

Submission to: National Transport Commission

Title: Heavy Vehicle Roadworthiness Consultation
Regulatory Impact Statement

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Contents

1. About the Australian Trucking Association	3
2. Summary of recommendations	3
3. Introduction	4
4. Strong Industry Support for Uniformity.....	5
5. Significant Evidence Is Required For Reforms To Periodic Inspections.....	5

1. About the Australian Trucking Association

The Australian Trucking Association (ATA) is the peak body that represents the trucking industry. Its members include state and sector-based trucking associations, some of the nation's largest transport companies and businesses with leading expertise in truck technology.

2. Summary of recommendations

Recommendation 1

The outcome of the national heavy vehicle roadworthiness review must include reforms leading to a uniform and consistent national approach to enforcement.

Recommendation 2

The chain of responsibility concept should be extended to vehicle roadworthiness by implementing the recommendations in the ATA submission to the chain of responsibility duties review

Recommendation 3

Governments should fund a major case-control study to provide more information about the links between vehicle inspections, vehicle roadworthiness and accidents, to inform future decisions about the effectiveness of mandatory scheduled inspections.

Recommendation 4

The NHVR should focus on establishing better systems for targeting operators through on-road and other enforcement measures to ensure vehicle roadworthiness 365 days a year, and to address the high level of defects found in broad industry enforcement campaigns.

Recommendation 5

If the NTC adopts Option 3 (sub-option c), and seeks to exempt new vehicles under OEM contract maintenance from regular inspections, the following approach should be adopted:

- The exemption should be available to all maintenance facilities providing maintenance in accordance with OEM service schedules
- Service schedules must be approved by the NHVR.

Recommendation 6

Vehicles in robust accreditation schemes should not be subject to mandatory scheduled inspections as well. The design of the sampling system should provide adequate assurance that vehicles are roadworthy.

Recommendation 7

Small fleets should be protected from disproportionate costs arising from the sampling approach used in robust accreditation schemes.

Recommendation 8

If vehicles in robust accreditation schemes are not subject to scheduled inspections, the exemption should be available to all accreditation schemes that are registered and that meet the robustness criteria. The exemption should not solely be available to vehicles in NHVAS Maintenance, if it is upgraded to meet the robustness criteria.

Recommendation 9

Annual and other periodic inspections should be able to be undertaken by qualified third party providers.

3. Introduction

In 2014, the NTC embarked (in cooperation with the NHVR) on a national review of heavy vehicle roadworthiness policies, enforcement approaches and compliance practices. In January 2015, the NTC released a regulatory impact statement (RIS) for consultation. A position paper will be put to ministers by the NTC later in the year after the consultation and analysis phases have concluded.

The RIS incorporates a cost benefit analysis¹ focusing on estimated costs of reforms of current roadworthiness approaches, with an overriding aim of not increasing systemic (especially inspection) costs.

The RIS reports high social and economic costs arising from truck crashes and breakdowns. It estimates that the costs of crashes will amount to \$14.2 billion in present value over the next decade, with \$0.57 to \$2.4 billion of this attributed to roadworthiness issues. If other factors such as 'congestion and related costs' are included, the RIS reports that approximately \$2.3 billion to \$4.2 billion can be attributed to roadworthiness.

However, the RIS emphasises the difficulty of measuring the risk of a mechanical defect causing or contributing to a truck crash, and it accepts assessments which find that only one to six per cent of fatal crashes involving heavy vehicles have a defect reported as the primary cause.

Industry is strongly in favour of nationally uniform enforcement practices, including standard criteria for vehicle inspections and defect assessments. It is industry's observation that myriad current roadworthiness rules are sometimes applied haphazardly or erroneously on the roadside.

For example, operators report defect notices which are not always cleared quickly enough by authorities, leading to cross-border confusion and delays for drivers. Administrative processes (e.g. defect notice clearance processes) both within and between jurisdictions are also often too slow to support fast-paced freight transport activity.

Clear, nationally accepted criteria need to be established for the purposes of declaring a vehicle roadworthy or not, and for issuing and clearing minor and major defect notices. Responsible parties must be trained to enforce the HVNL systematically. Consistent interpretation of a national heavy vehicle inspection manual by authorised officers to ensure consistent national treatment of heavy vehicle roadworthiness is imperative, and rigorous written guidance materials and systematic training must be provided to dedicated staff in relation to the exercise of their inspection powers. This will ensure a nationally consistent approach is used to assess any vehicle's roadworthiness condition at any time.

Recommendation 1

The outcome of the national heavy vehicle roadworthiness review must include reforms leading to a uniform and consistent national approach to enforcement.

Recommendation 2

The chain of responsibility concept should be extended to vehicle roadworthiness by implementing the recommendations in the ATA submission to the chain of responsibility duties review.

The Australian Trucking Association therefore proposes a phased approach to this area of policy reform based on established principles of evidence-based policy.² To form this position, the ATA consulted widely

¹ NTC RIS Appendix B - Frontier Economics, January 2015.

² 'Most of the [evidence-based policy] principles will be familiar to policymakers — they have been highlighted in policy manuals, Commission reports in one form or another, and reflected elsewhere such as through the Regulatory Impact Statement (RIS) process.' Productivity Commission 2010, *Strengthening Evidence Based Policy in the Australian Federation*, Volume 1: Proceedings, Roundtable Proceedings, Productivity Commission, Canberra, page 6.

with its Safety Committee, Industry Technical Council and governing body, the ATA General Council. In this context, the recommendations reflect considerable industry debate, and to some extent consensus, on what constitutes a safe and viable roadworthiness system.

The ATA recommends the following approach:

Phase 1 includes the implementation of initial reforms where industry is confident that these will lead to positive results. Such results include the establishment of uniform defect processes, the use of chain of responsibility powers, improvements in the transparency and robustness of accreditation schemes and enhanced roadside enforcement efforts to help ensure vehicle roadworthiness 365 days a year, and reduce the plethora of defects found in every broad roadside enforcement campaign. Phase 1 also includes the establishment of a sound evidence base via a major case control study.

Phase 2 includes examination of mandatory periodic inspections and accreditation arrangements, noting the cost of the former is high and presently has limited evidence to support it.

4. Strong Industry Support for Uniformity

The RIS sets out four options or approaches to reform, each containing six elements of a robust roadworthiness compliance assurance system. The four options vary in the strength of the coercive changes proposed, ranging from Option 1 (baseline situation); Option 2 (voluntary improvements by industry); Option 3 (a mixture of regulatory/non-regulatory changes) to Option 4 (mandatory reforms via regulation).

The ATA is of the view that option 1 (retain the status quo) would not improve future road safety outcomes; option 2 (voluntary industry improvements) would not deliver the uniformity sought by industry; and option 4 (mandatory regulatory reform) should be rejected due to the absence of any significant evidence prompting radical policy reform.

The ATA offers support, with caveats, for policy option 3 which is a mixture of regulatory and non-regulatory reforms. The option's emphasis on national consistency is strongly supported by industry in the areas of vehicle inspection processes, guidance materials, and defect procedures; education and training; and enhanced risk-based enforcement targeting capabilities. Since there is no evidence for a safety crisis in the trucking industry, the ATA believes that gains in heavy vehicle road safety will be made if roadworthiness approaches administered by the jurisdictions are consistent in both design and application.

The chain of responsibility element in option 3 is also supported, but only in the context of the earlier ATA proposal for a significant restructure and clarification of heavy vehicle national law (HVNL) provisions.

The ATA does not support *mandatory accreditation* for industry as set out in option 3 largely because there is no evidence that enrolment in the current NHVAS creates better road safety outcomes. On the other hand, TruckSafe® is a high-quality private sector compliance assurance management system which builds a robust safety system and culture for voluntary participants with a high degree of commitment to road safety. This will not be a long-lasting outcome if TruckSafe® is required to accept resistant operators who have been forced reluctantly to join a scheme.

5. Significant Evidence Is Required For Reforms To Periodic Inspections

The RIS notes the term 'roadworthiness' is not defined in the HVNL, but nevertheless describes a roadworthy vehicle as a 'vehicle that has no safety-related defects at a particular point in time'.

Most notably, the RIS does not identify evidence for:

- The effect of inspection on roadworthiness;
- The effect of enforcement on risks of defects; or
- If differences between RIS options will lead to more or less risk in relation to the baseline.

The ATA cannot support major changes to periodic scheduled inspections as currently undertaken (or not) by jurisdictions because there is insufficient evidence for the role these inspections play in keeping heavy vehicles roadworthy and safe.

As the Productivity Commission notes:

Fundamentally, evidence-based policy is about assessing whether a policy improves community wellbeing... There is often considerable debate about whether government action has actually led to an improvement and, if so, the extent of the gains. An evidence-based approach to policymaking is one way to improve policy development. It is built around the belief that better quality decisions will be made if the process is informed by robust evidence.³

The RIS acknowledges that there is a grossly inadequate evidence base (and often conflicting information where it is available) for robust roadworthiness policies in general, and for periodic scheduled inspections in particular.

Scheduled inspections are a rigid, high-cost enforcement tool which do not act to keep trucks roadworthy on any day of the year but inspection day. Not only is there no data or other evidence to support the introduction of annual inspections in jurisdictions where they are not currently undertaken, there is no evidence to support their removal in places where they are currently undertaken.

Given the lack of evidence *for or against* scheduled inspections, and in line with the principles of evidence-based policy, it seems prudent to avoid major and potentially costly policy decisions about the issue until there is more evidence to support a sound decision.

The ATA's proposal in this submission amounts to a two phase approach to reforms in this policy area, of which the first phase is information-seeking, in an attempt to close this evidence gap.

The first recommended reform phase (see Recommendation 3 – major case control study) proposes the establishment of an evidence base through the funding by government of a robust case study.

According to the Productivity Commission⁴, the types of evidence needed to form such an evidence base include quantitative evidence (e.g. cost-benefit-analysis, modelling, statistics, surveys, performance measures); qualitative evidence (e.g. qualitative research, observational studies); experimental evidence (e.g. randomised policy trials) as well as various weaker but nevertheless useful forms of evidence including descriptive evidence (e.g. expert opinion, anecdote) as well as existing evidence and theory.

Recommendation 3

Governments should fund a major case-control study to provide more information about the links between vehicle inspections, vehicle roadworthiness and accidents, to inform future decisions about the effectiveness of mandatory scheduled inspections.

³ Productivity Commission, page 4.

⁴ Productivity Commission, page 4.

Sophisticated risk-based targeting of heavy vehicles using high-quality data to select them is also supported by the ATA. Australian trucks are subjected to radically different operating conditions across the country and sheer distance travelled is not the sole indicator of how hard a truck may be working. That is, the fact that a truck has travelled many kilometres in one year does not give sufficient information about the wear and tear exacted on that vehicle from its operation. Thus, stakeholders disagree about the *optimum length of interval* between inspections, or which vehicle parts such inspections should prioritise as safety-critical.

Recommendation 4

The NHVR should focus on establishing better systems for targeting operators through on-road and other enforcement measures to ensure vehicle roadworthiness 365 days a year, and to address the high level of defects found in broad industry enforcement campaigns.

RIS option 3 (sub-option c) contains a proposal to exempt new vehicles under OEM contract maintenance arrangements from regular inspections.

Since the release of the RIS, the ATA has conducted research into contract maintenance systems offered by leading heavy vehicle manufacturers (as per the confidential attachment to this submission which is provided separately). The ATA concludes that most of these arrangements (except tailored maintenance packages) are not currently a sufficient alternative either to inspections or robust accreditation schemes for meeting roadworthiness requirements.

It is the ATA's conclusion that OEM contract maintenance is directed towards warranty work and keeping the vehicle fit for purpose. Any additional items needing repair or replacement are priced at a premium and delivered only if the vehicle owner/operator requests it. This means, for example, that maintenance of aftermarket modifications to the vehicle may not be covered in the package.

Recommendation 5

If the NTC adopts Option 3 (sub-option c), and seeks to exempt new vehicles under OEM contract maintenance from regular inspections, the following approach should be adopted:

- **The exemption should be available to all maintenance facilities providing maintenance in accordance with OEM service schedules**
- **Service schedules must be approved by the NHVR.**

The RIS also proposes that robust accreditation schemes should include inspections on a sample basis (page 35). It should be noted that NHVAS Maintenance does not currently meet this robustness requirement.

Recommendation 6

Vehicles in robust accreditation schemes should not be subject to mandatory scheduled inspections as well. The design of the sampling system should provide adequate assurance that vehicles are roadworthy.

Recommendation 7

Small fleets should be protected from disproportionate costs arising from the sampling approach used in robust accreditation schemes.

Recommendation 8

If vehicles in robust accreditation schemes are not subject to scheduled inspections, the exemption should be available to all accreditation schemes that are registered and that meet the robustness criteria. The exemption should not solely be available to vehicles in NHVAS Maintenance, if it is upgraded to meet the robustness criteria.

The ATA supports inspections undertaken by qualified third party providers. This helps alleviate the burden on public inspection facilities, stimulates supply of service centres throughout Australia and competition between facilities. Sophisticated diagnostic tools are also increasingly used to measure heavy vehicle performance, hence the private sector is best placed to keep up with advances in, and the deployment of, such expensive equipment to test vehicle roadworthiness.

Recommendation 9

Annual and other periodic inspections should be able to be undertaken by qualified third party providers.