



NATIONAL ROAD TRANSPORT ASSOCIATION

**Submission to the Marsden Jacob Associates**

***Consultation Regulation Impact Statement: HVRR Phase 2:  
Independent price regulation of heavy vehicle charges***

**August 2018**

## Introduction

1. The National Road Transport Association (NatRoad) is pleased to make comments on the consultation paper released in July 2018 by Marsden Jacob Associates relating to reforms under phase 2 of the broader heavy vehicle road reform (HVRR) program.<sup>1</sup>
2. NatRoad is Australia's largest nationally representative road transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators moving general freight, road trains, livestock, fuel and refrigerated goods and vehicles. NatRoad members also include heavy vehicle recovery specialists, bus lines, tippers, express car carriers and transport-affiliated businesses.
3. The draft Regulation Impact Statement (RIS) that comprises the major part of the consultation paper is being undertaken by Marsden Jacob Associates as an independent consultancy because the Transport and Infrastructure Council (TIC) seeks to understand the costs and implications of independent price regulation. However, no decision on the establishment of independent price regulator has yet been taken.
4. The establishment of an independent price regulator, with powers to set prices independently of government and potentially perform a range of oversight activities related to forward-looking road expenditure is an essential component of stage 2 of HVRR reform. NatRoad supports the Government establishing an independent price regulator for heavy vehicle charges. Without the establishment of such a regulator the other element of stage 2 of the HVRR would be open to political rather than economic considerations.
5. The other component of stage 2 is the implementation of a forward-looking cost base, which would develop a building-block model to determine allowed revenue under heavy vehicle charging based on expected future expenditure. For the reasons set out in this submission, we recommend that this part of the HVRR be postponed.

## Heavy Vehicle Road Reform

6. The TIC web site explains the aim of the HVRR process:

*The ultimate goal of heavy vehicle road reform is to turn the provision of heavy vehicle road infrastructure into an economic service where feasible. This would see a market established that links heavy vehicle user needs with the level of service they receive, the charges they pay and the investment of those charges back into heavy vehicle road services.<sup>2</sup>*

7. NatRoad believes that independent price regulation for heavy vehicles is long overdue and is essential for maintaining the long term viability and productivity of the road freight transport industry. Independent price regulation should aim to do exactly as the TIC proposes that is directly link the needs of heavy vehicle users with the level of service they receive, the charges they pay and the investment of those charges back into road services. It is with this policy in mind that we address the issues raised in the consultation paper.
8. From the outset we note that the structure and operation of an independent price regulator depends on the pricing model that is adopted and decisions by TIC about the next steps in

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<sup>1</sup> <http://www.marsdenjacob.com.au/wp-content/uploads/2018/07/C-RIS-IPRFLCB-Final-webversion.pdf>

<sup>2</sup> [http://transportinfrastructurecouncil.gov.au/publications/heavy\\_vehicle\\_road\\_reform.aspx](http://transportinfrastructurecouncil.gov.au/publications/heavy_vehicle_road_reform.aspx)

the HVRR programme, which makes it difficult to provide a conclusive position on some of the issues raised in the consultation paper. Hence the next part of this submission sets out the NatRoad policy on the characteristics of an independent price regulator. At the same time, the creation of a forward looking cost base would be premature in the face of no decisions or details about the cost model that would be used to replace current arrangements. In other words, the way in which industry is to be charged in future is not settled and should be the final characteristic of reform.

9. The independent price regulator would be a useful agency to guide TIC in establishing the forward looking cost base once other reforms are in place or, at the least, committed to by TIC. The extent to which, for example, the road funding model will reflect community service obligations (COS) is of concern. How that concept will be translated into a forward looking cost base is unclear. The policy work remains to be done.

10. We note that in relation to COS, the RIS indicates that current arrangements will remain under the proposed reform options but that “full reform” may involve the implementation of a COS:

*No change is proposed for community service obligations under either reform option. That is, there would be no explicit community service obligations and current funding arrangements for less travelled roads would continue. And*

*Full reform may involve implementing a community service obligation framework in future funding arrangements.<sup>3</sup>*

11. There are a number of reforms that are currently nascent that would underpin a forward looking cost base not the least of which is innovative reform of access arrangements, inclusive of the creation of pre-approved routes for various combinations.

12. NatRoad is a member of the Australian Trucking Association and we support its proposal to re-structure the roll out of the HVRR so that the establishment of a forward looking cost base is the last part of the reform process. Accordingly, we now comment on the RIS as it relates to the establishment of an independent price regulator.

### **Independent Price Regulator**

13. It is essential that the national independent price regulator does not face:

- the political and or fiscal pressures that exist under current arrangements; and
- conflicting responsibilities such as maximising revenue versus setting a fair and efficient price.

14. We note that at the consultation paper at page 15 dismisses the exploration of the use of multiple State-run independent regulators rather than one national independent regulator. We would not support the creation of multiple State-based regulators. Given the cross-border, national nature of the road network and road freight task, it is essential that a national approach to heavy vehicle price regulation be implemented

15. An independent pricing system would need to have the following characteristics:

- Governments would agree on the pricing rules to be used and the overall approach for the regulator to follow.

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<sup>3</sup> Above note 1 at pages 85 and 86

- Once the rules are established, the regulator would make and apply its pricing decisions. Its decisions would not be subject to ministerial approval or parliamentary disallowance.
- There could be a merits review process, particularly if the legislation included an early transition to full economic regulation.

### **Functions of an economic regulator**

16. The RIS sets out two options, Option A and Option B. The RIS assumes an end-state benefit from the comprehensive HVRR reforms. It then takes that assumed benefit of \$5.8 billion. An assessment is then made that in order for the introduction of the independent price regulator to represent a net benefit a percentage of the end-state benefit must be generated. This percentage is 0.16 per cent for Option A and 1.3 per cent for Option B.<sup>4</sup>
17. The RIS in Table 21 then sets out the percentage of the end-state benefits that would need to be achieved in each category for the two percentages mentioned in the prior paragraph to be achieved. Reform may or may not deliver the benefits set out in the table. That is why NatRoad takes a cautious approach and why we believe that a post-implementation study of an independent price regulator after a period of operation with the expanded functions we indicate in this submission would be a better approach.
18. So much of the benefit of the reforms mentioned in the RIS depend on the complete package being implemented that the exercise in relation to the two matters covered is overly speculative. Whilst every regulatory impact statement contains a number of assumptions, the RIS lacks a sufficient foundation because of the absence of major decisions about the nature and extent of heavy vehicle reform.

### **Characteristics of an Independent Price Regulator**

19. NatRoad submits that an independent pricing regulator should possess a broader regulatory role than that set out in the RIS, including the setting of light vehicle charging. It should also regulate and monitor toll fees and landside port charges, given the current lack of transparency and fairness in setting tolls and landside port charges for heavy vehicles.
20. The proposed economic regulator should take into account the evaluations of infrastructure projects by Infrastructure Australia or similar infrastructure advisory bodies in jurisdictions to ensure that only expenditure prioritised by those agencies flows through to user charges.
21. A function of an economic regulator includes developing and setting service levels for the road network. Service levels should be designed to facilitate high productivity vehicle access, future vehicle automation and facilities for heavy vehicles such as rest stops. It should seek to eliminate any local council access charges.

### **Appropriate regulatory and governance mechanisms**

22. It would be pointless to establish an independent price regulator if Commonwealth, state and territory governments are not bound by its pricing decisions.
23. NatRoad agrees that states and territories will have to pass legislation conferring powers on the regulator. Although model legislation is an efficient method of bringing all states and territories under a single pricing regime, there needs to be a will for governments to do so and a need to commit to the details of HVRR that will provide the assumed benefits which underpin the RIS.

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<sup>4</sup> Id at p58

24. The latter commitment must include increase transparency around road funding decisions. To achieve that objective governments should set up road funds separate from their general budgets for both heavy and light vehicle revenues.

### **Conclusion**

25. NatRoad supports the establishment of an independent price regulator as part of the broader heavy vehicle road reforms. Subject to the jurisdiction of the independent price regulator including the matters set out in this submission, we support Option A subject to a post-implementation review being conducted 12 months after the establishment of the independent price regulator.
26. There should be no implementation of a forward looking cost base until a restructured roll out of HVRR reforms are in place.