NATROAD

NATIONAL ROAD TRANSPORT ASSOCIATION

Submission to the National Transport Commission

Heavy Vehicle Charges Consultation Report

28 February 2020

Introduction

1. The National Road Transport Association (NatRoad) is pleased to make comments on the *Heavy vehicle charges consultation report*[1] (Consultation Report) released by the National Transport Commission (NTC) in December 2019.

2. NatRoad is Australia's largest national representative road freight transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators, general freight, road trains, livestock, tippers, car carriers, as well as tankers and refrigerated freight operators.

3. This submission responds to the problematic nature of an increase in heavy vehicle charges at a time of debilitating drought and bush fire devastation that have added to already fierce cost pressures on heavy vehicle operators. The proposed cost increases even at the level of 2.5% per annum would compound these problems as well as underlining the fundamental unfairness of the current basis of heavy vehicle charging.

What is Proposed and what is the NatRoad stance?

4. The Consultation Report contains only one question for feedback. **Question 1: What are your views on the Council's preference for an increase in both heavy vehicle registration and Road User Charges by 2.5 per cent in 2020-21 and a further 2.5 per cent in 2021-22?**

5. The proposal to increase these costs is opposed. At the least, given the current widespread drought and the ongoing bushfire crisis, NatRoad recommends that any increase occurs from 1 July 2021 rather than from 1 July 2020. This recommendation is reflective of the Australian Trucking Association's (ATA) representations to the Deputy Prime Minister in a letter dated 20 January 2020 setting out measures that would assist the heavy vehicle industry considering the current bush fire crisis and its impacts on the industry. NatRoad has been involved with ATA in formulating representations to the Deputy Prime Minister in this context.

6. This submission sets out NatRoad's opposition to the increase in heavy vehicle charges by first analysing the nature of the impost and the systemically flawed way the heavy vehicle charges are established. The submission then contextualises these comments by reference to the current heavy vehicle charging reform process. It then touches on the damage wreaked by the current bush fire crisis which has not yet ended, given the localised flooding in many areas which has compounded the fire damage.

7. As NatRoad expressed in a media release dated 3 December 2019[2] following an extremely adverse reaction by members to the initial announcement of an expected increase of over 11% per annum in the road user charge and heavy vehicle registration charges:

   The long and short of the issue is that members gave us plain and unfiltered feedback that these government increases are unwarranted in the light of other cost pressures that they face, including from other government imposts. Members mentioned increasing toll road charges, landside port charges and State-based stamp duty on heavy vehicle purchases that

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1 https://www.ntc.gov.au/sites/default/files/assets/files/Heavy%20Vehicle%20Charges%20Consultation%20Paper.pdf

2 https://www.natroad.com.au/news/road-charges-increase-lower-level

are adding to their cost burden, costs which are difficult if not impossible to pass on to customers in the current, increasingly competitive environment.

Fuel Costs and Taxes

8. Diesel fuel is the lifeblood of the heavy vehicle industry. The freight sector is currently heavily reliant on diesel fuel. The Australian Alliance for Energy Productivity (AAEP) estimates that diesel currently fuels 99% of trucks and around 50% of light commercial vehicles.[3]

9. As was noted in the *Interim Report on the Liquid Fuel Security Review:* [4]

   The transport sector is almost entirely reliant on liquid fuel—it sources 98 per cent of its energy from liquid fuels, most of which are used in road transport. This means transport is the sector that is most vulnerable to impacts from liquid fuel disruptions.[5]

10. Concomitantly, this reliance also means that the road freight sector is vulnerable to diesel fuel price increases. Fuel (diesel) costs vary in the total cost of operating a heavy vehicle. Fuel costs are highly volatile yet dominate industry purchasing costs. The privately compiled *Transeco Road Freight Cost Indices* show that on a 3 year per annum average to end 2019 linehaul and short haul diesel prices have risen by 7.4% and 7.2% respectively.

11. The costs mentioned in the prior paragraph in the main have not been able to be passed on to customers causing an industry profit margin squeeze. Diesel reliance for the heavy vehicle sector is not expected to reduce in the medium term despite investment in alternative fuel technologies.[6]

12. NatRoad estimates that fuel costs are around 20 percent of short-haul operators' costs and around 35 percent of long-haul operators' costs. So, any increase that translates to an increase in the cost of fuel, as is the case with the proposed increase in the RUC, hits operators hard and adds to the costs that consumers ultimately pay, albeit that part of the squeeze members experience involves difficulty in passing on these costs.

13. Obviously, the RUC applies to each litre of diesel used by heavy vehicles on public roads. The mechanism by which this occurs is not straightforward and deserves explanation, a discussion which also reveals that its basis as a tax mechanism is not sustainable.

14. The RUC is established by the *Fuel Tax Act 2006 (Cth)* (Fuel Tax Act). As expressed in section 2-1 of the Fuel Tax Act:

    This Act provides a single system of fuel tax credits. Fuel tax credits are paid to reduce or remove the incidence of fuel tax levied on taxable fuels, ensuring that, generally, fuel tax is effectively only applied to:

    (a) fuel used in private vehicles and for certain other private purposes; and

    (b) fuel used on-road in light vehicles for business purposes.

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[3] The Australian Alliance for Energy Productivity *A Roadmap to double energy productivity in Freight Transport by 2030 https://a2se.org.au/files/2xEP_Freight_transport_roadmap_v3_0_170212.pdf*

[4] https://www.environment.gov.au/energy/liquid-fuel-security-review-consultation

[5] Id at p 15

[6] This 2017 study outlines the range of alternative fuel sources in an Australian context: https://www.rms.nsw.gov.au/documents/about/environment/air/technology-study-alternative-fuels.pdf

15. So, the fuel tax otherwise payable by way of excise or customs duty[7] is subject to fuel tax credits established under the Fuel Tax Act. Excise duty is a tax on fuel products produced or manufactured in Australia; imported excise-like goods are subject to customs duty at a rate equivalent to the excise rate. The fuel products consist predominantly of petrol and diesel. Therefore, first the excise or customs duty is levied, secondly for some taxpayers a fuel tax credit applies to ameliorate that payment and thirdly the RUC is applied as a carve out to the fuel tax credit.

16. Per section 43-10(3) of the Fuel Tax Act:

    To the extent that you acquire, manufacture or import taxable fuel to use, in a vehicle, for travelling on a public road, the amount of your fuel tax credit for the fuel is reduced by the amount of the road user charge for the fuel.

17. This structure depends on the operation of the fuel tax as an excise or customs duty that is sustainable.

18. The Commonwealth Parliamentary Budget Office (PBO) report *Trends affecting the sustainability of Commonwealth taxes*[8] examines the sustainability of fuel tax. The issues encompassed in the following extract from that report show that there are several factors which point to the need to re-frame this tax regime:

    Continued improvements in the fuel efficiency of the passenger motor vehicle fleet in Australia are likely to contribute to a further slowing of the growth in total fuel consumption, further constraining growth in fuel excise. The uptake of electric vehicles could further accelerate the rising fuel efficiency of the passenger motor vehicle fleet in Australia. Electric vehicles are only a small proportion of the market and are therefore having little effect on fuel excise receipts at the present time. However, under the Australian Energy Market Operator's neutral scenario for electricity consumption, electric vehicles are projected to represent around 19 per cent of the light vehicle fleet in Australia by 2036–37 (AEMO 2018). The impact on fuel consumption of an increasing uptake of electric vehicles would further erode the fuel excise base.[9]

19. The Fuel Tax Act's basis for collecting an equitable contribution to support the construction and maintenance of road infrastructure is flawed: monies flow to general revenue and are disconnected from the purpose for which they were raised. Plus, the PBO notes that continued improvements in the fuel efficiency of the passenger motor vehicle fleet are likely to contribute to a further slowing of the growth in total fuel consumption - further constraining fuel tax as a viable future tax. NatRoad notes fuel excise revenues will be increasingly inadequate to fund the construction and maintenance of roads as the tax base erodes. In addition, heavy vehicle operators will fund an increasing proportion of the tax levied because of the factors affecting light vehicles identified by the PBO which are not happening in the heavy vehicle sector at anywhere near the pace of the light vehicle sector.

20. In addition to paying the RUC, heavy vehicles are subject to very high registration charges.[10] In some jurisdictions registration costs are supplemented by other fees and charges, such as

[7] Excise Tariff Act 1921 (Cth)

[8] https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/Publications/Research_reports/Trends_affecting_the_sustainability_of_Commonwealth_taxes

[9] Id at p 10

[10] https://www.ntc.gov.au/laws-and-regulations/registration-charges-heavy-vehicles

for inspection and related services.[11] Those monies flow to State and Territory governments. They are also allocated to fund the National Heavy Vehicle Regulator. As recently observed by the Productivity Commission:

The NHVR is primarily funded by registration charges of heavy vehicles in participating jurisdictions. In 2018, around 90 per cent of NHVR funding was attributed to 'regulatory income' paid by State and Territory agencies.[12]

21. The taxes and charges just outlined are not structured in a manner that is conducive to building a cost recovery model; rather they are set up as part of the general taxation regime, albeit one that is increasingly unsustainable.

22. The PAYGO model that is utilised by the NTC to calculate the RUC and heavy vehicle registration charges is a regulatory attempt to provide a cost recovery mechanism linked to the taxes and charges just discussed. Yet, the "freeze" on heavy vehicle charges mentioned in the Consultation Report[13] was a response to the current inadequacies of the PAYGO model and its propensity to over or under charge the industry in a particular year. This is especially the case having regard to the admitted two-year lag between expenditure occurring and the charges based on that expenditure being collected.[14] In fact the model is fundamentally inadequate given the overpayments in certain years and now the potential for underpayments when measured against the increase first discussed by TIC and the percentage increase now proposed as a compromise. There is no carried forward credit for the monies overpaid in prior years.

23. In addition, during the course of discussions between NTC personnel and the Board of NatRoad is was made clear that the reporting of expenditure items by the States and Territories that underpin the model could not be verified by the NTC. There is no mechanism in place to audit the inputs from States and Territories. If the PAYGO model is to continue to be utilised, there must be a capacity for the NTC to audit figures provided by the States and Territories, particularly where there are very large fluctuations in expense items reported.

24. The inadequacies of the current process are currently at the nub of federal Government policy considerations discussed below, as well as an issue explored in detail by the ATA in a 2016 submission that shows categorically that the PAYGO model has not succeeded in delivering predictable and stable heavy vehicle charges,[15] an issue reinforced in the current context. Just as the decision to freeze charges was a political decision, the current decision about the percentage changes proposed and the timing for their implementation is a political decision. Divorcing heavy vehicle charging from political decision-making is one of the aims of heavy vehicle reform proposals, next discussed.

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[11] In NSW see the following https://www.rms.nsw.gov.au/documents/business-industry/examiners/ais-notice-18-fees.pdf

[12] Productivity Commission Draft Report *National Transport Regulatory Reform* at p 229 https://www.pc.gov.au/inquiries/current/transport/draft/transport-draft.pdf

[13] Above note 1 at p 13 and 14

[14] Id at page 17

[15] https://www.truck.net.au/advocacy/submissions/heavy-vehicle-charges%E2%80%94options-improving-accuracy-and-stability-paygo-heavy

Heavy Vehicle Road Reform

25. The provision of basic road services to ensure social mobility, economic welfare, road safety and public security needs to be assessed against the main purpose of the Heavy Vehicle Road Reforms (HVRR) currently being implemented by Government. The stated purpose of the HVRR reforms is to turn the provision of heavy vehicle road infrastructure into an economic service where feasible.[16] To be effective and free of political interference, that process must be guided by an independent price regulator and the extent to which heavy vehicle road infrastructure may be converted into an economic service explored having regard to the full range of costs imposed on the heavy vehicle industry.

26. The need for the establishment of an independent price regulator, with powers to set prices independently of government and to potentially perform a range of oversight activities related to forward looking road expenditure contrasts with the current methodology of having the NTC recommend to the Transport Ministers increases based on fluctuating expenditure that is reported ex post facto.

27. The appointment of the regulator (or indeed vesting the NTC with that function) should be an essential early component of HVRR reform before the data from the heavy vehicle current trials[17] leads to the development of further policy outcomes. NatRoad strongly recommends that the Government establish an independent price regulator for heavy vehicle charges. Without the establishment of such a regulator the other elements of the next stages of the HVRR would be open to political rather than economic considerations.

28. It would be pointless to establish an independent price regulator if Commonwealth, state and territory governments are not bound by its pricing decisions.

29. NatRoad notes that states and territories will have to pass legislation conferring powers on the regulator, via a COAG decision. Although model legislation is an efficient method of bringing all states and territories under a single pricing regime, there needs to be a will for governments to do so and a need to commit to the details of HVRR.

30. An independent pricing system would need to have at least the following two characteristics:
    a. Governments would agree on the pricing rules to be used and the overall approach for the regulator to follow.
    b. Once the rules are established, the regulator would make and apply its pricing decisions. Its decisions would not be subject to ministerial approval or parliamentary disallowance, an obvious contrast to the current system.

31. In the current context, the importance of an independent price regulator as an economic regulator developing and setting service levels for the road network is vital. Service levels should be designed to facilitate high productivity vehicle access, future vehicle automation and facilities for heavy vehicles such as rest stops which are currently manifestly inadequate for facilitating the road transport task.[18] The pavement improvement increases that are identified in the Consultation Report as a major contributor to the increase in the heavy

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[16] http://www.dotars.gov.au/roads/heavy/files/public-paper-on-HVRR-end-states.pdf

[17] https://www.infrastructure.gov.au/roads/heavy/charging-trials/index.aspx

[18] See https://www.fullyloaded.com.au/industry-news/1905/ata-in-rest-area-urgency-election-plea by way of example

vehicle cost base[19] do not necessarily translate to service levels that are acceptable to heavy vehicles, inclusive of adequate rest areas. They do not adequately differentiate heavy vehicle use from light vehicle use other than to apply a percentage to each vehicle category that is purportedly reflective of heavy vehicle usage.

32. The independent price regulator should also regulate and monitor toll fees and landside port charges, given the current lack of transparency and fairness in setting tolls and landside port charges for heavy vehicles and a lack of uniformity and policy principles associated with the application of toll charges and landside port fees where these charges are currently levied. It is these sorts of charges that are growing in an unco-ordinated way and which in part framed the member response to the proposed increase, as set out in paragraph 7 of this submission.

33. NatRoad understands that the current PAYGO model excludes the costs of building toll roads and the cost of tolls. Yet State governments, through lack of price regulation of privatised infrastructure assets, are effectively financing infrastructure programs through heavy vehicle access charges and/or monies generated are being used to bolster stevedores' profits via utilisation of privatised assets. The total of monies applied in this way should be assessed by governments and taken into account to make any model more reflective of reality. These assets are effectively monopoly assets, with most new toll roads accompanied by truck bans on alternate routes such as is proposed in respect of NorthConnex.[20] Any decision to increase heavy vehicle charges must take these costs to the industry into account, especially as these are considerations not otherwise accounted for in examining the equity of heavy vehicle charges.

34. We also note that stamp duty applies to heavy vehicle registration. It is NatRoad policy that stamp duty on heavy vehicle transactions should be abolished. This policy is in part based on Grattan Institute research which found that replacing taxes on insurance and motor vehicle registrations with a broad-based property tax could make Australians up to $1.5 billion a year better off. Yet they remain as an inefficient tax that increases costs of small business in running their heavy vehicles. Stamp duties are economically inefficient: they restrict the efficient allocation of capital and labour. The costs of the State and Territory registration charges should be ameliorated for the revenue paid by the heavy vehicle industry arising from the application of stamp duty and/or discounted by the amount levied in that regard.

35. Heavy vehicles are already too expensive in this country and adding another 3% to their cost at the time of registration makes no sense, particularly as this percentage amount is static and the costs of new trucks escalates over time. In the context of the comments made earlier about fuel tax and its sustainability, electric drive trucks with their obvious fuel benefits and low emissions are likely to become commercially viable over time, but NatRoad does not see that happening in under a decade. However, when they are introduced into the market the reduced emissions that flow from their use should be recognised and operators should be rewarded for embracing the new technology rather than having to pay stamp duty at the time of registration. For example, stamp duty incentives already exist in New South Wales in that new heavy trailers registered there are exempt from stamp duty per s270C *Duties Act, 1997 (NSW).* Otherwise stamp duty is collected at $3 per $100, or part, of the vehicle's value. As stated, this is an inefficient and unwarranted impost.

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[19] Above note 1 at p15

[20] See https://www.natroad.com.au/news/northconnex-operating-model-needs-change for details

The Bush Fire Crisis

36. As well as the costs that have been just discussed, we indicate that NatRoad members across several regions are suffering because of the costs of the bush fires that are still burning throughout this country.

37. As expressed in paragraph 5 of this submission, the proposed increases of 2.5% from 1 July 2020 should, at the least, be deferred to a commencement date of 1 July 2021 (albeit there is proposed a small offsetting reduction in the regulatory component of registration charges in 2020–21[21]). As well, by that time the path of HVRR reform may be more discernible and more fundamental reform, inclusive of the appointment of an independent price regulator, given an explicit timeline.

38. The damage to the Australian economy from the bush fires is estimated at $110 billion.[22] At the more specific industry level, members have suffered because of a range of factors. These include reduction of workflows, particularly in rural and regional areas where livestock numbers and forested areas have been decimated. Road closures and the requirement to divert to alternative routes has added to costs. Road closures and related delays have affected members ability to fulfill contracts. Smoke haze and added stresses have affected the workforce. These factors are compounded when damage to bridges, road infrastructure and rest areas are considered. All the necessary infrastructure for fulfilling the essential transport task in affected areas will need to be rebuilt.

39. These observations lead to two points: first given the extent of the disaster and its yet to be fully assessed impact on the economy in general and on the heavy vehicle industry in particular, any increase in government charges would be insensitive and counterproductive for those businesses suffering the direct and indirect costs of the bush fires. Secondly, as was the case with the 2010 floods, the NTC should not take into account the cost of re-building fire affected roads and related infrastructure in future assessments of heavy vehicle charges. In other words, these costs should not be included in modelling of heavy vehicle charges so as to properly reflect that they have resulted from an unprecedented level of bush fire activity.

Conclusion

40. Any additional Government charges on the heavy vehicle industry should, at the least, be postponed given the impact on the industry of the current bush fire crisis. As a preference, the proposed increases should not proceed.

41. For the future the costs of rebuilding road and other infrastructure that has been affected by the bush fires should not be included in the PAYGO model (if still utilised) as a basis for the calculation of heavy vehicle charges.

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[21] Above note 1 at p5

[22] https://www.accuweather.com/en/business/australia-wildfire-economic-damages-and-losses-to-reach-110-billion/657235