



My ref: MRWA 14/1959

Mr P Retter  
Chief Executive Officer  
National Transport Commission  
Level 15/628 Bourke Street  
MELBOURNE VIC 3000

Dear Mr Retter

## **NATIONAL HEAVY VEHICLE ROADWORTHINESS REGULATORY IMPACT STATEMENT (RIS)**

Thank you for providing the opportunity for WA to provide comments on the *Heavy Vehicle Roadworthiness Program – Consultation Regulatory Impact Statement (RIS)*. The comments provided have been developed in consultation with Main Roads Western Australia, the Department of Transport, Western Australian Police and the Department of Mines and Petroleum.

### General Comments

The RIS has been well developed and researched, providing a solid case for improvements in roadworthiness systems and standardisation across the country. While WA supports a number of initiatives proposed by the RIS, some of the presented options are not supported in their entirety.

WA is not a signatory to the IGA for the establishment of the National Heavy Vehicle Regulator (NHVR) and has not adopted the Heavy Vehicle National Law (HVNL). As such, WA will not be bound by any changes to the NHVL or the operational changes within the NHVR. However, WA will continue to work with the NTC and NHVR to harmonise national policies and processes where possible, particularly where there are cross-border issues for the transport industry.

The choice of measures to raise the standard of roadworthiness must reflect the resources available to jurisdictions. An overly ambitious scheme, which cannot be administered properly due to a lack of resources, would not be supported.

WA does not support mandatory annual inspections for all heavy vehicles due to the high costs to industry and Government and the lack of evidence that links annual inspections to improved safety outcomes.

It may be helpful to collect data on the rate of infringements at a national level, in order to see if there are any correlations with other factors - such as type of operation, metropolitan or regional, combination type, etc. This information would assist enforcement agencies in focussing their resources into the areas where there is greatest benefit to be gained.

In WA, the heavy tow truck industry has estimated that the frequency of heavy vehicle recoveries is of the order of 100-200 recoveries per week. This reflects a substantial cost of ineffective maintenance systems, in terms of spoiled goods, recovery costs, contractual obligations not met, etc.

### Problem Statement

WA agrees with the 'problem statement' presented by the RIS. The goal of the reform should be inclusive of addressing systemic issues within businesses that result in non-compliance with roadworthiness.

It is agreed that the definition of 'unroadworthiness' differs across jurisdictions, whether stated explicitly in law or implicitly through interpretation. Regulatory and administrative processes across jurisdictions also result in unbalanced enforcement of 'unroadworthiness'.

It should be noted that this is exacerbated by the subjective opinions and analysis conducted by enforcement officers. Many aspects of law and regulations require an officer's discretion, leading to the perception of a lack of consistent enforcement across jurisdictions.

#### Option 1

WA recognises that there is benefit in adopting regulatory and non-regulatory changes to roadworthiness arrangements. It should be noted that operational variations in roadworthiness compliance and enforcement will still be required for reasons related to legislation, policies and practices within jurisdictions.

#### Option 2

WA supports the adoption of Option 2, subject to the NTC addressing some specific concerns regarding the implementation of the proposed measures.

##### *National compliance and surveillance Strategy:*

- WA is supportive of the high level proposal but requires further details. Due to the number of agencies involved in roadworthiness compliance in the state, a high level of consultation will be required if the intended outcomes are to be achieved.

##### *Greater standardisation in how inspections are to be conducted:*

- The proposal is supported. Jurisdictional differences in resourcing should be accounted for, as well as the availability of equipment and services in remote and regional areas.

##### *Harmonised education and training package:*

- WA supports the proposal.

##### *Operational NHVAS improvements:*

- The changes are noted.
- In the past, the NHVAS Scheme Owners Group provided an ideal forum for WA to improve the alignment of the NHVAS to the WAHVS. WA will continue to work with the NHVR to align the schemes where possible

#### Option 3

WA does not support the full adoption of Option 3, but will continue to work with the NTC and NHVR during the implementation of proposed options to align practices, where a benefit to the state has been demonstrated. As WA is not a party to the NHVL or NHVR, a number of the specific proposals have been noted without comment.

##### *Chain of responsibility duty on business practices to extend to operators, employer or prime contractors in the vehicle standards chapter of the HVNL:*

- WA has recently passed chain of responsibility legislation through various road traffic regulations; gazetted in December 2014. The regulations will be implemented on 27 April 2015.

- It is WA's view that it is appropriate to consider extending the chain of responsibility duties in the HVNL to cover business practices related to vehicle standards.
- While WA is not a party to the HVNL, it is critical that WA be involved in any future development to chain of responsibility. WA will consider alignment to the national legislation where a clear benefit can be demonstrated for the state.

*Enabling NHVR to require more frequent inspections of higher risk vehicles and vehicle categories:*

- WA already conducts mandatory annual inspections on a number of vehicle classes, including some high risk heavy vehicle classes. These include:
  - Omnibuses
  - School buses
  - Any vehicle with seating for 13 or more licensed more than 40 months
  - Hire vehicles seating 8 or more licensed more than 40 months
  - Heavy vehicles garaged in WA operating under the Federal Interstate Registration Scheme (FIRS)
  - Mobile cranes (not regulated)
- In WA, only dedicated dangerous goods tanker trailers require a dangerous goods licence, but licences are also issued on a voluntary basis to general freight vehicles if the transport company requires them for interstate travel.
- There is provision for the Minister for Transport to require vehicles (or certain classes of vehicles) to be subject to inspections, under Section 19 of the Road Traffic (Vehicles) Act 2012 by order published in the Gazette.
- The proposed option would result in significant costs for WA for all sub-options. There are concerns regarding the cost benefit analysis, specifically as the calculated road crash costs attributable to heavy vehicle roadworthiness are based on a significant number of assumptions and limited data sets.
- Agree with the advice provided by Frontier Economics, that “in order to accurately estimate benefits, it must be established whether and ideally to what extent:
  - An increase in the number of scheduled inspections reduces the risks of defects and hence crashes;
  - Inspections reduce the crash risk to a greater or lesser extent than accreditation; and
  - Scheduled inspections reduce the crash risk to a greater extent than random / targeted inspections.”
- In particular, WA is concerned by the problem raised on page 52 of the Frontier Economics report:
  - “It is not possible to differentiate between the benefits delivered by an accreditation versus inspection regime in terms of the attributable impact they have on safety risks relative to the baseline.”
- Given the level of uncertainty of the estimated benefits, an overall expansion in numbers of WA's current annual inspection regime is not favoured.

#### Option 4

The proposals listed in Option 4 are not supported. In general, Option 4 imposes a major regulatory burden on Government and industry resulting in large cost increases for solutions that may not effectively achieve policy outcomes.

## Conclusion

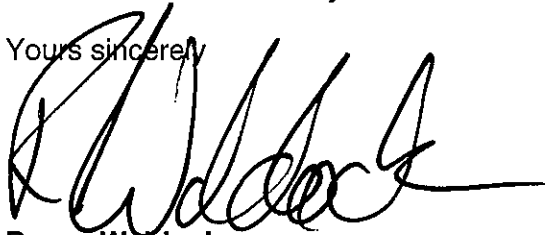
The work completed by the NTC and NHVR will provide the direction required for jurisdictions to move towards a more harmonised national approach to heavy vehicle roadworthiness. The preference for WA is to adopt Option 2, an incremental approach to improving systems, with a high degree of consultation, and to recognise that a "one size fits all" approach to roadworthiness is unlikely to work for jurisdictions or industry.

The approach taken by the NTC in developing a series of options for consideration should be commended. It is recognised that a lack of quality data has hindered the ability to properly estimate the benefits of reform, and that further work on improving roadworthiness data will be needed to support future reform proposals.

Further specific comments have been provided in the attached appendix outlining additional feedback received by WA on the proposed reform.

The Western Australian Government is committed to improving road safety outcomes and is grateful for the opportunity to contribute to the Heavy Vehicle Roadworthiness Program. It is anticipated that the final proposal will provide a way forward towards a robust national heavy vehicle roadworthiness system.

Yours sincerely



Reece Waldock  
Director General

19/3/2015

## **APPENDIX: ADDITIONAL WA COMMENTS ON PROPOSED OPTIONS**

Additional comments to issues raised in the RIS:

### Option 2:

- A more measured approach to change is preferred, adopting Option 2 in the first instance. This would allow for non-regulatory measures to be taken and then further assessment conducted to determine the effectiveness of such measures. If it subsequently identified expected benefits are not realised, then further evidence would exist to support stronger regulatory changes.
- Taking a more measured approach to regulation would ensure that significant costs are not immediately imposed on Government's and industry with only limited evidence to suggest realisable benefits.

### *National education and training package:*

- It should be noted that WA would be required to coordinate the education and training package in the state, as the NHVR is not operating in WA.

### *Greater standardisation in how inspections are to be conducted:*

- Effectively, all vehicle inspections are conducted to ensure compliance with model law and Australian Design Rules. There are a few variances where a jurisdiction has altered the model law, but these are not significant. It is only operational and administrative practices preventing harmonisation, not legal or policy.

### Option 3:

#### *Extension of CoR to Unroadworthy Vehicles:*

- WA notes that a change to include roadworthiness in CoR should include an awareness and education campaign.
- Systematic roadworthiness issues within a fleet signify a lack of business practices and appropriate controls. Defects and infringements may only be a symptom of systemic issues that result in an operator's failure to comply with vehicle standards. Such systemic issues may include:
  - Cost cutting;
  - Lack of education;
  - Capability, as outlined on page 17 of the RIS;
  - A business decision based on risk/profit; and
  - Poor operational practices.

#### *NHVIM Formally Referenced under HVNL:*

- The effectiveness of the measure is questioned as, although roadworthiness would be referenced under the HVNL, the wording suggests parties only need to have "regard" for the NHVIM. This does not create a legal requirement and could therefore be dealt with through operational policy instead of legislation.

#### *Enabling the NHVR to Require More Frequent Inspections of Higher Risk Vehicles and Categories:*

- While this requirement is similar in nature to compulsory accreditation, it is noted that it allows less flexibility for both jurisdictions and operators.
- The certain “events” listed is not supported as being a trigger for an inspection on page 34.
- Requiring an inspection when a heavy vehicle is transferred from one accredited operator to another would be redundant. This ‘trigger’ would result in an unnecessary administrative burden on industry.
- WAHVA already requires vehicle entering the scheme to be inspected by a qualified mechanic or a competent person with at least five years’ experience.
- Upon renewal of WAHVA, operators are required to submit certificates of roadworthiness no older than six months. There is no need for WA to inspect these vehicles.

#### Option 4

- The approach taken under Option 4 is not supported. Unlike Option 3, which focuses on business practices, Option 4 seems to focus on incidents. WA would prefer to focus resources on improvements to systemic issues, rather than addressing symptoms.

#### *Compulsory Annual Vehicle Inspections:*

- There is no evidence to link annual inspections to improved road safety outcomes. This was clearly identified in the NHVR RIS and supporting Independent Expert Panel Report.
- The cost to the state, and the logistics required, to perform these inspections are not considered justified given the relatively small percentage of vehicles targeted as non-compliant in this area.