



ASSOCIATION OF TOURIST & HERITAGE RAIL AUSTRALIA

ABN 19 755 744 868

Submission: Draft Regulatory Impact Statement for Single National Rail Safety Regulatory and Investigation Framework

General comment:

From an overall perspective, many of the heritage rail operators that form the Association of Tourist and Heritage Rail Australia (ATHRA) would see little benefit to their rail operations from having a single regulator, as virtually all are state based. However a Single Regulator, if properly set up, could assist to improve the sustainability of the sector and have positive benefits provided that the legislative framework promotes sustainability and mitigates the scalability issues we face. The risks and benefits as we perceive them are developed below. In relation to a single investigator, ATHRA would take the view that if there is a single regulator, then it would be appropriate having an independent single investigator.

Comments re the RIS itself:

Page 7: 3.1.1 – History: The history section overlooks the development of the Tourist and Heritage (T&H) Sector in Australia, formed prior to the re-structuring of the state railways in the 1990's. The sector grew from mirroring similar movements around the world following the end of the Second World War. This was influenced by the demise of steam locomotives, short branch lines, the closure of urban street tramway systems and narrow gauge industrial or timber railways. In Australia, the heritage rail sector is largely volunteer managed, not-for-profit bodies, though there are some commercial heritage operators. The sector ranges from organisations that operate daily down to micro community groups running about once a month, from groups that operate heritage rail equipment to those that operate trolleys, road-rail vehicles and other unusual types. Those who do not operate on the mainline or the interconnected network, remain vertically integrated.

Page 12: 3.1.7 – Rail operators: ATHRA notes that the T&H forms about 50% of the accredited operators in Australia. The poor recognition of the sector's existence in 2003 has resulted in many of our operators holding the view that they have been unduly impacted upon. The sustainability of the mainly volunteer managed sector, often with limited skilled resources available to it has been affected by the almost constant change in the regulatory environment over the last 12 years of so. ATHRA acknowledges that the NTC has now recognised the sector and that it can have severe repercussions on small volunteer community based entities.

One of the outcomes of the slow recognition of the sector has been the “one size fits all” approach that seems to have been adopted from the outset. This has resulted in scalability problems for many of the rail heritage groups and regulatory staff. Comparing small low speed heritage railways to main line freight operators or urban transport systems has often resulted in poor or inappropriate decisions being made or excessive requirements being put in place.

Page 15: 4.1.3 – Regulatory intervention: The level of intervention varies between the various jurisdictions. The sector is experiencing similar problems to that of the commercial operators. Excessive intervention and the almost constant change can lead to diverting limited resources from investment in the business or for example, preparing funding submissions for grants.

Page 16: 4.1.5 – Regulatory resourcing: It would be appropriate to note that virtually all the sector operators throughout the Australia do not pay accreditation fees. They are seen as a community service obligation by state governments.

Page 17: Regulators’ expertise: The sector has seen over the last few years, the loss of people, mainly due to retirement, who knew and understood the operation of volunteer railways, the heritage equipment they operate and its particular associated risks. They have been replaced by people generally outside the rail environment, often with little understanding of heritage equipment and the way a community based volunteer managed organisation functions.

Page 19: 4.1.9 – Rail Safety data collection and analysis: Currently data associated with the sector is not available Australia wide. Collective Australian based data would be useful for the sector to know what problems are occurring within the sector. The current ATSB data is limited in scope.

Page 22: 4.2.2 – Modal competition and comparisons: This section notes the cost to industry of regulation and its affect on modal selection. In the case of our sector, the various organizations are not competing with other rail heritage operators, but with other heritage or tourism operators outside the sector who are not required to undertake such compulsory accreditation in order to operate.

Page 23: 4.2.4 – Jurisdictional costs: There are a number of associated members of ATHRA who operate trains on the mainline or network on an interstate basis that see similar problems to that described in this part.

Page 25: 4.3 – Concluding comments and analysis: ATHRA would strongly agree with the thrust of the last dot point: on not pursuing potential productivity gains or investments.

Page 27: 5.1.1 – State based regulation: The last paragraph of this section notes that recreational boating would remain a State responsibility in the event of a single national maritime system. ATHRA would not agree with a concept that a State regulator continue to regulate heritage railways separately to that of a National regulator. Given the size of the sector, ATHRA would see this as very inefficient solution.

Page 27: 5.1.2 – National safety regulation in Australia: ATHRA notes the requirement of CASA “to provide comprehensive safety education and training programs”.

Pages 29 and 30: 5.1.3 – International examples: ATHRA is aware of the various regulatory systems that our overseas counterparts operate under and the problems that they face. These are often very similar to Australian issues or problems, for example: Driver Licensing, Certification of Workshops and Interoperability dictates that have arisen in the European Union.

Page 109: – 14.3 Transition: ATHRA is of the view that industry representatives should also be part of any transition team. Any revised regulatory model may have major impacts upon the sector if is not properly considered. There are many issues that require to be resolved to ensure current obstacles can be overcome.

Pages 133 to 137: Appendix 5 – Assessment of options against the problems: Data collection and analysis – ATHRA would agree with the assessment; there is no breakdown for heritage, urban or specialist operators.

Modal competition - ATHRA notes that we are not in competition with other modes of transport, but with other heritage or tourism operators.

Other sector issues

Change

Commercial industry can accommodate change through increasing resources. The T&H sector has limited skilled resources available to it. Change on change results in more impacts on volunteer time available to spend on developing the business and their diversion of resources for little further gain other to meet a different regulatory environment.

For example, by the time a new Single Regulator eventuates, the Vic T&H organisations will be accredited. There would be a lot of angst if they had to revise their documentation immediately, or within a couple of years to satisfy any new Act, just because it changed.

Transition

Any transition to any new system, substantially different to the model Bill / Vic will be a problem, if there are new requirements to be met once again and in particular if there are sunset clauses. For example; the Victorian mainline heritage groups, providers of rollingstock to other rail operators are seen as private siding operators and are currently exempt. They could be required to be accredited under the Model Bill.

Local offices

ATHRA would support local offices in each capital city. The loss of local knowledge is seen as a possible risk and relationships that have been built up. The location of the “head office” will be a major consideration for any transition team.

Possible risks to the sector

- Fees are imposed
- No regard for the sector and the differences between the micro operators and larger daily operators.
- Excessive intervention
- Loss of knowledge
- Poor awareness of volunteers and their capacities
- Lack of sensitivity
- Attempts to apply modern standards and practices to heritage equipment where there is little or no safety benefit.

Possible benefits to the sector

- Improved safety education and training programmes prepared for the sector
- Harmonisation and centralisation of training and assessment in a voluntary setting, difficult to do in a multiple regulatory environment
- Ability to have specialists – e.g. boiler and steam locomotive operation
- Australia wide data reporting that can be focused on heritage and itself be useful in many ways to the sector.
- Compilation of knowledge data bases for the sector
- Improved sustainability given a suitable and sensitive heritage framework.

Comments regarding a Single Regulator

The following comments are made on the basis that a Single Regulator eventuates.

A legislative framework for heritage


ATHRA is of the view that a legislative framework that fosters the sector, enables sustainability, provides support to sector as a whole and recognises the different skill sets of volunteers is needed. The framework needs to be tailored to recognise that volunteers provide a community involvement or participation area which is good for the well being of society as a whole. For example, encourage those who have retired from the workforce or wish to be involved in a community activity. Where Government is involved in building sustainable communities, it has recognised the importance of the voluntary movements and has funded these. For example the popular and well funded Men's Shed movement.

Scalability

To overcome scalability issues, we would be proposing that the regulator be able to make provision for alternative regulations that could apply within the sector. The recognition of the principle "Likeness not Sameness" applies to those railways that operate independently of the networks or mainlines. That is, inter-operability is not required.

Fees

ATHRA strongly recommends that the currently accepted principle of support for the sector through a community service obligation continues. For example say 80% of the regulators cost is met by commercial industry and the balance (20% for the heritage sector) are met by Government.


Chairman