



**Business Regulation Benchmarking –
Role of Local Government**

By the Productivity Commission

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NTC SUBMISSION

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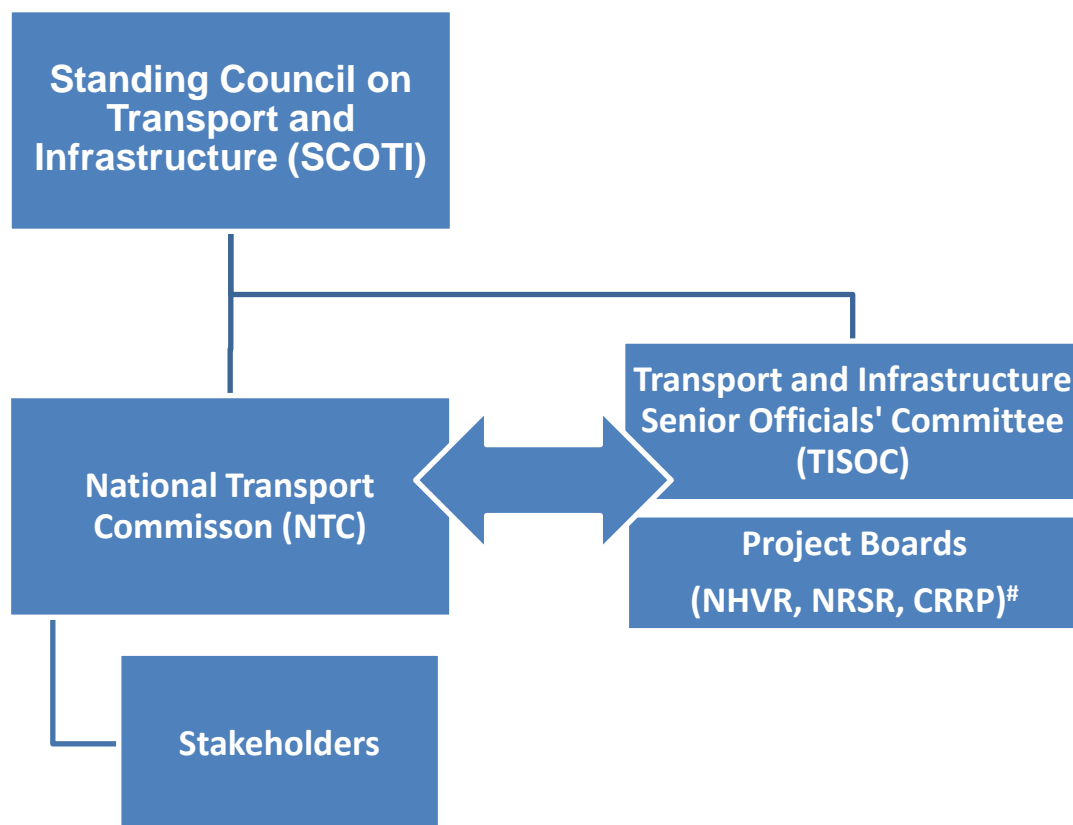
1. Introduction

As an independent statutory body, the National Transport Commission (NTC) contributes to the achievement of national transport policy objectives by developing regulatory and operational reform recommendations and advice for the Standing Council on Transport and Infrastructure (SCOTI).

In developing transport reform, NTC consults stakeholders and receives advice from the Transport and Infrastructure Senior Officials' Committee (TISOC)¹.

The requirement for NTC to develop a rolling three year strategic plan each year for SCOTI approval is set out in the *Inter-Governmental Agreement (IGA) for Regulatory and Operational Reform in Road, Rail and Intermodal Transport* and the *National Transport Commission Act 2003*. It was prepared under the guidance of NTC Commissioners, with valuable input from governments, stakeholders and NTC staff.

Ministers are undertaking a review of the role and functions of the NTC and other bodies during 2012 to consider any potential new arrangements following establishment of the National Heavy Vehicle Regulator and the National Rail Safety Regulator in 2013. NTC believes this is a significant opportunity to support Minister's future reform agenda based on leading practice principles for reform delivery.



Refer to Project Board acronyms in section 7 Glossary.

¹ NTC is a member of TISOC and works collaboratively with governments on common (SCOTI) goals

2. Problem definition

Local governments' decision-making role in relation to land-use planning, development assessments and road access is pivotal to the delivery of long-term transport and land-use plans; for example, state-based freight strategies (high productivity freight networks) and major city strategic planning (changed urban form).

Australia's road network is managed by the three tiers of government: federal, state and local government. While local Governments do not regulate heavy vehicles they do control access to their roads. Local Government manages around 80% of the total network, making their role pivotal to the efficiency of the transport freight industry.

Regulatory barriers to freight network access (e.g.: last mile issues, noise curfews in built-up communities) continues to be a significant issue.

To illustrate the point, trucks up to 19 metres in length and 42.5 tonnes gross weight have unrestricted (general access) to roads. Longer and heavier combinations, (eg: B-doubles, or vehicles operating under higher mass limit scheme) which are potentially more efficient, are given restricted access to designated routes.

Limiting access to local roads that connect freight centres to major highways represents one of the major problems to industry. This is commonly referred to as the "first and last mile".

This problem is made worse by poor land-use planning, in which freight centres are built without enough forethought placed on how heavy vehicles may be able to access these areas.

A failure to implement freight productivity reform impacts on the costs of goods and services, from the price of milk at the local supermarket to the iron ore exported through our ports. Other benefits to the community flow from fewer and safer vehicles on the road network, reduced exhaust emissions and fuel usage.

According to a report published by the Australian Rural Roads Group², local governments are often "overwhelmed and under-resourced" and lack the capacity and skills to implement policy reform. The willingness of local government to implement reform can reflect their environment: remote area, rural or urban. Some rural councils are active proponents of high productivity vehicles; however councils in transport intensive urban areas (eg: ports, industrial areas, shopping centres, supermarkets etc.) need to manage community perceptions.

As outlined in NTC's report *Twice The Task* (2006), local government has little financial incentive to upgrade and maintain roads to facilitate high productivity vehicles. Revenue collected from road users is not distributed directly back to road owners.

Furthermore, in more recent studies, an IBIS World report prepared for Infrastructure Partnerships Australia, (2008) states that Australia's freight task will triple by 2050 – from 503 billion tonne kilometres in 2008 to 1,540 billion tonne kilometres in 2050³.

This combination of factors, increased freight and poor access to the road network of high productivity vehicles leads to a decrease in general productivity.

From an operator point of view, negotiating the regulatory system can be a significant challenge; particularly for small to medium businesses which often lack resources, knowledge and experience. Decisions also lack the transparency required to promote efficient outcomes.

Case Study: Performance Based Standards

Performance-Based Standards (PBS) is a national Council of Australian Governments (CoAG) reform that provides more flexible regulation for heavy vehicles that meet "outcomes" based national safety and infrastructure standards. Even if a vehicle design is endorsed by a

² Going Nowhere: the Rural Local Road Crisis (Australian Rural Roads Group 2010)

³ Infrastructure partnerships Australia. Meeting the 2050 Freight Challenge (IBIS world 2008).

<http://www.infrastructure.org.au/Content/Meetingthe2050FreightChallenge.aspx>

national PBS Review Panel (PRP), the owner still has to negotiate access to the road network.

In 2007, a central Queensland owner-operator, Rick Taylor, designed a modular fuel tanker to improve productivity. The front trailer is used for deliveries to farms and sites where access is poor. The rear trailer can be unhooked and used as a storage tank. An extra 6 tonne payload helps absorb cost increases and stay viable.

Despite obtaining endorsement from the PRP, he had to approach 15 local councils individually – a significant time and financial burden. Although some were helpful, he told the *Australian Financial Review* that many local councils “didn’t want to know”.

A review of the PBS reform in 2009 found that 21 per cent of PRP-approved vehicles were denied access, or faced additional regulatory burdens such as state-based pavement standards (the “Green Line”), truck tracking technology (the Intelligent Access Program), side under-run protection.

3. Current developments

National Heavy Vehicle Regulator

On 2 July 2009, CoAG agreed to establish a single national system of laws for heavy vehicles weighing more than 4.5 tonnes. These laws will be administered by an independent national regulator—the National Heavy Vehicle Regulator (NHVR). Located in Queensland, the regulator and laws are to come into effect from 1 January 2013.

The objective of the Regulator is to promote evidence-based, consistent and transparent decision making in the following areas of key importance to industry:

- registration (including registration of vehicles, suspension and cancellation of registration, conditions of registration and refusal of registration transfer)
- accreditation of operators (including suspending and cancelling accreditation)
- exemption permits and notices (including suspending and cancelling permits, notices and conditions)
- vehicle access decisions.

The central importance of quality decision-making processes to the national reform was articulated in the 2009 RIS, which stated:

A key role for the NHVR would be in development of guidelines on decision making in implementing particular areas of the law where industry seeks consistency across jurisdictions, such as ... access to local roads.⁴

The success of the regulator largely hinges on its ability to promote robust and transparent decisions regarding access, as this is where the greatest productivity benefits are to be had. Local Governments have welcomed the prospect of improved technical assistance regarding pavements and bridges and all parties strongly support the ability of the regulator to chart and respond to access ‘hot spots’.

Industry strongly advocates external review of access decisions. Industry through the Australian Trucking Association, in a submission to the Business Regulation and Competition Working Group declared:

“The Business Regulation Competition Working Group (BRCWG) encourages the National Heavy Vehicle Regulator (NHVR) to allow the opportunity to seek external review of access

⁴ Department of Infrastructure, Transport, Regional Development and Local Government, *A national framework for regulation, registration and licensing of heavy vehicles: Regulatory Impact Statement*, May 2009, p. 74.

decisions made by local government by including this in the national harmonisation of legislation.”⁵

Currently, the National Heavy Vehicle Law makes allowance for a dissatisfied person to apply for an internal review of a decision made by a road manager who controls access to the desired route.

The review must not be decided by:

- (a) the person who made the reviewable decision; or
- (b) a person who holds a less senior position than the person who made the reviewable decision.

In most instances, the review will be conducted by Local Governments’ authorised employees and they should take into account any significant risks to public safety. This process has been developed with the aim to increase the transparency in which access decisions are made.

NTC’s forward work plan includes a post implementation review of the National Heavy Vehicle Law to monitor and evaluate the impact of the proposed road access decision-making framework. As part of NTC’s performance improvement and reporting framework, national productivity reform impacts will be benchmarked before and after the establishment of a national regulator.

Road Pricing Reform

As part of a response to a Productivity Commission Inquiry into road and rail infrastructure pricing the Council of Australian Governments approved work program in 2009 to propose alternative forms of heavy vehicle pricing and funding.

The CoAG Road Reform Plan (CRRP) identified the following objectives⁶:

- Promoting the more efficient, productive and sustainable provision and use of freight infrastructure; and
- Ensuring that national heavy vehicle road prices promote the efficient, safe and sustainable use of infrastructure, vehicles and transport modes.

The current heavy vehicle pricing system consists of charges applied to heavy vehicles collected through state and territory vehicle registration fees and fuel charges levied by the commonwealth.

Concerns have been raised by Local Governments in regards to a more equitable way to allocate funds to local roads for repairs and maintenance. It has been said that local governments often need to come up with additional funding to cover the gap between revenue collected and actual expenditure on infrastructure.

In order to address this disconnect between revenue paid by heavy vehicles and revenue collected by Local Governments the CRRP is putting forward five options:

Option 1: Fuel Based Model

Option 2: Distance Based Model

Option 3: Distance – location Based Model

Option 4: Mass Distance Based Model

Option 5: Mass – Distance – Location Based Model

⁵ Submission Future CoAG Regulatory Reform Agenda Stakeholder Consultation Paper, ATA. October 2011, p. 4.

⁶ CoAG Road Reform Plan - Feasibility Study and Local Government. March 2011, p. 6

As part of this work, the project group is developing a pricing element designed to encourage users to operate on appropriate roads with highly efficient vehicles. This is meant to persuade operators to use the right road and the right vehicle for a given freight task.

However, due to the complexity of this reform, a new focus has been placed on investment and the way its planning, delivery and payment occurs and how it should take place in a way that can deliver gains in productivity. Further work is also being undertaken on how funding and transfer of funds between and within governments takes place, as part of ensuring that road network access is not hampered.

It is envisioned that by adopting a model that addresses the mismatch between expenditure and funding, especially at a Local government level, it will assist with a more efficient use of local roads and encourage Local Governments to develop sound strategies for land use and heavy vehicle access.

Implementation tools

The *Review of NTC 2009* called on the commission to play a greater role in facilitating reform implementation. Consistent with this direction, NTC is leading work to improve the capability and capacity of local government to implement reform, including:

- supporting implementation planning by the National Heavy Vehicle Regulator;
- developing a revised national pavement vertical loading standard and bridge loading standard; and
- developing national tools to aid the assessment of routes and bridges.

Local curfews: business case

NTC's strategic planning consultation in 2010 identified that community concern regarding noise and emissions in built-up areas is constraining off-peak commercial freight deliveries (for example, deliveries to supermarkets). Greater off-peak operation could deliver significant supply chain efficiencies and reduce peak hour congestion, if business hours can be harmonised⁷.

It is understood, however, that a balance between community amenity and off-peak hours of operation is required.

NTC is working with businesses and local government to assess the business case for further work (eg: possible standards or guidelines for low noise vehicles).

4. Other observations

NTC welcomes CoAG's interest in the development of long term integrated land-use and transport plans for freight, ports and capital cities. Sound planning is the foundation for improved outcomes and provides greater certainty for encouraging infrastructure investment; however the delivery and effectiveness of those plans relies on coordinated implementation across agencies and levels of government. Some useful measures to achieve this might include:

- early community participation and engagement tools
- strong decision-making framework
- performance indicators linked to outcomes and learning-based performance improvement frameworks (e.g.: to monitor and evaluate outcomes, report progress and develop improvement strategies)
- regulatory incentives (e.g.: for higher density houses, smaller lot sizes etc.)
- national forums to share learning, research and policy innovation

⁷ Overall Impacts of Off-Hour Delivery Programs in the New York City Metropolitan Area (TRB 2011)

- reforms to address the disconnect between infrastructure investment and funding frameworks

Finally, Local Governments' actions and their regulations need to be cohesive and aware of national needs in order to make an effect on business.

The amount of regulation by Local Governments can represent the difference between success and failure to small to medium businesses (SMB). SMBs are an important sector of industry that generates jobs, especially among ethnic minority groups, older people and those without English as a first language⁸.

It is very fine line between Local Governments ability to maintain and service their infrastructure assets and industry's requirements so that community and business can prosper.

⁸ Self-employment, Small Firms and Enterprise Peter Urwin 13 Oct 2011. How entrepreneurship will drive economic growth

5. Glossary

ATC – Australian Transport Council
ADF – Australian Defence Force
ADG7 – 7th Australian Dangerous Goods Code
AFTD – Assessing Fitness to Drive
AHURI – Australian Housing and Urban Research Institute
ARR – Australian Road Rules
AVSR – Australian Vehicle Standards Rules
COAG – Council of Australian
C-ITS – Cooperative Intelligent Transport Systems
CML – Concessional Mass Limits
CRRP – COAG Road Reform Plan
EWD – Electronic Work Diary
GDP – Gross Domestic Product
HML – Higher Mass Limits
IA – Infrastructure Australia
IGA – Intergovernmental Agreement
NHVR – National Heavy Vehicle Regulator
NRSR – National Rail Safety Regulator
NTC – National Transport Commission
OHS – Occupational Health & Safety
PBS – Performance Based Standards
SCOTI – Standing Council on Transport and Infrastructure
TISOC – Transport and Infrastructure Senior Officials' Committee