

28 June 2019

National Transport Regulatory Reform
Productivity Commission
LB2 Collins Street East
MELBOURNE VIC 8003

(lodged online at www.pc.gov.au/transport)

To Whom It May Concern

**FREIGHT AND LOGISTICS COUNCIL OF WESTERN AUSTRALIA SUBMISSION
PRODUCTIVITY COMMISSION ISSUES PAPER ON NATIONAL TRANSPORT REGULATORY REFORM**

The Freight and Logistics Council of Western Australia Inc. (the Council) comprises senior decision-makers from both industry and Government and was established to provide independent policy advice to the State Minister for Transport on developments impacting the delivery of freight and logistics services throughout Western Australia.

Consistent with the Council's charter, this response is made on behalf of our industry members. In that regard, the Council appreciates the opportunity to input its views to this important national inquiry.

The Council commends the Productivity Commission on the release of the Issues Paper and acknowledges the improvements which have been made following the implementation of national transport reforms for heavy vehicles, rail and commercial vessels. The comments below summarise the input received through consultation with our industry members on the Issues Paper.

WESTERN AUSTRALIA AS A TRADING STATE

Any discussion on the transport reform agenda must take into account Western Australia's unique geographic and economic circumstances. Occupying a large and remote area on the western side of the continent with a sparse population over most of its landmass, the focus of freight activity here is very firmly on international rather than interstate movements.

Even in these relatively subdued world economic times, Western Australia is still responsible for more than 70 percent of the country's exports. Most of the State's key supply chains are viewed through the prism of overseas competition rather than domestic. This has resulted in levels of efficiency at world's best practice in sectors such as resources. The supply chains underpinning the Pilbara iron ore industry, for example, set the bar at levels not seen with its global competitors. So while some States and territories may face some similar challenges relating to remote and regional supply chains, it is the export focus of Western Australia and the demands of international markets that drive an ongoing push for ever-greater efficiencies. This impacts all modes of transport.

The distinctive nature of supply chain operation in Western Australia means that a one-size fits all approach to national transport regulations is not always appropriate, particularly in respect of the heavy vehicle road transport industry, which is the major mode of transport for the majority of commodities produced and consumed in Western Australia.

COAG TRANSPORT REFORMS

It is acknowledged that the implementation of the COAG national transport reforms has resulted in beneficial outcomes in regards to improved national consistency, safety, productivity and efficiency; and that there is room for further improvement, as outlined in this submission.

The harmonisation of transport regulation across the country can increase red tape and the costs of compliance, through additional administration requirements and increased costs of compliance. This creates inefficiencies and productivity losses. Harmonisation should not come at the cost of global competitiveness of Western Australia's export focussed economy. Harmonisation efforts must be cognisant of these factors to ensure that regulations are structured in a way that allows for flexibility and responsiveness in implementation in order to achieve the desired outcomes of safety, efficiency, productivity and lower compliance costs.

The transport reforms could benefit from a more consistent regulatory approach across regulators. The current models and regulatory frameworks differ significantly, for example, the regulations for rail safety and heavy vehicles is more prescriptive, whereas the maritime safety laws are seen to be more minimal in approach. These differences in approach makes the task of complying with each regulator more complex for organisations who must work with two or more of the regulators.

Another key area of focus that all regulators must respond to is the role of technology. Technology in the freight and logistics sector is evolving at a rapid pace and we will continue to see changes to traditional business practices as supply chains become more connected, automated and digitised. In the road transport sector, research out of the United States refers to an "intelligent revolution" in trucking with new technologies driving as much as 50-70 per cent reduction in operating costs within the next 10 years (Morgan Stanley Research, Freight Transportation, February 2017).

Low cost supply transport and logistics supply chains achieved through automation and technology will allow exporters to profitably reach key markets and will help local industry remain cost-competitive in the face of cheap imports. Regulatory bodies need to be agile and responsive to emerging technological trends to ensure that innovation and the adoption of new technology is encouraged and is not impeded by prescriptive legislative frameworks. There is also a role for the regulators to provide commercial incentives to encourage the adoption of new technology, particularly in regards to cleaner and safer heavy vehicles. The regulators must work closely with industry in this regard.

Increasingly analogue information is becoming digital. In many cases, every aspect of the transport task is now captured digitally. This results in data which is extremely valuable for: understanding supply chains; informing the planning of future freight networks; driving investment decisions; more efficient regulation (i.e. risk-based compliance approaches with incentives provided to transport operators who utilise telematics); and for providing improved services and information to the transport sector. The Council would like to see all regulators working closely with the freight industry to improve the way in which data is captured, shared and utilised.

NATIONAL HEAVY VEHICLE REGULATOR (NHVR)

Roads are a vital enabler for Western Australia's way of life, connecting the population to industry, agriculture and employment across vast distances. Large geographic area, low population density, huge commodity demand and major seasonality in freight movements all impact the Western Australian road network. The other factor of note is the strong export focus of the State, which sees interstate road freight movements in single digits as a proportion of the overall road freight task.

Because of these circumstances, Western Australia has developed a heavy vehicle access regime, which allows larger vehicles than are found elsewhere in the country. Use of these high productivity vehicles adds significantly to the efficiency of the supply chains whose product they carry. It is for this reason that

the Western Australia Government and road transport industry has and continues to support a stand-alone Western Australian approach to heavy vehicle policy and regulation.

For Western Australia to consider signing up to the Heavy Vehicle Intergovernmental Agreement, significant economic benefits need to be demonstrated, along with an understanding and recognition of Western Australian road transport issues and focus on export markets.

While Western Australia is not a party to the Heavy Vehicle Intergovernmental Agreement and has not adopted the *Heavy Vehicle National Law Act 2012* (HVNL), the Council's industry members, based on their knowledge of and experiences with the NHVR, provide the comments below.

Heavy Vehicle National Law

The Council acknowledges and is supportive of the current review of the HVNL by the National Transport Commission (NTC). Feedback from industry members is that the current legislation is complex and prescriptive and the Council is hopeful that the review will address any shortfalls within the current legislation, improving the ability of the NHVR to achieve its initial objectives and outcomes, particularly regarding reduced regulatory burden and compliance costs.

For optimal achievement of these outcomes, the Council suggests that the legislation should allow for a risk-based approach to regulating the heavy vehicle industry, through allocating resources to the highest risk areas and decision-making relative to levels of risk. As mentioned above, the legislation must facilitate and encourage innovation and provide a framework for regulatory responses to new technology opportunities.

The timing of the NTC review and this inquiry is particularly important, with a number of the issues raised in the Issues Paper being relevant to the HVNL review process. We anticipate that the Productivity Commission and the NTC will work together on issues raised through this process, which are relevant to the HVNL.

Heavy Vehicle Access and Asset Management

There are opportunities to improve the link between heavy vehicle access and asset management. The introduction of a network approach to heavy vehicle access and greater use of notices is encouraged where possible, to provide for greater certainty of access and to streamline administrative processes. This is particularly important when considering "last mile" access on local government roads. We have also witnessed the encroachment of inappropriate land uses on strategic freight corridors and it is important that heavy vehicle networks are future proofed to ensure that heavy vehicle access continues to be sustainable and efficient as the freight task grows.

Where notices are implemented, review mechanisms should be considered to assess the number of truck movements and any associated impact from an asset management perspective. This will assist in strengthening the link between heavy vehicle access and road maintenance. Greater adoption of telematics and the aggregation and sharing of telematics data through a secure, trusted party, would be beneficial in this regard.

Oversize Overmass (OSOM)

When it comes to the movement of OSOM loads, the mining and construction sectors have been impacted negatively due to limitations of the NHVR OSOM permit application process. Delays in permit approvals for OSOM movements have resulted in significant cost impacts as outlined in the Department of Infrastructure, Regional Development and Cities' report on the Review of Oversize Overmass (OSOM) Access Arrangements. The Council would like to see funding allocated as a priority to address the recommendations outlined in the report. There may also be opportunities to introduce notices for some of the OSOM networks, to remove the cost of permit delays.

Road Funding and Pricing

Traditional funding models for infrastructure investment are becoming dated because of budgetary pressures experienced by all levels of Government and there is growing recognition of the need for reform in this space.

With the increasing freight task, roads networks for heavy vehicle freight movements are extensive and their condition is extremely variable, especially where small local governments face major maintenance outlays. In Western Australia, the situation impacts detrimentally on agricultural supply chains in particular. Appropriate funding is required to maintain these strategic freight routes and the supply chains they support. Budgetary shortfalls in local government areas for road maintenance result in requests for higher productivity access to be declined, impacting on the ability to achieve improved productivity and efficiency outcomes.

Road pricing is an area of micro-economic reform long under consideration by Governments. The complexity of the issue and its delivery in practice sees continuing consideration among policy makers without an apparent end in sight. The Council suggests that this reform should be pursued in a timely manner, to ensure we build an efficient and sustainable road freight network, which addresses issues related to last mile access, improved productivity and reduced compliance costs. Productivity contributions from industry should also be considered as a means of bringing forward infrastructure investment that provides productivity gains.

Chain of Responsibility

The Council notes the importance of chain of responsibility legislation, however little evidence has been seen in regards to the effectiveness of the legislation in prosecuting parties in the supply chain. The focus remains on the driver and transport operator and until such time as the initiators of the freight task are held accountable for their purchasing decisions for transport nothing will change.

There are questions as to whether the powers under the legislation are broad enough to consider aspects such as the contracts between cargo owners and transport companies and whether it is achieving the outcomes as intended. There is an opportunity to reassess the powers under the legislation and current investigative practices to ensure safety outcomes are being met and to improve communication with industry on the details of successful prosecutions.

Performance Based Standards

Advancements in technology are seeing the availability of ever-more efficient heavy vehicles delivering improved productivity, safety and environmental outcomes. To facilitate the use of these trucks across supply chains, consideration should be given to improving the Performance Based Standards (PBS) approach, to reduce complexity and improve the timeliness of PBS approvals in order to encourage transport operators to adopt the greater use of PBS vehicles.

In addition to streamlining the process, nationally there is an opportunity to better inform and educate local governments on the PBS approach, to ensure that the PBS approach and the benefits it provides from an efficiency and road maintenance perspective is clearly understood.

Skills and Training

There is a recognised issue across the road transport industry in regards to the absence of training requirements and competency development to become a truck driver, which in turn impacts on the professionalism of the industry. This can result in sub-optimal safety outcomes, with drivers on the road with little or no experience. The Council suggests that there is an opportunity for the NHVR to take a proactive

leadership role in working with State Governments, the industry and training organisations to develop minimum requirements for training and ongoing skills development.

Heavy Vehicle Safety

The Council acknowledges that safety outcomes are difficult to measure and are influenced by a number of factors.

Accidents involving heavy vehicles are treated in isolation as a road accident, with the investigative process conducted by Police and a focus on apportioning blame or liability. For improved safety outcomes, the Council suggests that there is also a role for an independent, no blame investigative process, focused on improving workplace safety. This could be a role for the Australian Transport Safety Bureau (ATSB) or another independent investigative body. This process should also take into consideration the mental health and wellbeing of drivers, which is an increasingly important issue across the industry.

Any safety investigation process should also provide timely feedback to transport operators for their consideration and review of business practices/operations, and recommendations to the regulator on ways to improve regulations to ensure safe operating practices. A central, anonymous database for transport operators to access data on investigation findings and recommendations would also improve safety outcomes through the identification of trends and shared learnings.

In addition, consideration should be given to incentivising or requiring the installation of in cab driver support systems, to provide a safer working environment for drivers and safer outcomes for all road users.

OFFICE OF THE NATIONAL RAIL SAFETY REGULATOR (ONRSR)

An effective, co-ordinated and safe freight rail transport network is essential for the long-term development of Western Australia. The State's rail network will play an increasingly important role in moving freight across Western Australia in the future, a task which is estimated to increase by about 50 million net tonnes per annum to more than 126 million net tonnes per annum by 2030. Freight rail lines connect with our 24/7 operating ports to assist the smooth, efficient transition of freight from port to rail to distribution points around the State and across Australia.

The establishment of the ONRSR has been beneficial in introducing one national conversation on rail safety, as opposed to dealing with each State individually. There are however, a number of State based derogations from the *Rail Safety National Law 2012* (RSNL), which reduce the benefits of national consistency somewhat. In addition, it is felt that the ONRSR's focus is too narrow, and in addition to safety the regulator's remit should be broadened to include productivity (as noted in the Report on the Inquiry into National Freight and Supply Chain Priorities).

Independence

The Productivity Commission Inquiry provides an opportunity to review the role of the ONRSR, its objectives and level of independence. This includes a review and further clarification on the roles of the ONRSR, the Rail Industry Safety and Standards Board (RISSB) and the Australian Transport Safety Bureau (ATSB) to ensure the independence of each body and to minimise crossover in responsibilities. ONRSR's remit should focus on regulation to improve rail safety outcomes, whereas education on rail safety and the collection of information should be the remit of RISSB. There is also an opportunity for the ATSB to be more active in the Western Australian rail sector.

Co-regulatory Approach

The co-regulatory approach of ONRSR is supported, as it facilitates nationwide learning and provides for flexibility when engaging with and providing feedback to the regulator. There are further areas for improvement with the co-regulatory approach to ensure it works as intended, particularly when it comes

to understanding and recognising the rail operator's local context in order to most effectively manage risk. There is an opportunity for ONSR to achieve further benefits in regards to safety and productivity through more proactive engagement and action with the rail industry, particularly when it comes to reviewing the effectiveness of regulations and ONSR activity to identify where regulatory action should be focused.

Rail Safety National Law

The RSNL should be less prescriptive to provide for improved rail safety outcomes, while also reducing unnecessary compliance costs. One example cited relates to freight rail lines in Western Australia, which are not currently in use and have not been in use for many years. Under the current legislation, the level crossings on these lines require a rail interface agreement even if the rail line is not in use. This imposes costs on both parties, which could be avoided if the agreements are required only when the line is in use, or is planned to be reinstated.

Consistency in Regulatory Approaches

Consistency in regulation across the rail and heavy vehicle regulators will further improve the competitive neutrality across both modes of transport. For example, the way in which fatigue is managed differs across regulators and there is an opportunity for ONSR to move to a more risk based approach to managing fatigue, such as that prescribed under the HVNL. This approach does not just prescribe hours of work, but also looks at other risk factors such as the nature of the work undertaken and other contextual factors. It is believed that industry standards for the management of fatigue are currently more stringent than those of the ONSR.

AUSTRALIAN MARITIME SAFETY AUTHORITY (AMSA)

The Council has no comment at this stage of the inquiry on the role and effectiveness of AMSA.

The Council appreciates the opportunity to present these views and is available for further related discussion as appropriate.

Yours sincerely,



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Chair
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