



30 November 2023

National Transport Commission
Level 3, 600 Bourke Street
Melbourne VIC 3000

By email: dhogben@ntc.gov.au

RE: Reforms to Heavy Vehicle National Law - Consultation Regulation Impact Statement

The National Farmers' Federation (NFF) welcomes the opportunity to provide a submission to the National Transport Commission's (NTC's) Reforms to Heavy Vehicle National Law, Consultation Regulation Impact Statement (C-RIS).

The NFF is the national peak body representing Australian farmers and agriculture. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and length of the sector, the value of which reached a record high of \$92 billion in 2022-23.

Australian agriculture is heavily dependent on reliable, effective, and efficient freight and logistics. As an industry which exports 70% of production, our international competitiveness is severely diminished by freight and supply chain inefficiencies, with a disproportionate percentage of the final price of commodities going to freight and logistics. For example, GrainGrowers Limited support that currently domestic supply chain costs account for 30-35% of the overall delivered cost of wheat.

Freight productivity has plateaued since the 1990s, despite Australia's freight task continuing to grow.¹ Australia requires increasingly efficient and competitive supply chains to overcome domestic infrastructure challenges, increasing supply chain costs, and to maintain our competitiveness against other export-oriented nations.

¹ National Freight and Supply Chain Strategy (2019).

Heavy vehicle regulation is one of the few supply chain productivity levers that is within the government's direct control and is a strong policy priority for the NFF. The NFF [2030 Roadmap](#) – the strategic vision for growing Australian agriculture to a \$100 billion industry by 2030 – sets the target that by 2030 Australia's freight cost per tonne-kilometre will be competitive with major agricultural exporting nations. National heavy vehicle law reform can create incremental increases in supply chain efficiency and global competitiveness, through decreasing the regulatory burden and cost of compliance for heavy vehicle owners and operators.

The NFF supports harmonised transport regulation and arrangements across state and territory borders, where harmonisation will reduce unnecessary regulatory burden, reduce value chain bottlenecks and lower the ever-increasing cost of freight and logistics for the Australian agriculture industry.

Fatigue management

Changes to the scope of fatigue regulated heavy vehicles (FRHV) and local work diary exemptions

The NFF opposes the proposed expansion of the scope of fatigue regulated heavy vehicles (FRHVs) to include vehicles between 4.5 tonnes and 12 tonnes and the removal of the current work diary exemption for local drivers of FRHVs.

Currently, drivers undertaking local work within 100km of their base are not required to record required information in a work diary or carry a work diary when driving. The range of this exemption is extended to 160km for drivers carrying primary produce. Record keepers of drivers doing local work are still required to keep specific information about their drivers, which the NFF understands largely supports general fatigue management record keeping.

Current regulation recognises that fatigue management is inherently different for lighter heavy vehicles and local work operations. While the NFF appreciates the intention of streamlining requirements, in this instance harmonisation would impose a compliance burden disproportionate to the fatigue-risk posed by lighter heavy vehicles and operators undertaking local work. Unwarranted regulatory intervention would create greater supply chain inefficiencies and unnecessary costs for businesses.

The proposed reform options also contradict the key objectives behind this tranche of reform. Mr Ken Kanofski and the Infrastructure and Transport Ministers' Meeting (ITMM) identified the need to address the complex and onerous nature of current record keeping requirements for heavy vehicle drivers. Further, the Productivity Commission identified that regulation should achieve safety objectives while minimising compliance costs and barriers to innovation, the latter being key to

productivity growth and improved living standards.² While we understand the need to consider how to best manage fatigue in all operating circumstances, the proposed reforms do not adequately balance key reform objectives.

Further, and most importantly, the C-RIS analysis clearly demonstrates that the best intervention is no intervention. The proposed intervention options are not justified by cost-benefit factors and there is no assurance as to an increased likelihood of improved safety outcomes. In particular, the NFF reiterates:

- **No breakeven rate for Option 2a, 2c and 2e:** There is no estimated breakeven rate provided for Option 2a, 2c and 2e because the estimated incremental costs of these options are greater than the total cost of fatigue-related heavy vehicle crashes. This means that crashes would need to reduce by greater than 100% to breakeven with the cost associated with operator work diary compliance burden, which is not possible. This implies that these options would not achieve a positive result.
 - Within the limited scope of the analysis, this implies that these three options would not achieve a positive net-economic gain (NPV) in the long term and would not achieve a BCR (ratio of benefits to costs) of greater than 1, and therefore are unlikely to deliver a net economic benefit.³
- **Unachievable breakeven rate for Options 2b and 2d:** The results also show that current fatigue-related crash rates would need to reduce by 84% for Option 2b to deliver a positive net economic benefit, and by 72% for Option 2d to do the same. The C-RIS supports that substantial crash reductions would be challenging to achieve in practice.
 - The C-RIS importantly notes that while breakeven rates were calculated for Option 2b and 2d, this does not necessarily mean that they are the most effective at improving safety.⁴

It is concerning that even options with a ‘comparatively lower operator compliance burden,’ as in option 2b, may result in a 70% increase in operator compliance burden.⁵

The C-RIS analysis is constrained by significant data limitations and resulting assumptions. If any of the proposed reform options are to be further considered or endorsed by government, significant additional analysis as to the true cost of the compliance burden on operators is required to justify any reform. Specific industry

² Productivity Commission (2019), National Transport Regulatory Reform: Productivity Commission Inquiry Report No.94, p.3.

³ NHVL C-RIS (October 2023) p 66

⁴ NHVL C-RIS (October 2023) p 66-67.

⁵ NHVL C-RIS (October 2023) p 65.

data is also required to better understand the comparative fatigue-risk posed by vehicles conducting local work and, further, by those carrying primary produce locally.

Enforcement changes to address minor work and rest breaches and administrative offences

The NFF is generally supportive of options 3c, 3d, 3e and 3f, provided improvements for industry are realised, including that such options:

- Reduce fines and costs for operators:
 - Option 3c: operators are provided with the opportunity to challenge fines for low-risk administrative error.
 - Option 3d: An authorised officer would be disincentivised to issue a fine in certain circumstances where it can be argued a fine is unnecessary.
 - Option 3e: Drivers may be less likely to receive a fine if the use of formal warnings for administrative offences relating to work diaries is supported.
- Encourage a risk-based approach to enforcement
 - drivers are provided with an opportunity to challenge fines for minor work diary errors or omissions.
 - Option 3e: Authorised officers would be provided with broader abilities to issue formal warnings, providing less complexity in decision making.
 - Option 3f: Recognises that education and the encouragement of better safety management practices can be just as powerful as enforcement and provides an option for formal education by authorised officers instead of traditional compliance practices.
- Reduce regulatory burden for operators.
 - Option 3f: authorised officers would be able to issue a requirement that an offender undertake mandatory education, in lieu of a fine.⁶

Cost considerations are key in determining the accessibility and uptake of options. Some options, while beneficial in theory, are more resource intensive for drivers than others e.g. Option 3c – enable a review of fines for ‘trifling’ work diary offences or option 3d – driver defence for minor administrative errors.

The NFF recommends further exploration as to how costs may reasonably be moved from drivers to enforcement or regulatory agencies, particularly where such challenges are successful. Further, the NTC may consider exploring support systems to ensure drivers are able to access such options and realise the intended

⁶ NHVL C-RIS (October 2023) p 76-77

benefits, such as 'free of charge' information and assistance services to assist drivers in seeking review or access the 'driver defence.'

Options for streamlining record keeping requirements

Provided proposed reforms to streamline record keeping requirements and offences relating to record keeping have a negligible change in the regulatory burden for operators, the NFF does not oppose these reforms.

Access

The NFF strongly supports regulatory reforms considered in the C-RIS to increase prescribed vehicle mass and dimension limits that apply for general access to the road network, including:

- Options for an up to five per cent increase in mass to establish a new GML. The new GML will effectively replace the current CML. This change will result in only two mass limits under the HVNL: new GML and HML. The options consider the implications of potential mass increases for vehicles meeting Euro VI emissions control standards (see call out box below).
- Options for increasing the prescribed height limit from 4.3m to 4.6m.
- Options for increasing the prescribed length limit from 19m to 20m.

As supported by the C-RIS, increasing prescribed vehicle mass and dimension limits would enable significant productivity gains, increase industry efficiency and bolster the global competitiveness of Australia's agricultural supply chains.

The NFF thanks the NTC for the opportunity to provide a submission in response to the C-RIS. The policy contact for this matter is Charlotte Wundersitz, Senior Policy Officer (Trade & Economics) via e-mail: cwundersitz@nff.org.au or phone (02) 6269 5666.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Tony Mahar', is positioned above the printed name and title.

TONY MAHAR
CEO