



Blacktown
City Council

File no: F20/190
C20/38357
C20/50876

29 October 2020

Land Transport Market Reform
Steering Committee Secretariat
Department of Infrastructure, Transport,
Regional Development and Communications
GPO Box 594
CANBERRA ACT 2601

Email: hvrr@infrastructure.gov.au

Dear Project team,

Heavy Vehicle Road Reform Consultation

Thank you for the Have Your Say email, about the above review and request for submissions on the proposed changes to the way heavy vehicle charges are set and invested, and the heavy vehicle national law Review and Regulation Impact Statement.

Please find attached submission from Blacktown City Council.

If you would like to discuss this matter further, please contact our Manager Access and Transport Management, Mr Richard Campbell on 9839 6269 or email richard.campbell@blacktown.nsw.gov.au.

Yours faithfully

Rudi Svarc
Director City Assets

Connect - Create - Celebrate

Council Chambers - 62 Flushcombe Road - Blacktown NSW 2148
Telephone: (02) 9839 6000 - DX 8117 Blacktown
Email: council@blacktown.nsw.gov.au - Website: www.blacktown.nsw.gov.au
All correspondence to: The General Manager - PO Box 63 - Blacktown NSW 2148

Context:

Blacktown City:

- \$18.81 Billion Gross regional product will increase to \$26.6 Billion by 2036
 - Employment of 143,259 will increase to 177,000 by 2036
 - Dwellings will double to 200,000 by 2036
 - Local Government area of 247sqkm
 - 142km of State roads
 - Council manages 1,466km of roads (further than the distance between Blacktown and Adelaide) or over 90% of the road network in Blacktown City, comprising:
 - 1,379km of Local roads
 - 89km of Regional roads
 - Current population estimated to be 400,000 people
 - Population by 2036 is projected to be 522,000, an increase of almost 1/3rd (31%)
 - Blacktown LGA has 48 suburbs and 142 schools with several more proposed
-

Part 1 - Submission on Heavy Vehicle Road Reform Consultation Paper

1. Service Level Standards

Questions for stakeholders

1. *What do you see as the pros and cons of establishing service level standards?*

Response:

- **Pros:** The establishment of a consistent view by users and different governments on service levels standards is a key challenge that has potential benefits for local governments. The needs of local government are of critical importance as they are responsible for the cost of providing and maintaining many the local and regional roads used by heavy vehicles, especially for the last kilometres of their journey.
- **Cons:** The new system doesn't seem to acknowledge or take into-account, the infrastructure role of local government in managing many of the roads used by heavy vehicles.

2. *What are the most important things for the service level standards to capture?*

Response:

- The most important things to capture are the functional classification of the road, its current and future use by heavy vehicles, current condition rating of the road, the expected cost to provide and maintain the road to its selected standard.
3. *What mechanism/s should be established to make sure the service level standards reasonably reflect the views of users, including their willingness to pay? For example, how can a wide range of stakeholders be represented in the process?*

Response:

- A standing user-input group could be established, to seek and consider the views of stakeholders and to advise governments continuously, with full public consultation undertaken periodically.
4. *What mechanisms could be used to review the service level standards periodically? For example, should there be a standing body, or consultation periodically when the service level standards are reviewed.*

Response:

- Service level standards could be reviewed every 4 or 5 years, and could be included as part of reviews of road classifications.

2. Expenditure planning and independent determination of what costs can be recovered from heavy vehicles

Questions for stakeholders

5. *Which model for independently determining what expenditure is recoverable from heavy vehicle users would you prefer and why?*

Response:

- A hybrid model, where an independent state or territory nominated body undertakes user engagement, while a national body oversees the reviews, to ensure consistency and rigour. This would make use of state and territory expertise. National body will check these reviews, and ensure that only allowable costs were being passed through to national heavy vehicle charges.
6. *If some or all of the independent determination of what is recoverable from heavy vehicle users will take place at the state level, what checks could be put in place to ensure national consistency of expenditure recovery?*

Response:

- A national body could be established to oversee the reviews. The Auditor General could undertake an annual check on expenditure recovery to ensure transparency, accountability; and stakeholder engagement.
7. *How important is the independence of the body/ies assessing expenditure?*

Response:

- The independence of the bodies assessing expenditure recovery is paramount to ensuring confidence in the new system and ensure that outcomes are fair, reasonable and equitable. The key is that bodies have the right expertise and can make determinations free from external influence.
 - The bodies should have powers to set prices independently of government and potentially perform a range of oversight activities to improve the efficiency of expenditure by road agencies.
8. *What benefits to users do you think particular expenditure review mechanisms might offer compared to the administrative costs associated with that mechanism?*

Response:

- Expenditure reviews would benefit users by ensuring that expenditure was fair, reasonable and provided value for money.
- Ensure efficient and cost-effective delivery of services.

3. Independent setting of heavy vehicle charges

Questions for stakeholders

9. *How important is the aim of reducing volatility of heavy vehicle charges?*

Response:

- Reducing the volatility of charges is crucial to allow consistent and predictable financial conditions for forward planning by business, governments and users.

10. *Does a forward-looking cost base seem to be a better way of assigning charges over time?*

Response:

- A forward-looking cost base allows business, governments and users to plan and respond better to meet future demand when and where it occurs. This would ensure that.
- Road managers gain funding certainty to promote long-term planning and asset optimisation.

11. *What, if any, additional information would you like to have about the proposed forward-looking cost base?*

Response:

- Additional information may be required in regards to the transition of prices from the current charging system to forward-looking cost base, the length of the control period and the implications for allocating costs to heavy vehicles and across vehicle types.

12. *How important is the element of independence in assessing expenditure and charge-setting?*

Response:

- Independent assessments are critical to public confidence in the new system and demonstrate that it is a transparent and accountable process with suitable feedback mechanisms.
- An independent body is able to scrutinise expenditure proposals and can set a suitable rate of return for capital investments.
- An independent body should have deterministic power in regards to setting the change and implement the price free from external pressure.

13. *What advantages and disadvantages are there to establishing independent pricing regulation?*

Response:

- Advantages, include providing certainty to business, government and users to plan for future investments.

- Disadvantages, include the lack of consistency in the setting of vehicle registration charges as these would still be set by each individual state.

14. *What are the advantages and disadvantages of the independent price regulator functions being held by a separate body to the body/ies with the expenditure review function?*

Response:

- Advantages, include transparency of decision making.
- Disadvantages, include potential misalignment of future infrastructure planning and expenditure.

15. *Are there any other functions or responsibilities the independent price regulator should have under the proposed new system?*

Response:

- An appeal process should be established at the outset. with any form of economic regulation there is a risk that regulatory errors will occur in the setting of road user charges. A merits review process should be established to allow decisions made by the regulator to be reviewed.

16. *What pricing principles should apply to the independent price regulator/s with the above work?*

Response:

- Nationally consistent pricing principles should apply that reflect the conditions of each state and territory.

17. *Under the proposed new system, should heavy vehicle registration fees be nationally consistent and based on nationally agreed service level standards like the Commonwealth Road User Charge would be?*

Response:

- National consistent registration fees based on agreed levels of service are needed to provide a level playing field between states and territories.

4. Dedicating heavy vehicle revenue to roads

Questions for stakeholders

18. *Do you have any comments about how charges are proposed to be dedicated to road infrastructure?*

Response:

- Individual states and territories have different base and operating costs for infrastructure installation and maintenance. Will the proposed system consider the different cost pressures affecting each state and territory for road infrastructure delivery and maintenance.
- Local governments have ongoing maintenance and operating costs for roads managed by councils. Will the new system provide dedicated funding to local governments for road infrastructure delivery and maintenance operations?

19. *What publicly available reporting from either regulatory bodies or state and territory governments would be useful?*

Response:

- Any current reporting that relates to the revenue, expenditure, tolling and operating costs of road infrastructure.

Part 2 - Submission on Heavy Vehicle National Law Review Consultation Regulation Impact Statement

Section 3 - Policy objectives

3.10 Questions for stakeholders

3.1 Are you aware of any other problems with the effectiveness of the HVNL that are not discussed here or in the problem statements in each of the Chapters that follow relating to the key provisions of the HVNL? If so, please explain and detail any related policy options which you think should be considered as part of the RIS.

Response:

- No, other than the need to upgrade infrastructure and the impact of tolls.
- Heavy vehicle access to the road network is entirely dependent on the provision of road infrastructure. The upgrade of road infrastructure also has safety benefits for all road users.
- Blacktown City is strongly supportive of high productivity vehicles to provide jobs growth, in our employment areas. There is a policy gap in the funding of removal of bottle necks needed to facilitate the use of high productivity vehicles in existing employment lands.
- Funding should be made available to Council's and Transport for NSW, to proactively improve road infrastructure to allow greater access to high productivity vehicles. Blacktown has 10 employment areas that would benefit from improved road access to high productivity vehicles.
- Tolls for using Motorways can be a significant ongoing cost to business operators, and should be considered in the impact statement.

3.2 Do you have any comments, concerns or additional information relating to the impacts of the policy options outlined in section 3.9.3 which have not been assessed in detail in the Consultation RIS?

Response:

- No

Section 4 - Primary duties and responsibility

4.6 Questions for stakeholders

4.1. *Are there other costs or benefits that we should consider in the impact assessment?*

Response:

- No

4.2. *Are you aware of any data that may assist us in quantifying the magnitude of any of the costs or benefits associated with the options presented in this chapter?*

Response:

- No

4.3. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- No

4.4. *What are the advantages and disadvantages of establishing a WHS-style worker duty for drivers in the HVNL? What evidence can be shown to suggest this may incentivise safer driver behaviour?*

Response:

- Our view is that a WHS style worker duty is a positive way to move and would support its inclusion on the basis that the evidence of worker behaviour is that the WHS approach allows for a clear requirement for workers to comply with (1) directions and (2) specific work requirements articulated in mechanisms such as SWMS.

4.5. *Do you consider there are any benefits that would arise from the NHVR having the ability to prosecute against a separate driver duty that substantially replicates the duty of workers under s 18 of the model WHS Laws in lieu of the relevant jurisdictional WHS authorities?*

Response:

- There are strong benefits in introducing a S18 duty which requires the worker to know or ought to have known instead of relying of the current common defence of "didn't know". They are supposed to be professional drivers and as such have a greater responsibility about what they do and how they operate. Bringing responsibility and accountability to workers will challenge cultural norms which do not support positive work practices.

4.6. *What are the advantages and disadvantages of specifying that the primary duty covers driver competency and fitness for work? Do you consider this will be sufficient to clarify obligations under the primary duty?*

Response:

- Driver competency and fitness for work are both elements reflected in the duty of care elements in the WHS legislation and should be replicated in the HVNL

legislation to require employers to actively ensure the person they put behind the wheel is physically and mentally able to operate the equipment in a safe way and they have had their competency verified. Having a license alone is not a guarantee of competency and the legislation should reflect this. It will go a long way to clarifying obligations under the primary duty.

- 4.7. *Do you have any evidence or examples of the additional parties that would be captured under the CoR under Option 4.1 (such as vehicle manufacturers, third party repairers, stevedores, freight forwarders, those who prepare livestock for transport, brokers and agents) currently acting in ways that are impacting on the safety of heavy vehicle transport activities?*

Response:

- None

- 4.8. *Would there be any advantages or disadvantages to expanding the defined list of parties in the CoR (as per Option 4.1b) relative to expanding the application of the primary duty to parties who influence the safety transport activities (as per Option 4.1)?*

Response:

- We would only see this as being advantageous. Expanding the defined list of parties in the CoR as per Option 4.1, would be safety advantage, by involving all key parties that influence heavy vehicle safety.

Section 5 - Regulatory tools

5.5 Questions for stakeholders

- 5.1. *Are there other costs or benefits that we should consider in the impact assessment?*

Response:

- None that we can identify.

- 5.2. *Are you aware of any information or data that may assist us in quantifying the nature and scope of any potential costs or quantifying the magnitude of any of the costs or benefits associated with the options presented in this chapter? Please note we are particularly interested in receiving submissions on the impacts shaded in grey in the impact tables.*

Response:

- No

- 5.3. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- No

- 5.4. *What would be the implications of changing the process associated with industry developed codes of practice in line with sub-option 5.1b as outlined in this chapter? Would this be beneficial relative to maintain the current arrangements?*

Response:

- Codes of practice increase complexity and increase cost. Making systems more complex creates a barrier to effective implementation and management of safe systems of work. We cannot see that this would deliver safer outcomes.

5.5. *Are there any other implications or unintended consequences that may arise from the NHVR becoming a law enforcement agency under the HVNL?*

Response:

- Greater regulation will increase costs and the assessment has to be made as to whether the cost of achieving this will deliver positive outcomes and benefits.

5.6. *Do you consider that establishing codes of practice or safety standard mechanisms in the HVNL is likely to enable a move toward a risk-based approach to compliance and enforcement? If so why or why not?*

Response:

- There is nothing to stop operators implementing risk-based approaches at the moment. But what has happened is that if they are not mandated many organisations will not adopt these approaches either due to cost or complacency. Therefore, safety standard mechanisms would be a positive step in that they would require a risk-based approach to be taken.

5.7. *How effective is preventative compliance action by the regulator in improving risk management practices of operators beyond what is possible through the regulator running education campaigns?*

Response:

- Only provided that compliance action is split between systems AND operations. Compliant systems do not translate to safe systems of work. You can have a stellar system and very poor safety outcomes. Currently this is a weak link in the WHS legislation.

5.8. *Are there any unintended consequences associated with any of these options i.e. establishing codes of practice or safety standard mechanisms in the HVNL?*

Response:

- Organisational size is a determinant in the successful application of codes of practice. Whereas standard safety mechanisms can apply to every sized organisation and would deliver more consistent outcomes.

Section 6 - Technology and data

6.5 Questions for stakeholders

6.1. *Is there value in an over-arching data framework and, if so, to what levels of data assurance requirements should it apply?*

Response:

- Mandating data frameworks creates an evidentiary trail which enables compliance checks to be made across all organisations. It allows for a range of checks and balances ranging from driver competence to safe vehicle operation.

6.2. *In relation to option 6.1, is TCA, the NHVR or another entity, best placed to take on the technology and data assurance role?*

Response:

- HNVR best placed to manage this role.

6.3. *In relation to option 6.1, do the chapter 7 data handling privacy provisions provide enough clarity? Should they be expanded to cover more, wound back or be removed from the law?*

Response:

- We believe they need to be updated to reflect current security requirements.

6.4. *In relation to option 6.1, what specific technologies would industry be expected to bring forward under this option and what would the implications be for safety and productivity?*

Response:

- At the very least vehicle telematics should be standard requirements as they provide clear proof how a fleet is operated and how each driver is operating their vehicle. In itself it presents a standard level of governance across all organisations.

6.5. *In relation to option 6.2a, what documents would operators and drivers prefer to carry electronically? What is the current cost of carrying these documents in paper form? What do you estimate the cost to be to carry them electronically?*

Response:

- No comment

6.6. *In relation to option 6.2a, what do NHVR authorised officers and police require in order to access electronic information at the roadside?*

Response:

- No comment

6.7. *In relation to option 6.2a, to what extent do industry already have the necessary equipment and systems to be able to produce electronic documentation?*

Response:

- Most organisations already are equipped with the ability to produce electronic documentation.

6.8. *In relation to option 6.2b, would operators and drivers exercise the ability to produce documents after a roadside inspection, or would this impose an additional burden?*

Response:

- In our view it would not impose an additional burden.

6.9. *In relation to option 6.2b, which documents would be appropriate to be produced in a specified period and which are required at the roadside for safety reasons?*

Response:

- No comment

6.10. *Are there other costs or benefits that we should consider in the impact assessment?*

Response:

- No

6.11. *Are you aware of any data that may assist us in quantifying the magnitude of any of the costs or benefits associated the options presented in this chapter?*

Response:

- No

6.12. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- No

Section 7 – Assurance and accreditation

7.5 Questions for stakeholders

7.1. *Are you aware of any data that may assist us in quantifying the magnitude of any of the costs or benefits associated the options presented in this chapter?*

Response:

- No

7.2. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- No

7.3. *Is there additional information that the NHVR could obtain through mandatory operator enrolment or operator licensing that would enable it to better target compliance and enforcement efforts? Please outline the data that could be obtained and how it would assist with targeting compliance and enforcement activities.*

Response:

- No

7.4. *Are there any preventative risk management actions, or safety related obligations that the NHVR could mandate to improve operator risk management (beyond NHVR education campaigns)? Could these be applied to all operators, irrespective of the context in which they operate?*

Response:

- No comment

7.5. *Would operator licensing, with an associated ability to withdraw or cancel a licence be an effective regulatory instrument for driving compliance? Would it be more effective than relying solely on current penalties in the HVNL?*

Response:

- Licencing of itself is an ineffective mechanism to drive safety. Ongoing assessment of driver competence and measurement of driver behaviour would be far more effective. Our view would be that this adds more complexity without delivering any real compliance outcomes.

7.6. *Would flexibility around the method for compliance through the introduction of performance-based standards which replace some prescriptive requirements within the HVNL (see section 7.2.3), be of value to industry? Would this increased flexibility introduce uncertainty about compliance for operators, the regulator or other enforcement agencies? What measures could be taken to lessen any uncertainty about compliance?*

Response:

- We do not believe that these measures would introduce uncertainty about compliance

7.7. Under option 7.2 it is likely that the NHVAS AFM module would be discontinued. What costs or operational inefficiencies might result from this change?

Response:

- We do not see any downside from this action

7.8. Under option 7.3 the NHVAS would be enhanced so that it better links to obligations under the primary duty and is explicitly framed around risk management roles. This is likely to require additional or revamped modules to be developed. What additional matters should be covered in the modules?

Response:

- Clearer understanding about due diligence at all levels

7.9. Options 7.3 and 7.4 remove the need for duplicative customer audits of suppliers. How significant is this problem?

Response:

- This is not a significant problem for our organisation.

7.10. Option 7.4 would allow multiple certification schemes to be accredited by the NHVR. What, if any, benefits do you think there would be from allowing multiple schemes to be recognised?

Response:

- Greater and easier access to certification

Section 8 - Fatigue

8.8 Questions for stakeholders

8.1. *Are you aware of any evidence on the significance of driver health and fitness for duty as a contributing factor to the risk of heavy vehicle crashes?*

Response:

- Yes

8.2. *Do you consider this chapter accurately describes the key risks and problems associated with the management of fatigue under the HVNL?*

Response:

- Yes

8.3. *Do you consider it would be beneficial to widen the scope of drivers/vehicles that are subject to the fatigue provisions?*

Response:

- Yes

8.4. *Do you think that a driver self-assessment and declaration of fitness to work would be effective in encouraging drivers to self-identify when they are not fit for work?*

Response:

- Yes, provided that there were clear consequences for false or misleading information.

8.5. *Are there other costs or benefits that we should consider in the impact assessment relating to the options presented?*

Response:

- No

8.6. *Are you aware of or do you have any data that may assist us in quantifying the magnitude of any of the costs or benefits associated the options presented in this chapter?*

Response:

- No

8.7. *Are there any unintended consequences that have not been identified with any of the policy options considered? If so, please explain.*

Response:

- Not that we can identify.

8.8. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- None

Section 9 - Access

Blacktown City Council is responsible for the maintenance and management of 1,466km of roads or over 90% of the road network in Blacktown City. This is equivalent to the distance between Blacktown and Adelaide, comprising 1,379km of local roads and 89km of Regional classified roads.

The network of roads managed by Blacktown provides the last-mile access to our 10 employment areas. Funding to maintain these roads is a significant ongoing cost for Blacktown. The annual maintenance costs are greatly increasing, as new roads are built in our new release areas, such as the new Marsden Park Business Park industrial area.

As a road manager, Blacktown City provides comments to the National Heavy Vehicle Regulator in response to access permit requests lodged on behalf of transport operators.

9.11 Questions for stakeholders

9.1. *Is it reasonable to increase mass and dimension limits for general access? Under option 9.1, which sub-option would be the preferred way to increase mass and dimension limits?*

Response:

- No comment

9.2. *Under sub-options 9.1a to 9.1c, how much would an increase to CML reduce to need to apply for permits?*

Response:

- No comment

9.3. *Under sub-option 9.1c, would the benefits of CML outweigh the costs of OBM for operators? Would the data provided by OBM systems provide regulators and road managers with the right information to make investment and planning decisions?*

Response:

- No comment

9.4. *Under sub-option 9.2a, what would be the costs and benefits of a precedent approach for operators and road managers?*

Response:

- No comment

9.5. *Would road managers exercise the delegation power proposed in option 9.2b? Why or why not?*

Response:

- No comment

9.6. *Would operators benefit and use a geospatial map as proposed in option 9.2c? What would be the costs for road managers to input the data and keep it updated?*

Response:

- There would be no benefit to our organisation

9.7. *Under option 9.2d, which option would make it easier to adopt a risk-based approach to vehicle classification?*

Response:

- Option 2

9.8. *Under option 9.3a, which option would provide more transparent, quick and cost-effective decisions?*

Response:

- Option 1

9.9. *Under option 9.3b, which option would provide the right level of review? Would operators and road managers spend time and money seeking an external review?*

Response:

- Option 2. No.

9.10. *Would the structure proposed in option 9.4 be responsive to future changes?*

Response:

- Yes

9.11. *Would a single or dual-tiered pilot approach be preferred under option 9.5?*

Response:

- Tier 2

9.12. *Are there other costs or benefits that we should consider in the impact assessment?*

Response:

- None

9.13. *Are you aware of any data that may assist us in quantifying the magnitude of any of the costs or benefits associated the options presented in this chapter?*

Response:

- No

9.14. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- None

Section 10 – Safer vehicle design

10.5 Questions for stakeholders

10.1. *Are there any other costs or benefits that we should consider in the impact assessment?*

Response:

- No

10.2. *Are you aware of any data that may assist us in quantifying the magnitude of any of the costs or benefits associated the options presented in this chapter?*

Response:

- No

10.3. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- None

10.4. *In relation to option 10.1, do you have any comments on specific sub-elements of the option or the optimal composition of this option?*

Response:

- No

10.5. *In relation to option 10.3, do you have any comments on how and whether the increased vehicle width option could be linked to meeting newer safety standards (e.g. side-underrun, blind spot sensors, electronic stability control and anti-lock brake systems)?*

Response:

- We would need more data and research to be convinced of what outcomes would be achieved.

Section 11 - Roadworthiness

11.6 Questions for stakeholders

11.1. *Are there any other costs or benefits that we should consider in the impact assessment?*

Response:

- None

11.2. *Are you aware of any data that may assist us in quantifying the magnitude of any of the costs or benefits associated the options presented in this chapter?*

Response:

- No

11.3. *Are there any other policy options or refinements to these policy options which you think should be considered? If so, please explain what they are, and the advantages and disadvantages compared to the options set out in this chapter.*

Response:

- No

11.4. *Do you have any new evidence on the effectiveness or otherwise of existing jurisdictional approaches to random and periodic vehicle inspections?*

Response:

- None

11.5. *Are there any unintended consequences associated with any of the options identified?*

Response:

- None that can be identified

----- End of submission -----