

A close-up, low-angle shot of a teal semi-truck. The truck features a prominent orange diagonal stripe on its side. The word 'TOLL' is printed in white on the side of the cab. A vertical chrome grille on the side of the engine compartment has 'WESTERN STAR' written vertically. A large chrome air filter is mounted on the front of the engine. The truck is parked on an asphalt surface under a clear blue sky.

TOLL

Toll Group

**Submission on the NTC's Roadworthiness
Regulation Impact Statement**

March 2015

1. Toll Group

Toll Group is the Asian region's leading provider of integrated logistics services. With annualised revenue in excess of \$8 billion, we employ around 45,000 people through a network of 1,200 sites in more than 50 countries. Toll Group's substantial international presence makes it one of the most geographically diverse Australian multinationals. In Australia, Toll Group directly employs around 25,000 people.

Toll Group is an iconic Australian company with a 125 year history of providing transport, logistics and warehousing services. We are Australia's largest mover of freight. Our nearly 3,000 heavy vehicles travel around 300 million kilometres across the country to deliver 54 million consignments each year. Our fleet includes pick-up and delivery vehicles, linehaul vehicles and custom-built performance based standards (PBS) vehicles. The movement of freight is supported by a sophisticated network of consolidation and distribution centres, warehouses, intermodal facilities and dedicated driver residencies and change-over areas.

The company has an extensive commitment to a safe, secure and sustainable road freight industry and welcomes the opportunity to make a submission to the National Transport Commission on the Roadworthiness Regulation Impact Statement 2015.

2. Executive Summary

Toll has considered each of the four options proposed in the Regulation Impact Statement (RIS). While options 2 and 3E have some merit, the narrow focus on vehicle components to the exclusion of other policy options may represent a missed opportunity. Toll would welcome a broader exploration of how heavy vehicle safety might be promoted, including through:

- operator licensing
- vehicle/trailer system integration
- new technologies and vehicle designs
- driver behaviours, competencies and attitudes
- better understanding of how business models and financing systems influence vehicle maintenance, and
- the use of concessions and rewards to promote compliance.

Toll Group has found it difficult to evaluate the options because the RIS is not explicit about whether the inspection options proposed will replace, or be in addition to, current state-based inspection regimes which are tied to registration. Toll Group rejects an inspection system that is overlayed on the existing state-based systems. Instead, it supports a nationally consistent approach to heavy vehicle roadworthiness that is based on empirical evidence.

Of the options proposed, Toll Group believes that option 3E (i.e. requiring roadworthiness inspections for vehicles with 'demonstrated risk') is the most supportable. However, the question of where the data that demonstrates risk will be sourced from is unanswered in the RIS.

3. Response to the Roadworthiness Regulation Impact Statement

Toll Group has considered the options to improve roadworthiness proposed by the Regulation Impact Statement (RIS) and offers the following commentary on each option.

Option 1 – option 1 is the status quo. Under this option states will continue to set the inspection regime related to registration (for example, annual inspection in NSW and Queensland; inspection on transfer of registration in Victoria). The NHVR will continue to ‘purchase’ compliance and enforcement services from the state transport authorities resulting in on-road inspections as currently occurs. The [National Heavy Vehicle Inspection Manual](#) (NHVIM) produced by the Regulator will remain a guideline without statutory recognition. The issuance of defect notices and the defect clearance process will continue as per current operation. The NHVAS will remain under its current guise, albeit the changes to business rules regarding auditors will proceed. The NTC will not propose the introduction of CoR duties for roadworthiness/vehicle standards; although this may well eventuate as a result of the (separate) review of CoR duties.

The status quo has the advantage of being a known-quantity and minimally disruptive for industry. The disadvantages include:

- Continued inconsistencies in enforcement between states and between the different enforcement agencies within states
- Continued imprecision around what constitutes a ‘defect’ or a divergence from standards, particularly with regards to brakes, speed limiters and ECMs
- Continued compulsory inspection regimes in some states which Toll considers has negligible safety value and where the resources could be better deployed to drive compliance.

Option 2 - option 2 is an educative package with no legislative amendments. It is intended to promote greater certainty and consistency through information and advice for enforcement bodies and industry. Toll understands its features to include:

- A compliance and surveillance strategy that would enable a more targeted approach to roadworthiness enforcement by sourcing and sharing information about operators and vehicles in a central database
- A standardised inspection procedure, including which level of inspection is appropriate in a given circumstance (e.g. on road or at a purpose-built facility), what equipment is to be used and how defects are to be categorised
- A standardised defect clearance procedure
- An education package for both enforcement and industry

Option 2 will have some benefit because of the greater clarity and direction around currently ambiguous procedures and standards. It will promote improvement in operators inclined to compliance and continuous improvement, but is unlikely to force much change in others. The wilfully and systemically non-compliant will continue to have a competitive advantage over operators that invest in safety and compliance regimes. State-based differences in annual inspection regimes will continue. Without statutory recognition, it is also likely that any guidelines produced will continue to be interpreted and administered differently by enforcement agencies.

Option 3 – This option includes option 2 as well as a package of legislative reforms including:

- A CoR provision requiring parties to take reasonable steps to ensure that business practices will not result in unsafe/unroadworthy vehicles being on the road
- Criteria for roadworthiness, including for major and minor defects and the issuance of formal warnings. These criteria would have statutory recognition.
- Standardised inspection types, procedures and processes, all set out in the NHVIM or similar guideline. All such guidelines will be recognised in regulations.
- An inspection regime developed and run by the NHVR according to ministerially-approved criteria
- Enforceable undertakings in the HVNL
- A pre-requisite of maintenance management accreditation for mass management accreditation under the NHVAS.

Option 3 has more 'teeth' than option 2 because it is backed up by legislation. Maintenance management as a pre-requisite for mass management is rational from a policy perspective: mass concessions should only be available to high performing operators and vehicle maintenance is an essential component of high performance. Toll Group has already signalled its support for CoR provisions around roadworthiness. Toll Group has not, to date, supported enforceable undertakings, but this is on the basis that similar provisions already exist in the HVNL (e.g. improvement notices); they are simply not widely used.

Option 3 canvasses moving away from compulsory inspections of all heavy vehicles at set time-frames in favour of a 'risk-based' approach. This involves targeting inspection resources towards operators and/or vehicle types and loads recognised as presenting a roadworthiness risk. The RIS proposes that the risk-based approach could work as follows:

- Options 3A and 3B - Target vehicles based on age (vehicles more than 20 years old or vehicles more than 15 years old are the proposed cohorts)
- Option 3C - Require default annual inspections for all, with higher risk vehicles required to present more frequently (say at 6 monthly intervals) and lower risk vehicles required to present less frequently
- Option 3D - Require compulsory annual inspections for dangerous goods vehicles only
- Option 3E - Require inspections only for vehicles with 'demonstrated risk'

Assessing which of these options is preferable is complicated by the lack of clarity in the RIS on how these options would work in relation to the existing system. Many of the inspections that occur in the current regime are tied to initial registration, renewal of registration or change of ownership resulting in a transfer of registration. Registration remains a state-based function because chapter 2 of the HVNL has not been promulgated. Therefore, it is difficult to see what power the NHVR has to direct inspection policy in this regard.

The RIS acknowledges that 'it is as yet unclear whether commencement of a national system of heavy vehicle roadworthiness regulation would mean these state schemes [NSW and Queensland] would cease'.¹ Thus, operators could find themselves with a national inspection scheme *in addition to* the existing state-based schemes tied to registration. The opportunity cost of having vehicles off the road to satisfy the requirements of two systems would be high for industry.

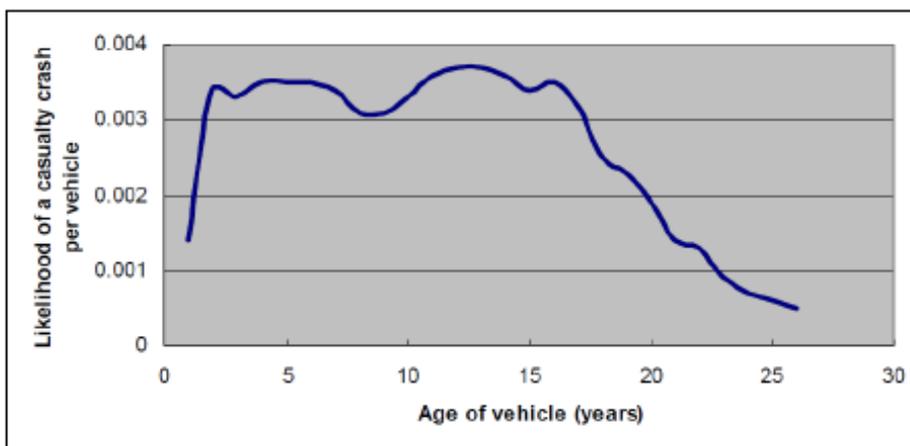
¹ RIS, p. 62

Toll Group rejects any inspection system that is overlayed on the existing state-based systems. Instead, Toll Group supports a national, consistent approach to heavy vehicle inspection that is based on empirical evidence.

Supposing that a truly national scheme is possible, Toll notes some methodological issues with the sub-options as follows:

Options 3A and 3B link the inspection regime to vehicle age. There is an intuitive link between age of vehicle, component wear, mechanical defect and crash risk. However, the RIS does not cite a source for the connection between vehicle age and crash risk. Data produced by Austroads in 2010 and cited by the NTC in a 2011 RIS suggests that crash risk actually *reduces* once a vehicle reaches 17 years of age, probably as a function of reduced kilometres being driven.² (It should be noted that this data is for both light and heavy vehicles).

Diagram 1: Relationship between vehicle age and crash risk



Kilometres travelled, as opposed to vehicle age, may be a stronger indicator of risk. (For example, older agricultural vehicles operating on seasonal licenses are likely to travel fewer kilometres than newer linehaul vehicles). As the Australian Bureau of Statistics reports on freight tonnes by kilometre there is presumably a mechanism to collect this data.

Option 3C relies on a 'default' of annual inspections for all heavy vehicles, with some vehicles required to present more frequently and others required to present less frequently. As Toll noted in its previous submissions on roadworthiness, it rejects periodic inspections because of their potential for perverse outcomes and because of the limited evidence of a causal connection between frequency of inspection and crash risk.

Option 3D targets licensed dangerous goods vehicles for compulsory annual inspections. The emphasis on dangerous goods vehicles derives from the Mona Vale incident. While crashes involving dangerous goods (DG) vehicles can potentially be catastrophic, the case for an inspection regime for dangerous goods vehicles is not convincingly made in the RIS. The investigation into the causes of the Mona Vale incident is ongoing, but preliminary

² Austroads, *National Recognition of Roadworthiness Procedures*, IT-185/10, July 2010, p.24

indications are that the incident was at least partly caused by driver error.³ The prudent course would be to await the findings of the investigation before introducing a policy response focussed exclusively on roadworthiness.

Further, the introduction of mandatory electronic stability control systems on all dangerous goods tankers operating on NSW roads by 2019 will assist to prevent rollovers and to reduce crash risk.⁴

Option 3E involves targeting vehicles on the basis of the risk they pose, and is the most supportable of the risk-based options. As Toll has pointed out in previous submissions, it supports risk-based approaches.

However, the perennial policy problem remains: where is the data on which to base the assessment going to come from? A risk-based approach relies on credible data that meaningfully differentiates between two operators; in other words, how much risk does vehicle A represent compared to vehicle B?

Presently, the volume and nature of vehicle roadworthiness data varies considerably by state. It is questionable that it would be comprehensive enough to build more than a moderately indicative risk profile. Toll Group has already registered its objections to risk profiling based, even in part, on defect notices in the absence of a right of review. The RIS is largely silent on where this data will be sourced, whether industry will be able to scrutinise it, whether it is open to review and who will bear the cost of the data collection.

Option 4 – option 4 is similar to option 3 in that it seeks statutory criteria for roadworthiness under the HVNL, including for issuing major or minor defect notices and formal warnings. It also seeks to embed enforceable undertakings in the HVNL.

It differs from option 3 in that it does not propose a risk-based approach to inspections. Instead it seeks to prescribe inspections for **all** heavy vehicles at set intervals, likely to be annual. Additionally, any vehicle entering an accreditation scheme or seeking renewal of accreditation would need to provide evidence of the vehicle's roadworthiness. It also proposes a general duty for parties to ensure vehicles are roadworthy in the same way that s.229 of the HVNL imposes a general duty for all parties to prevent driving while impaired by fatigue.

Option 4 would create a significant regulatory burden for industry because of the opportunity cost of having vehicles off-road for an annual inspection as well as for accreditation entry or renewal purposes. As per our response to option 3C, Toll Group rejects periodic inspections because of their potential for perverse outcomes and because of the limited evidence of a causal connection between frequency of inspection and crash risk.

4. Conclusion

In policy terms, Toll Group believes that options 2 (the education package) and 3E (risk-based) have some merit and represent the best of the proposed options.

³ The driver was charged with, among other things: Dangerous Driving occasioning death (x2), dangerous driving occasioning grievous bodily harm, negligent driving occasioning death and disobeying truck and bus low gear sign.

⁴ NSW EPA Determination: Transport of Dangerous Goods in Tank Trailers, August 2014

However, the proposed options are somewhat limited. The fact that operator licensing wasn't considered as an option is disappointing. The RIS notes that three jurisdictions supported the exploration of operator licensing, as did some operators. The RIS includes an overview of operator licensing in an appendix. However, the NTC did not canvass the impact operator licensing might have on crash incidents because it was 'beyond scope'.⁵ This is not intended as a criticism of the NTC, which has done what it was asked to do. However, there is a case to be made for broadening the scope of the road safety investigation and allowing the NTC a wider remit.

Toll Group has repeatedly questioned the value of the narrow focus on vehicle componentry to the exclusion of other issues impacting on safety. For example, Toll Group's data suggests that trailer fires are a significant safety concern, a trend reflected in the broader industry.⁶ Part of the problem derives from a "disconnect" between the prime mover and the trailer; with the prime mover not necessarily sensing and reporting on the trailer's performance. A driver can be unaware of a dangerous rise in temperature in the trailer until the fire starts. The ADRs and AVSRs are largely silent on the question of compatibility between the prime mover and the trailer. A regime that focusses on specific components rather than on systems and their inter-relationships may miss the (safety) wood for the (safety) trees.

While vehicle maintenance is vitally important, the RIS itself acknowledges that defects as the primary cause of crashes involving heavy vehicles account for between 1% and 5% of crashes.⁷ Vehicle maintenance is only one element in developing and sustaining a safety culture and only one element in establishing risk profile. The United States' risk profiling system (BASICS) has seven components, only one of which is related to vehicle maintenance. The others are:

- unsafe driving
- fatigued driving
- driver fitness
- controlled substances and alcohol
- cargo related
- crash history

The recent Monash University Accident Research Centre study into the causes of heavy vehicle crashes suggested that crash risk increases:⁸

- 3 times where a driver has less than ten years of driving experience
- 1.6 times where the truck operates without cruise control
- 1.4 times where the truck operates without anti-lock breaking
- 3.4 times between midnight and 6am

None of these factors are treated in the current policy environment with its emphasis on vehicle roadworthiness.

⁵ RIS, p. 44

⁶ NTI, *2013 Major Accident Investigation Report*, p.9

⁷ RIS, p.52

⁸ Professor Mark Stevenson, Heavy Vehicle Crash Study, presented at Parliament House, Canberra 4/9/14

Toll Group will shortly be incorporating psychometric testing into its recruitment processes as a way of assessing driver attitudes and competencies with respect to safety. There may be merit in devoting more policy attention to driver behaviours and attitudes as a means of driving road safety. Toll is also interested to understand how business models and financing systems might influence vehicle maintenance regimes.

Further, the RIS does not consider if and how concessions and rewards might be used to drive roadworthiness compliance outcomes. Tax credits and concessions, registration concessions and compulsory third party insurance concessions are all policy levers governments might use to incentivise best practice in roadworthiness systems,⁹ including adopting technologies with safety benefits.¹⁰

In all, Toll Group feels the narrow scope that the NTC was tasked with and the resultant RIS represent a missed opportunity.

Our position is that:

- The narrow focus on roadworthiness is stymying the exploration of other road safety policy options, including operator licensing, vehicle/trailer system integration, new technologies, driver licensing and behaviours, and concessions and rewards.
- There may be potential benefits in options 2 and 3E. However, we have methodological concerns as outlined in the submission.
- Any option that imposes a NHVR inspection scheme on top of, and in addition to, state-based inspection schemes undermines the goal of national consistency and is not supportable

Toll Group thanks the National Transport Commission for the opportunity to make comment on the Roadworthiness Regulation Impact Statement.

Please direct any queries arising from this submission to:

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⁹ Some of the potential levers were discussed in the NTC's *Heavy Vehicle Compliance Review Consultation Draft*, September 2013

¹⁰ These technologies might include those in Transport for NSW's *Safety Technologies for Heavy Vehicles and Combinations*, June 2014