

Heavy Vehicle National Law Consultation Regulation Impact Statement (C-RIS) Submission by the Bus Industry Confederation



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Bus Industry Confederation

About the Bus Industry Confederation

The Bus Industry Confederation (BIC) is the national peak industry body uniting bus and coach operators, chassis suppliers and manufacturers, body manufacturers and associated suppliers and professional services. BIC's vision is to enhance the sustainability and liveability of Australia's cities and regions by moving people using bus and coach transportation. We aim to do this by representing the collective interests of our members and to assist them in promoting the safety, efficiency and effectiveness of bus and coach transport in Australia.

Our Moving People Objectives

1. Encourage investment in public transport infrastructure and services.
2. Promote policies and actions that are environmentally responsible.
3. Promote the development of a viable and improved bus and coach industry in Australia.
4. Foster and promote a viable Australian bus manufacturing industry.
5. Protect the business interests of operators, manufacturers, and suppliers.
6. Promote public understanding of the contribution made by the bus and coach industry to Australia's economy, society, and environment.
7. Ensure the accessibility and mobility needs of Australians are met, regardless of where they live or their circumstances.
8. Promote the use of public transport as a viable alternative to the car.
9. Coordinate and make more effective existing Federal, State and Local Government policies and programs that relate to passenger transport.
10. Ensure that buses and coaches operate safely and effectively.

About the Bus and Coach Industry

Buses and coaches in Australia travelled 12.3 billion passenger kilometres (bpkm) in 2021-22 down from a peak of 22.11 bpkm in 2018-19. This is significantly higher than rail at 8.85 bpkm in 2021-22 and 17.81 bpkm. There are 97,469 registered buses in Australia.

Over several decades, the bus and coach industry has consolidated, with a fundamental shift from generational family-based bus companies in our cities to national and multinational businesses, especially in metropolitan areas. With contract reform, many smaller players have shifted their focus to being sole providers of charter service, no longer continuing route work.

The largest operators (in terms of fleet size and number of depots) are concentrated amongst metropolitan Australia.

In 2020, 88.9% of public transport passenger route service buses and 59.6% of school buses were manufactured in Australia, the majority built by Australian body manufacturers on a European or Asian chassis; the remainder being fully imported buses and coaches primarily from Asia, with some from Europe and South America.

Our Industry, which includes bus operators, bus manufacturers and parts and service suppliers, employs more than 85,000 people nationally. Comprehensive data on the bus industry, the fleet, the suppliers, operators, and their passengers can be found on the bic.asn.au website.

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Response to the Heavy Vehicle National Law Consultation Regulation Impact Statement (C-RIS)

The Bus Industry Confederation (BIC) would like to thank the National Transport Commission (NTC) for the opportunity to respond to the Consultation Regulation Impact Statement (C-RIS) on behalf of the bus and coach industry. Despite the C-RIS being primarily focussed on the heavy freight vehicle sector, we trust that our responses will carry considerable weight in the decision-making process for our sector and where necessary special conditions applying to bus and coach will be included in the Law and regulations.

Our response only addresses questions with relevance to the bus and coach industry.

Consultation questions

Case for change

Q1 To what extent has the C-RIS fully and accurately described the problem to be addressed within the scope of identified issues? What other factors should be considered in the problem statement? Please provide detailed reasoning for your answer.

The C-RIS predominantly focusses on the heavy freight sector of the heavy vehicle industry and does not fully recognise unique aspects of the bus and coach industry and our moving people task. For example, the C-RIS suggests that it seeks to address several key issues with heavy vehicle fatigue and goes on to state that controls under the HVNL focus on long-haul interstate journeys but not risks associated with short-haul journeys. “The HVNL primarily enforces fatigue regulations on large vehicles undertaking long-haul interstate journeys but does not place prescriptive requirements on smaller vehicles (i.e., those weighing less than 12 tonnes)”. It should be noted that the long distance, tourist and charter sector of the bus and coach industry undertakes long distance interstate journeys and that bus and coaches greater than 4.5 tonnes are subject to fatigue regulations.

We propose that in the Decision RIS the inclusion of a distinct section specifically dedicated to the bus and coach industry. This would enable Ministers and bureaucrats to clearly see the implications of changes and the specific circumstances applying to the bus and coach industry and the moving people task.

Need for government action.

Q2 Has the C-RIS provided sufficient evidence to support the case for government intervention? What else should be considered and why?

BIC note that the justification for government action to implement the reforms in the current C-RIS remains unchanged from the rationale presented in the previous C-RIS (2020) and D-RIS (2023), which is that governments have a responsibility to attempt to protect road users and the community. In response to the 2020 C-RIS we highlighted the heavy freight-centric nature of the justification and note that the data presented in the 2023 C-RIS lacked industry specificity and is overly broad. It would be beneficial to have a more granular breakdown of this data, distinguishing between the trucking and bus and coach industries.

Furthermore, a more detailed analysis, including factors such as fault attribution, driving conditions (regional or suburban), and time of day (night or day), would provide valuable insights.

Q3 In addition to the barriers and constraints identified, what other impediments could impact the success of implementing options presented in the C-RIS?

BIC acknowledges the barriers and constraints included in the C-RIS and notes that they are focussed mostly on infrastructure. The human factor is another constraint that should be considered within the transportation sector, particularly the bus and coach industry. Shortages of drivers, poor retention of

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drivers resulting in a lack of skilled workers in the Heavy Vehicle sector, and the aging driver workforce (average age of bus and coach drivers is now nearly 60) have major implications for both productivity and safety.

Impact analysis methodology

Q4 Are there any potential changes to the impact analysis methodology that you would suggest? Please provide reasons and evidence.

BIC does not propose any alterations to the methodology, but it is noteworthy that there is an absence of qualitative impact analysis specific to the bus and coach industry. We note that productivity and efficiency relate only to supply chains. Public transport including regular passenger and school bus services, as well as tourist and charter services provided by buses and coaches, also play a key role in achieving productivity and efficiency but are not considered in the multi-criteria analysis.

We recommend the inclusion of such analysis in future reforms for a more comprehensive understanding of impacts and implications.

Fatigue management

Fatigue management: record-keeping requirements – impacts, costs, and benefits

Q5 Do you agree with the potential impacts of Options 1a and 1b as described above? Are there any additional impacts you think should be considered?

BIC advocates for the simplification of record-keeping requirements for bus operators and drivers and supports the streamlining of requirements, moving them down the legislative hierarchy and giving the regulator more flexibility to change the form and format of fatigue records over time. Further we support the removal of duplicative offence provisions and administrative processes that no longer have a regulatory purpose. Consequently, BIC endorses the adoption of Options 1a and 1b.

BIC notes that Option 1b proposes that the format of supplementary records, including those kept by record keepers, will be set by the regulator (ie the NHVR). State governments require bus and coach companies to maintain specific records which are used by employers operationally, as well as providing evidence of compliance. These include driver shift instructions, driver rosters and vehicle movement records. It is important that such records are recognised as supplementary records when the NHVR defines them in the legislation.

Fatigue management: scope of fatigue regulated vehicles – impacts, costs, and benefits

Q6 Do you support one or more options to change the scope of fatigue-regulated vehicles? Please give reasons for your preference(s).

Refer to BIC's response in Question 9

Q7 Do you have any information to support the analysis of these options? Do you have any feedback on the key parameter estimates as presented in Section 6.6.3? The provision of anecdotal evidence would be welcomed.

Refer to BIC's response in Question 9

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Q8 Are there any additional impacts you think should be considered? If so, why?

Refer to BIC's response in Question 9

Q9 Do you agree with the key impacts that changes to the scope of FRHVs may have on buses, as described above. Do you foresee any additional impacts?

It is disappointing that "the impact of the proposed options on buses has not been quantified as part of this analysis. A qualitative discussion of impacts is provided in Section 6.6.2 (p 57)". The implications of these options on buses and coaches in the qualitative discussion was relegated to just over a paragraph on page 61 of the C-RIS and amounted to "Where there is a potential impact on bus drivers is the removal of the work diary exemption for local work (<100km). Under Options 2a and 2c, drivers would be required to complete full work diaries for local work, under Option 2e, drivers would be required to complete a 'lite' work diary, while under Option 2b drivers may be required to complete a 'lite' or full work diary depending on risk levels. This could have significant implications for bus drivers completing short local trips."

Given this lack of analysis and a case for change or justification for the change, BIC supports the status quo (i.e., base case) and continuation of current exemptions for diaries for buses and coaches. It is noted that despite the exemption from detailed diaries, a record of work and rest information is still mandatory (refer Q5 above). We recognise that there are work diary exemptions for certain types of buses in NSW (buses undertaking contracted bus services, including regular passenger and school services, and those involved in providing emergency rail replacement bus services) and BIC recommends that these exemptions be considered for all jurisdictions under the HVNL. As an industry, national consistency in operations and manufacturing requirements are a priority.

BIC seeks national consistency in relation to the threshold of the number of passengers on a 4.5 tonne bus i.e., currently in NSW and Queensland it is more than 12 adults (including the driver), in Victoria it is up to 12 adults (including the driver) and under the HVNL it is 12 adults (including the driver). We note that the C-RIS and the law states adults but other guidance materials for the HVNL mentions passengers. Given the important role of bus transport for schools the definition may be best amended to refer to passengers rather than adults.

If there is a decision to implement a "lite work" diary for lower risk operations, we would draw attention to the following factors:

- The "lower risk" operations outlined in the RIS do not reflect bus operations, for example, drivers involved with school bus or regular passenger services may commence before 6am (e.g., 5.30am) but finish by 10am. This limited day would not be considered "lower risk" operation under the C-RIS, and a driver would need to complete a work diary based on these minimal driving hours.
- Similarly, bus drivers may be "at work" for more than 10 hours in a day due to split shifts, however, may be only driving for 5 or 6 hours. For example, a school bus service may involve 2-3 hours in the morning and 2-3 hours in the afternoon.

This points to the fundamental difference between freight and passenger services, and to that extent, we disagree with the proposition outlined at page 60 of the C-RIS, that "a consistent approach to fatigue management across the heavy vehicle fleet and applicable to all drivers of heavy vehicles may also assist in better understanding of fatigue risks for all heavy vehicle drivers and operators".

The distinction between the freight and passenger transport sector is currently recognised in the HVNL and we would like to see the current situation preserved.

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Fatigue management: enforcement options

Q10 Do you support one or more options to change the enforcement of fatigue-related breaches? Please give reasons for your preferences(s).

BIC supports all the proposed options to enable a more risk-based approach to enforcement; however, we believe there is some ambiguity in Option 3b regarding Level 2 work and rest breaches. Presently, a 'Level 2' breach consists of a combination of three minor and substantial incidents or more than three minor incidents. We recommend clearly limiting the number of "substantial incident," to one and the "minor incidence" to two to enhance clarity and distinction between the various levels.

Q11 Are there any implications of options to change enforcement of fatigue-related breaches you think should be considered? What issues would need to be considered as part of the implementation of these reforms?

BIC has no further comment.

Q12 If some of the proposed changes to the enforcements of fatigue-related breaches were adopted, would this give you confidence to transition your business to EWDs?

While BIC endorses the shift to Electronic Work Diary (EWD's), we also advocate for the continued use of paper-based work diaries. This is especially crucial for small regional bus operators facing limited telecommunications connectivity.

Q13 Taken as a package, would these reforms to fatigue-related created a fairer regulatory approach overall?

BIC is of the opinion that these reforms will bring about positive change and create a level playing field in terms of fatigue management. These changes are anticipated to not only lessen administrative burdens but also establish fairness for drivers.

This is particularly significant as it addresses the current situation where drivers face harsher penalties for minor work diary infringements than those who engage in dangerous driving activities.

Q14 Regarding Option 3A, would a timeframe of 14 days or 28 days be more appropriate? Please provide reasons for your answer.

BIC is neutral towards either option but recognise that 28 days aligns with the work diary requirements outlined in section 293 of the HVNL.

Access

Questions 15 to 24 relate to the reforms in expanding vehicle mass and dimension on limits for as-of-right access to the road network specifically in the trucking sector, therefore, BIC has not responded to these questions.

BIC is however seeking, via a separate process, ADR changes to allow for buses or coaches to be built to 2.55 m body and axle width. This would allow Australia to better harmonise with the EU regulations and our counterparts in New Zealand who changed to 2.55m width in recent years. The change in width is proposed in conjunction with other ADR changes to allow an increase in mass and external add-ons such as cameras and sensors to go to 2.6 m.

Our position reflects the physical realities of the global industry's transition to zero emission buses such as Fuel Cell Electric and Battery Electric, as well as ultra-low emission Hybrid and Euro VI Diesel/Bio Diesel. Whilst greener, these technologies are heavier. For example, a typical 1500kg diesel drive system is replaced by a 3000kg electric drive train system. To maintain passenger capacity, and the resultant higher mass, bus axles and tyres are affected accordingly. An ADR change in width would allow for wider front axle

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configurations, with wider section higher mass rated tyres, to better accommodate the greener technologies, whilst maintaining current passenger capacities.

Enhanced operator assurance

National Audit Standards Requirements

Q25 Do you agree with the potential impacts described regarding the potential inclusion of NAS requirements in regulations? Are there additional impacts you think should be considered?

We note that few bus and coach operators participate in the NHVAS which primarily reflects the level of regulation that applies to the sector at a state and territory level. We do not have any objections to the inclusions of NAS requirements in the regulations. From a bus and coach industry perspective however, it is important that the NAS recognise and does not duplicate state and territory-based schemes where they apply e.g., the Bus Operator Accreditation Scheme in NSW (which requires the auditing of fatigue management, vehicle maintenance and other safety management system requirements on a three-yearly cycle).