i>'To improve road safety, increase productivity of the transport industry through adoption of good management by responsible operators, improve community confidence in the operation of heavy vehicle on state roads and satisfy the Commissioner of Main Roads the person has systems in place required under the Road Traffic (Vehicles) Regulations 2014 to be accredited in the scheme so an application may be made to operate under a modified mass, dimension or access requirement.'</i> A review of WAHVA has been recommended to evaluate the effectiveness of WAHVA in improving heavy vehicle safety outcomes. This recommendation is currently being further developed.

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>COAG should consider the benefits and costs of returning regulatory responsibilities for other vessel types to State and Territory governments.</p>	<p>WA does not support this recommendation.</p> <ul style="list-style-type: none"> • Returning responsibility to the States for regulation of selected commercial vessels defeats the purpose for which a single national system with one national regulator was created. • A single national regulator was promoted to improve safety, reduce red tape, better service industry and for administrative efficiency. • The anticipated benefits of having domestic commercial vessels regulated by a single regulator included: <ul style="list-style-type: none"> ➢ reduced compliance costs for commercial vessel operators and crew; ➢ seamless transfer of labour and vessels between jurisdictions via nationally consistent laws removing the delay and cost of reassessment in each jurisdiction; ➢ increased market size and competition for boat designers and builders whose vessels are compliant with national standards in force across Australia; and ➢ a national system of regulating compliance with the law, cutting duplication between jurisdictions in the monitoring and inspection of interstate vessel operations. • If AMSA is under-equipped to regulate Class 4 vessels, the Commonwealth Government should find a way to adequately resource the authority. • WA's Department of Transport has shed staff resources to accommodate the national arrangements and no longer has the people or skills for surveying or licensing of commercial vessels. In addition, many jurisdictions no longer have the legislative authority to regulate Class 4 vessels having abolished the relevant provisions in their former Acts. • It is considered that AMSA should be given the time and opportunity to grow into its role as the regulator of all domestic commercial vessels, unless the Productivity Commission makes a clear finding that AMSA is not up to the task and finds that States and Territories are better placed to regulate all domestic commercial vessels.
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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. COAG should investigate whether a 'deemed to comply' approach would be practical for some technologies.</p>	<p>Supported.</p> <ul style="list-style-type: none"> • Australian Design Rules (ADRs) provide for national consistency in vehicle safety standards, and should be actively managed to ensure that they address contemporary road transport risks and productivity requirements. • The system for developing ADRs has been used successfully to address outdated standards, for example the current work to increase freight vehicle widths to international standards. • Inconsistency with development of international of standards could affect automated vehicles availability in Australia, if they discourage adaptation for export to the relatively small Australian market, and to date all jurisdictions have supported international and national consistency. • One challenge is that the pace of the development of regulation at the international level may not support the timely introduction of technology with road safety benefits onto Australian roads. • The main paper raises Cooperative Intelligent Transport Systems (C-ITS) and the need for consistent standards to facilitate its use. A common language for C-ITS to allow for vehicle to vehicle communication could have significant benefits for road safety outcomes. • WA supports the aim to achieve national and international consistency of laws and standards where practicable. • The investigation of a 'deemed to comply' approach is supported. It would be expected that outcomes of any investigation would be referred to jurisdictions for consideration.
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>	<p>Supported.</p> <p>The WA Transport Portfolio supports the use of accurate, current and relevant transport data to support evidence-based policy development, transport planning and decision making. It is recognised that data can improve infrastructure planning and investment and operational decision making over the life of an asset.</p> <p>The biggest barrier to the use of data for regulatory purposes is stakeholder concerns around lack of protection for private and/or commercially-sensitive information. Other barriers include differing data standards/definitions and</p>

		<p>lack of agreement on a central location to share data. Resolving privacy issues and providing clarity on how data is accessed and used by third parties will be critical.</p> <p>The WA Department of Transport has participated in the National Freight Data Hub project through the existing National Freight and Supply Chain Strategy jurisdictional working group. The data hub provides relevant, useful data that help stakeholders understand the freight task and importance of the freight task.</p> <p>The secondary purpose of the data hub is to consolidate the data from different sources to achieve consistency in unit of measurement, ensure the data is reliable and provided on time. It is anticipated that other key uses for the freight hub will include:</p> <ul style="list-style-type: none"> • Providing support for heavy vehicle policy and access decisions (Key Freight Routes / First Last Mile issues). • Information being taken into account in risk-based approaches to Heavy Vehicle Regulation (e.g. network saturation and seasonal vehicle movement trends). • Building community acceptance of freight by providing transparent and current freight movement information. • Supporting a coordinated approach between governments, road owners / managers and industry to trial new freight (road) technologies. • Contributing to the protection of current and future freight corridors and supporting coordinated planning (key freight routes) across jurisdictional boundaries (including regional / remote areas). • Supporting decision making across all levels of government and ensure 'freight awareness'. • Establishing a national approach to the collection and interpretation of freight data.
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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>	<p>Supported.</p> <ul style="list-style-type: none"> • A general safety duty is appropriate if supported by clear delineation. For example, parties may reside outside of the jurisdiction of Australian courts; e.g. a remote operator might be in another country, or a vehicle modifier might deploy software to the vehicle from another country - these types of scenarios should be considered. • The liabilities of the parties will not be static, and may vary over time as the technology advances. The degree of influence of safety outcomes between the parties is likely to be fluid and change as technology evolves, and new parties may become apparent. • WA is of the view that a general safety duty is fundamental for autonomous transport technologies, but that it should be supported by prescriptive rules where more effective and appropriate. We seek a clear definition of a 'general' safety duty, as opposed to a primary or other safety duty.
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. 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"> • providing legal assurances about the acceptable use of such data • clarifying the value proposition to individual operators of their participation in data sharing regimes. 	<p>Supported.</p> <ul style="list-style-type: none"> • Main Roads WA is currently exploring the application / adoption of telematics data as component to managing Western Australian Heavy Vehicle Accreditation / enhancing current risk-based approach to regulation and compliance • Main Roads WA is participating in the National Camera Information System & Compliance Automation project.
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>Partially supported.</p> <ul style="list-style-type: none"> • Mandatory incident reporting currently exists in WA. Main Roads WA Road Transport Compliance Intelligence Section undertakes appropriate action dependant on nature of incident (investigation / show cause etc). • There may be merit in the ATSB conducting no-blame investigations into very serious road accidents as these may result in systems approval recommendations. However, referral processes would need to be carefully managed or the agency will be inundated with work.

		<ul style="list-style-type: none"> Effectiveness, quality, timeliness and the cost of implementation will need to be considered during the trial of incident investigations for heavy vehicles by the ATSB. No-blame or no-fault approach to incident investigations is supported but presumably police investigation and coronial inquiries, which are blame-based enquiries, would also apply. If ATSB is established for heavy vehicles, WA will take a watching brief to determine the effectiveness and impact.
9.3	<p>The Australian and State and Territory Governments should:</p> <ul style="list-style-type: none"> formalise the role of the Australian Transport Safety Bureau (ATSB) to investigate all serious incidents involving domestic commercial vessels, and agree a funding model to support this role agree to a funding model to enable the ATSB to adequately carry out its established role in the investigation of rail safety incidents. 	<p>Supported.</p> <p>If the ATSB is to be responsible for investigating incidents involving domestic commercial vessels, a clear definition is required to avoid State and ATSB administrative overlap.</p>
9.4	<p>The remit of the ATSB should be extended to include any incident where autonomous technologies at or above SAE level 3 autonomy may have been involved.</p>	<p>Supported in principle.</p> <ul style="list-style-type: none"> There could be merit in an independent body such as the ATSB investigating crashes/incidents involving level 3 and above autonomous technology, particularly in the trial phase and early adoption phase of mass market deployment, with clearly defined thresholds and purpose for investigation. However, it seems unusual that this recommendation has been put forward when the National Transport Commission has been tasked by the Transport and Infrastructure Council to work with jurisdictions to identify appropriate options in the regulation of autonomous vehicles and their safety. Recommending the ATSB as an automated vehicle crash investigator is not core to the scope of this inquiry, neither is it considering the issue in the appropriate context of consistent, effective and efficient overall regulation of automated vehicles. A 'no fault' independent investigation (ATSB) and the capacity for a regulator to work with a body such as the ATSB could have some benefit. The reference to a MOU with the Civil Aviation Safety Authority outlining accountability for the regulator may be an option for AV-technology based investigations.

		<ul style="list-style-type: none"> The benefits to informed policy development through the determination of the technical causes of a crash/incident are worth exploring, given the evolving nature of the technology.
10.1	COAG 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. This should be pursued in the context of broader changes under the Heavy Vehicle Road Reform agenda.	<p>Support in principle.</p> <p>Local governments need the financial and technical capacity not only to assess and manage roads, but also to repair and build roads to cope with the axle load and volume of heavy vehicles permitted by State-administered systems such as gazettal notices.</p> <p>The draft findings and recommendations imply that timeliness in processing access permits is the key performance criteria. This is in stark contrast to the discussion concerning rail regulation, where safety and risk are the key criteria.</p>
10.2	The national regulators (particularly the NHVR and AMSA) 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>Supported.</p> <p>WA is supportive of the AMSA moving towards full cost recovery. WA does not subsidise the regulation of commercial domestic vessels. The WA Government would not accept a financial impost from AMSA for regulating commercial domestic vessels, and would not agree to making a financial contribution to AMSA to help other jurisdictions to move towards cost recovery arrangements,</p> <p>Cost recovery for rail regulation has not been a significant issue in WA as there is full cost recovery from industry of costs associated with rail regulation. The State Government provides a small subsidy towards the cost of regulation for tourist and heritage rail operators.</p>