



**NORTHERN TERRITORY GOVERNMENT SUBMISSION**

**TO**

**THE PRODUCTIVITY COMMISSION**

**ANNUAL REVIEW OF REGULATORY BURDENS ON BUSINESS: SOCIAL AND  
ECONOMIC INFRASTRUCTURE SERVICES**

## **BACKGROUND**

In February 2007, the Productivity Commission (the Commission) was asked to review, over a five-year period, the regulatory burdens on business arising from Commonwealth Government regulation. The objectives of the review are to inform the annual red tape reduction agenda to ensure that current regulations are efficient and effective and to identify priority areas where regulation needs to be improved, consolidated or removed. Broadly speaking, the review is about identifying regulatory and non-regulatory options that will reduce costs on businesses.

The Northern Territory Government's (NTG) contribution to the Commission's review provides comments on regulatory issues relating to:

- Division E – Construction;
- Division I – Transport, postal and warehousing; and
- Division O – Public order and safety.

### **Construction**

The National Code of Practice for the Construction industry threshold on federally funded works (\$5m) and the Federal Safety Accreditation threshold on federally funded works (\$3m) disadvantage Territory based contractors. Many contractors are unable to compete for these works because of the difficulty in applying for and attaining accreditation in the Territory.

A cornerstone of policies aimed at increasing the training and business opportunities within remote indigenous communities is the development of community based business that are able to tender for government funded infrastructure projects. The current accreditation arrangements for federally funded works have an adverse impact on the capacity of these fledgling businesses to secure such contracts.

The impact of existing accreditation arrangements can be summarised as follows:

- a limited pool of potential tenderers with suitable accreditation being eligible to compete for the works.
- federally funded works are packaged into substantial bundles to attract the larger companies who do have appropriate accreditation.

The thresholds will impact on the number of construction contractors who will be eligible to compete for the remote area projects in the Northern Territory such as the Strategic Indigenous Housing Infrastructure Program (SIHIP) works when the program comes on line.

Whatever their intention, the existing accreditation arrangements are inimical to competitive tendering for the relevant works and disadvantage smaller Northern Territory businesses.

The Northern Territory Government supports adjustment of the relevant thresholds, or delay in their implementation in the Territory, having regard to our unique business environment and the need to provide development opportunities for small and medium sized construction companies.

## **Transport, postal and warehousing**

The Heavy Vehicle road freight transport sector represents the NTG's main area of concern in terms of regulatory burden and impacts on transport operators and residents of the Northern Territory.

### ***Road transport***

Whilst the majority of the national transport reform is supported in principle, and is progressively being implemented within Northern Territory legislation, there are some areas that are more burdensome upon the road freight transport industry.

A critical item on the national reform agenda is the proposal to establish a national framework for Regulation, Registration and Licensing of Heavy Vehicles. The Northern Territory would in principle support a national regulator for the road transport industry if the supporting policy was to provide for cross border flexibility, particularly in terms of access for heavy freight vehicles to the national road network.

Access is a critical issue for the Northern Territory as heavy vehicles are a principal mode of transport for both intra-Territory and interstate freight movements. The Northern Territory regulatory regime supports the use of the higher productivity larger truck combinations such as the triple road trains and innovative vehicle combinations that operate utilising higher Mass Axle Limits, allowing for maximum productivity of up to 100 tonnes net payload.

The benefits to the Northern Territory community are containment of end user prices which are a real consideration in terms of distances travelled and freight charges to deliver the freight task (including the major centres such as Darwin and Alice Springs). In consideration of the already high cost levels faced by residents of remote communities, the NTG grants these heavy vehicles, "as of right access" across its road network, subject to road conditions.

Innovative vehicles in the Northern Territory are subject to rigorous safety testing and risk assessment procedures. In the national effort to standardise access, the main issue for the Northern Territory is the lowest common denominator factor, which results in potential efficiency losses from unnecessary access conditions.

The innovative rigs operating in the Northern Territory are restricted in access when crossing the border with interstate regulations preventing the use of tri-drive prime movers and tri-axle dollies leading to operators being unable to take the full advantage of the maximum productivity benefits which could be available. The impact of this regulatory burden on the operators and the Northern Territory community in general should be assessed as part of the Commission's review.

The NTG would also like to see an assessment of the adequacy of the Regulatory Impact Statements that are associated with the national transport reform process in terms of flexibility in approach to different jurisdictional circumstances, particularly freight services to remote areas.

There are further aspects of the national regulatory regime which give rise to a highest common denominator issue for the Northern Territory. An example is the Intelligent Access Program and accreditation requirements.

While it is recognised that these assist with the management of route access and infrastructure protection, that are issues for the more heavily populated areas of Australia, the application of such measures in remote Australia is questionable in terms of benefits to the regulatory authority versus the additional costs to the individual operator of purchasing and maintaining expensive electronic on board monitoring systems and data reporting mechanisms. There is an argument and need for a more flexible approach, and the review should consider and investigate the use of more cost effective options to achieve the desired outcomes. While safety is generally the argument used in imposing the additional requirements, the safety issues in less congested and remote areas are not as significant as those in urban areas.

## ***Rail***

The NTG supports a national regulator for the Rail industry in principle. National regulation in terms of costs saving and resources is of benefit to both the NTG and the rail industry. However, whilst regulation is supported, it should allow sufficient industry flexibility to deal with economic issues while at the same time providing the regulator with assurance that safety standards and efficiencies are being maintained.

In relation to safety standards for rail industry, the NTG is of the view that operational crossing protocols (for example: level crossing compliance, signage and sighting distance) be maintained.

## ***Marine***

The NTG supports a national regulator for the Marine Industry in principle and is of the view that the Marine industry would benefit from national standardisation in relation to crew issues.

## **Public administration and safety**

### ***Local Government administration***

- Grant management

Councils in the Northern Territory, especially Shires servicing remote Indigenous communities, administer a number of Commonwealth funded programs. The effective administration of these programs is viewed as beneficial not only to the Northern Territory as a whole, but as providing significant benefits for disadvantaged Indigenous people.

Councils are accountable for the delivery of these programs and are subject to regular and complex financial and non-financial reporting requirements, in addition to statutory reporting compliance frameworks. The additional accountabilities require a considerable degree of human, system and financial resources to ensure that funding programs are met.

Previous attempts to streamline funding and reporting requirements for grant recipient bodies have not been adequately supported by funding organisations. Reporting on a large number of individual grants is inherently inefficient, particularly when the reports provided to funding organisations are only used for the purposes of ticking a box to confirm that the report was provided.

Many program reporting requirements do not actually test whether strategic outcomes have been achieved. Historically, reporting regimes have tested expenditure against funding levels with little value gained by policy makers when programs are successful. Some non-financial reporting requirements attempt to quantify whether Councils have delivered a quantum of services, however, there is little link to any strategic assessment. This imposes costly burdens on Councils, as they are required to report to funding bodies in a myriad of reporting regimes, which has very little benefit to the overall process.

Further, there appears to be little collation or feedback of the information provided to the Commonwealth about performance and through the financial acquittal process. For example: if a summary of the performance of night patrols was provided by the Commonwealth on an annual basis, it would allow for further analysis of the impact or effectiveness of the service which would in turn aid in policy development at all levels of government.

A better coordinated approach from both Commonwealth and State funding agencies towards local government bodies, including the packaging of multiple grants under a single consolidated reporting regime, would greatly reduce the administrative burden on local government with minimal reduction in the quality of reporting information provided to the funding organisations. The economies of scale that are available through the delivery of a large number of programs to a single client group by a single delivery body are not realised when a large administration component is attached to each individual program.

Notwithstanding the benefit of these programs to communities; service provider organisations, such as councils, need to ensure that the delivery of programs is cost neutral. However, more often than not, a Council's income component of a grant in the form of an administration fee does not sufficiently compensate a Council for delivering a program.

Many of these programs do not form core services of a local government body in the Northern Territory and are managed as agency services on behalf of sponsor clients. Councils must be adequately funded to deliver these programs to ensure that the resources used to deliver core services and other activities of local government are not re-directed to effectively subsidise agency services and therefore, jeopardise reasonable levels of local government service delivery to constituents.

The NTG considers that there are potential advantages from establishing cooperative agreements between funding agencies to streamline or reduce reporting formats against grant programs, and that this should be considered as part of the review.

- Commonwealth Government five-year leases

Under the Northern Territory Emergency Response legislation (Cth), the Commonwealth has in place compulsory five-year leases of specific gazetted Land Trust lands. These leases provide that the Commonwealth has ownership of all infrastructures within gazetted communities.

Councils in existence prior to the establishment of Shires on 1 July 2008 were able to sub lease infrastructure to other users and thus earn a considerable income from rent charges. As the Commonwealth has determined that Shires are unable to sub lease previously rented properties, the consequence is that income that previously supported the operational cost of managing these properties has now been removed.

This negatively impacts on Shire budgets and the ability to continue providing adequate services to communities, and is further compounded by the limited avenues that Shires have to generate revenue through the recovery of costs from constituents.

The ability for Shires to sub lease previously rented properties to support the operational cost of managing these properties should be considered as part of the review.

**Public order, safety and regulatory services**

- Security costs at regional airports

The impact of regulations on regional air transport infrastructure in the Northern Territory, particularly on airport security, Aviation Rescue and Fire Fighting (ARFF) and the Passenger Movement Charge (PMC) is of some concern to the NTG.

Whilst it is accepted that the purpose of these regulations are to ensure the safety of passengers and Australians, they impose a particularly large cost on regional airports and the regions which those airports service. In the case of airport security and ARFF regulations, the cost on regional airports is due to the combination of the large proportion of fixed costs of providing these services, combined with low passenger volumes at regional airports.

There are three tiers of airport security, the strictest being Counter Terrorist First Response (CTRF), into which Darwin and Alice Springs airports are classified.

Airports in this classification and their security charges are provided in the following table:

CTRF Airports	Domestic passenger security charge	International passenger security charge
Alice Springs	\$13.00	N/A
Darwin	\$9.87	\$16.27
Gold Coast	\$5.50	\$7.80
Canberra	\$5.00	N/A
Hobart	\$5.00	N/A
Melbourne	\$4.75	\$4.75
Brisbane	\$4.12	\$9.22
Cairns	\$3.55	\$5.40
Sydney	\$3.40	\$10.00
Perth	\$3.36	\$5.73
Adelaide	\$3.02	\$3.49

Security charges at Darwin and Alice Springs are considerably higher than other CTRF airports. This has an adverse impact not only on those airports but the surrounding communities which they service. In 2008, an NTG commissioned study undertaken by Access Economics to assess the economic impact of reducing security costs at Darwin and Alice Springs airports to zero found that in 2008 prices, the economy-wide impact from increased visitor expenditure would mean that the Northern Territory’s GSP would be \$23.9M higher in 2013 if security charges had not been in place. The value of security charges in 2013 was estimated to be \$16.64M.

In relation to ARFF charges, the following table illustrates the large differences in the level of this charge across airports:

Airports	ARRF charge
Darwin	\$13.32
Adelaide	\$8.24
Cairns	\$4.21
Gold Coast	\$3.32
Perth	\$2.70
Brisbane	\$2.31
Melbourne	\$1.97
Sydney	\$1.80

Solutions to alleviate security charges at regional airports such as Darwin and Alice Springs could be achieved by way of network pricing or direct funding assistance from the Commonwealth. While the travelling public are the immediate beneficiaries of airport security, it is becoming increasingly a national security issue, and the Commonwealth should bear some responsibility for this cost.

If network pricing was considered, it could be designed to fully equalise costs across all CTRF airports or only across airports outside the four "major gateways" (Sydney, Melbourne, Brisbane and Perth).

However, there is a case for direct funding of security charges which is strengthened by the fact that Alice Springs airport is classified as a CTRF airport even though it has lower passenger numbers than other CTRF designation airports, and lower than some regional airports that have a lower level of security. The rationale for this designation is not clear, however, it is acknowledged that its designation is most likely due to its proximity to Pine Gap.

If direct funding assistance was considered, it could take the form of full funding for airport security, recurrent partial funding or funding of capital expenditure only.

What is evident is that there is a lack of a clear policy framework and guidelines setting out the security designation process and how security designation decisions are reached. Currently airports are grouped into three broad categories, regardless of their individual characteristics or risk profile. There are potential gains to be realised from the development of a differentiated model which tailors security requirements to an airport's specific circumstances.

While PMC's are equal across all airports, it has a disproportionate effect on regional airports, because of factors such as lower average fares and the predominance of price-sensitive leisure travellers, and although it was originally intended as a cost recovery instrument for customs, immigration and quarantine services, over time it is no longer solely linked to the cost recovery of services, but is now applied partly as a general revenue raising source. As a consequence the PMC represents a tax on tourism as well as a significant net cost to airlines.

The PMC should conform to the equity and transparency principles applicable to all government charges, thus the Commonwealth should give consideration to reverting to the original intent of the PMC to recover the costs of government border control services. Further, the government should provide the aviation and tourism industries with timely annual statements of PMC collections and costs of services for which funds were collected.

## Summary

The NTG generally supports the proposition of a co-operative approach amongst governments to adoption of nationally consistent regulations with respect to the various forms of social and economic infrastructure services involving proposals for national regulatory bodies and or nationally consistent regulatory law.

However, due to the remoteness of the Northern Territory and the communities that are serviced by operators, the consequence of applying national regulatory standards has a greater degree of impact on costs and the efficiency and delivery of those services for the Northern Territory.

Regardless of whether there is a lack of regulatory structure or whether there is a strong regulatory regime in place, one of the major issues with regulation is the 'hidden cost', that is the time taken away from core business activities to administer a regulatory compliance regime. This is made more difficult with the complexity of existing reporting requirements and compliance frameworks.

The Northern Territory accepts that often the only way to achieve national uniformity and reduce the regulatory 'red tape' is to adopt a black letter law approach (as evidenced in the national model legislation approach), however the Northern Territory is often penalised through a one size fits all approach.

A more flexible approach based on outcomes, which would allow the requirements of smaller populated jurisdictions such as the Northern Territory to reduce the costs of the regulatory compliance attached to Commonwealth and national legislation, should be investigated as part of the review.

Signed for and on behalf of the  
Northern Territory Government  
By the Chief Minister

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The Hon Paul Henderson MLA  
Parliament House  
Northern Territory

2 March 2009

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