



**Australian Transport Council**

# **2009 Review of the National Transport Commission**

## **Call for Submissions**

### **Background Paper**

(Released 19 January 2009)

**Submissions to this Review**

Submissions should be sent to

Email: [ntc\\_review@infrastructure.gov.au](mailto:ntc_review@infrastructure.gov.au)

Or

Secretariat

National Transport Commission Review

Department of Infrastructure, Transport, Regional Development

and Local Government

GPO Box 594

CANBERRA ACT 2601

Preference is to receive submissions by email at:

[ntc\\_review@infrastructure.gov.au](mailto:ntc_review@infrastructure.gov.au)

All submissions should be received by close of business

6 March 2009

Contact:

NTC Review Secretariat

Tel. 02-6274 7300

Email: [ntc\\_review@infrastructure.gov.au](mailto:ntc_review@infrastructure.gov.au)

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## 1. Purpose of Call for Submissions

This paper is to inform stakeholders that, in accordance with the *National Transport Commission Act 2003* (NTC Act), the National Transport Commission (NTC) is required to be reviewed no later than the sixth anniversary of the NTC Act. The Australian Transport Council (ATC) has established a review of the NTC (the Review). The ATC is to provide recommendations to the Council of Australian Governments (COAG) (comprising the Prime Minister and state and territory first ministers) on the future of the NTC.

A Review Steering Committee has been appointed by the ATC to undertake the Review and prepare a report to enable the ATC to provide recommendations to COAG. The Review Steering Committee is chaired by Mr Bruce Wilson and the other members of the Committee are Ms Tania Whyte and Mr Adam Lewis.

As part of the Review, public consultation will be undertaken to seek input from stakeholders on the matters raised in the Review's Terms of Reference (Attachment A). In broad terms these issues relate to:

- The NTC's effectiveness in meeting the objectives as set out in the NTC Act and the *Inter-Governmental Agreement for the Regulatory and Operational Reform in Road, Rail and Intermodal Transport* (IGA) for delivering regulatory and operational reforms to improve road, rail and intermodal transport;
- The future of the NTC in light of future transport policy and regulatory challenges.

Stakeholders are invited to provide their submissions to the Review Steering Committee through the Review Secretariat. In addition to the issues listed in Attachment A, Attachment B outlines the type of issues that the Steering Committee is seeking stakeholder views on.

## 2. Australian Transport Council (ATC)

The ATC is the council of Australian (Commonwealth, state and territory), and New Zealand transport ministers established on 11 June 1993. The ATC provides a forum for ministers to consult and provide advice to governments on the co-ordination and integration of all transport and road policy issues.

The ATC is constituted so that the Commonwealth and each state and territory government has one vote each on matters concerning the NTC Act or the IGA.

### i. The ATC's legislative requirement to review the NTC

Section 51 of the NTC Act requires that the ATC reviews, no later than the sixth anniversary of the commencement of the NTC Act, both the NTC Act and the IGA, and provides a report to the Prime Minister and all Premiers and Chief Ministers.

### ii. NTC reports to the ATC

The NTC is required by the NTC Act to report and provide advice to the ATC. The NTC provides reports to the ATC on matters relating to the performance of its functions, or exercise of its powers, as the ATC directs.

### **3. National Transport Commission**

#### **i. Background**

Governments formally started national coordination of the road transport reform agenda in 1991 with the establishment of the National Road Transport Commission (NRTC) under *The National Road Transport Commission Act 1991* (NRTC Act). The NRTC was focussed on the reform of heavy and light vehicle regulation, registration, road use and heavy vehicle charges. The NRTC Act and the NRTC were reviewed in 1996, however no major changes were recommended. The NRTC was reviewed again in 2002, and the following changes adopted:

- rail and intermodal regulation and operational reform were added to the NRTC's remit; and
- the NRTC was replaced by the NTC.

The NTC commenced operations on 15 January 2004.

#### **ii. About the NTC**

The NTC is an independent statutory body established by the ATC, but under Commonwealth legislation, to develop, monitor and maintain uniform or nationally consistent regulatory and operational reforms in road, rail and intermodal transport. These reforms take the form of policies, procedures and model legislation that are considered by the ATC on the NTC's recommendation. The NTC reports to the ATC.

The NTC consists of five ordinary members appointed by the Commonwealth on a two-thirds majority vote of the ATC. Two of the ordinary members are appointed by a majority vote of the ATC to the Chair and Deputy Chair positions. The Chief Executive Officer of the NTC is also a member of the Commission, making six members in total. A quorum to conduct the work of the NTC is at least three ordinary members (that is, excluding the NTC Chief Executive Officer). The CEO is appointed by the Commissioners.

The NTC has approximately 40 staff located at its Melbourne premises.

The NTC's costs are shared among the Commonwealth, state and territory governments on a proportional basis agreed by ATC Ministers and outlined in the IGA<sup>1</sup>. The NTC was established with a base budget of \$7 million in 2004-05, which is maintained in real terms through indexation by CPI. Each year the NTC prepares a three-year Strategic Plan and budget estimates in accordance with the NTC Act and IGA.

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<sup>1</sup> The Commonwealth pays 35%, and the states and territories pay the remaining 65% on a per capita basis based on the November 2002 population figures (ie. New South Wales 22.03%, Victoria 16.10%, Queensland 12.17%, Western Australia 6.36%, South Australia 5.04%, Tasmania 1.57%, Australian Capital Territory 1.07% and Northern Territory 0.66%).

In the performance of its functions and the exercise of its powers the NTC has a statutory obligation to consult widely across governments, industry, peak industry bodies and all other interested people, bodies and organisations. The NTC is also tasked with consulting with the National Environment Protection Council on matters that may have an environmental impact.

### **iii. Responsibilities and functions of the NTC**

The NTC has responsibilities, functions and powers as set out in the NTC Act (section 6) and the IGA (section 5 and Part 2), key elements being:

- developing uniform or nationally consistent regulatory and operational reform proposals for road, rail and intermodal transport, in particular, but not limited to;
  - developing a framework to improve and strengthen the co-regulatory system for rail safety including the application of mutual recognition; and
  - developing a national policy on key rail safety issues and procedures and standards to manage major rail safety risk factors.
- developing heavy vehicle road use charging principles and charges based on those principles;
- monitoring and reporting implementation of reforms to the ATC and maintaining and reviewing implemented reforms; and
- monitoring the effectiveness of the development and implementation of the Code of Practice for the Defined Interstate Rail Network.

### **iv. Highlights since 2004**

Since its establishment in 2004, key initiatives advanced through the NTC include:

#### **Safety**

- ‘Chain of Responsibility’ laws to target the cause of heavy vehicle speeding, mass and loading, driver fatigue
- Model Rail Safety legislation and associated reform package
- Compliance and Enforcement model legislation
- Maintenance of National Australian Road Rules
- Maintenance of National Australian Vehicle Standards Rules
- National Heavy Vehicle Safety Strategy

#### **Productivity**

- COAG- endorsed new heavy vehicle charges determination
- Performance Based Standards
- Quad Axle policy
- 26 metre B-double policy

#### **Environment**

- Vehicle Emissions and Fuel Standards
- Freight Transport in a Carbon Constrained Economy discussion paper

#### **Strategic**

- the National Transport Plan and Policy Framework setting out the challenges facing the transport industry and a policy reform agenda
- ‘Twice the Task’ report

## **4. Australia's National Transport Policy**

Following the November 2007 Federal election, the Minister for Infrastructure, Transport Regional Development and Local Government requested the NTC develop a National Transport Plan and Policy Framework (the Plan). This Plan was agreed by the ATC in May 2008.

The Plan identified a range of issues that contribute to the competitiveness and sustainability of the transport sector, the priority areas for national policy cooperation and the challenges ahead. Individual transport ministers have taken responsibility for developing and coordinating aspects of the Plan around the following themes: an economic framework for an efficient transportation marketplace, infrastructure planning and investment, capacity constraints and supply chain performance, urban congestion, climate change, the environment and energy, safety and security, strategic research and technology, workplace planning and governance.

The Plan also encapsulates the transport component of the COAG National Reform Agenda. The COAG Road Reform Plan is focussed on the development and assessment of heavy vehicle pricing reform options and continuing to progress key freight industry productivity reforms, such as driver fatigue regulations and higher mass limits for selected heavy vehicles. COAG is simultaneously pursuing national rail safety reforms and has agreed to the implementation of national rail safety legislation and a nationally consistent rail safety regulatory framework. The ATC has been tasked with delivering on COAG's commitments.

Regulatory Impact Statements (RIS) on proposed initiatives with national significance are currently being prepared for the ATC to report to COAG in 2009. These cover:

- a single national system for the regulation, registration and licensing of heavy vehicles (consultation RIS released December 2008); and
- a national rail safety regulator and safety investigator (consultation closed); and
- a single national approach to maritime safety legislation.

The ATC is also currently developing a draft Inter-Governmental Agreement to support the establishment of a National Road Safety Council for consideration at COAG's first meeting in 2009.

The NTC is involved in many of the above activities, either as the lead agency or as a key contributor. Given the breadth and significance of the national planning framework and the possible impacts it has for the work of the NTC, stakeholders may choose to have regard to the Plan (see References below) in making submissions to this Review.

## **5. How the Review will be conducted**

The Terms of Reference for the Review (Attachment A) are based on the NTC Act and the IGA, and are the guiding principles of the Review.

The questions in this paper (Attachment B) are designed to seek feedback from stakeholders on the effectiveness of the NTC in meeting its legislative objectives and in fulfilling its duties and functions, as well as its possible future in the light of the transport policy and regulatory challenges ahead. It is important that submissions are not limited to the issues raised either

by the NTC Act and IGA or the terms of reference. Where possible, submissions should consider the breadth of issues facing transport reform in a federated nation, in which more than one layer of government may be involved in infrastructure provision, asset and access management, safety and regulatory functions, taxing, charging, funding and financing.

The Review Steering Committee will consider the written responses received and will consult with stakeholders as appropriate.

The Review Steering Committee will prepare a report with recommendations to the ATC for consideration. The ATC will provide its final report and recommendations on the future of the NTC to COAG.

## **6. How to make a submission**

The Review Steering Committee invites all interested individuals and organisations to take part in the Review and submit their feedback on the matters covered by this paper and any other relevant matters.

There is no specific format for a submission. We encourage you to include evidence such as data and documents that support the views expressed in your submission. We welcome every submission; however, multiple identical submissions do not carry any more weight than the merits of an argument in a single submission.

This is a public review and the ATC and the Steering Committee will make the submissions publicly available for others to read unless confidentiality is requested. Any supporting evidence in the form of data or documents that are confidential should also be clearly marked as confidential. Submissions, other than confidential submissions, will be publicly available on the NTC Review Home page shortly after submission at <http://www.infrastructure.gov.au/transport/australia/ntc/>.

**Submissions should be lodged by close of business on 6 March 2009.** We prefer to receive submissions electronically via [ntc\\_review@infrastructure.gov.au](mailto:ntc_review@infrastructure.gov.au), however, you may also send submissions by mail (Secretariat, NTC Review, Department of Infrastructure, Transport, Regional Development and Local Government, GPO Box 594, Canberra, ACT, 2601).

Please ensure that your electronic documents are the final version and that you have removed all drafting notes and track changes. Each submission should include the contact details of the submitter. A coversheet is provided for this purpose on the NTC Review Home Page.

## 7. Review Timetable

The timetable for the Review is as follows:

January 2009	Call for public submissions
6 March 2009	Public submissions close
March 2009	Review Steering Committee considers public submissions
April 2009	Review Steering Committee prepares preliminary findings
May 2009	Review Steering Committee presents its preliminary findings to the ATC
June/July 2009	The Review Steering Committee report provided to ATC for consideration
September 2009	ATC's final review report provided to First Ministers

## 8. References

- *National Transport Commission Act 2003* (NTC Act) –  
<http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200402735?OpenDocument>  
[http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/F9F8C4CE9EC49BEACA256F71005751FE/\\$file/0812003.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/F9F8C4CE9EC49BEACA256F71005751FE/$file/0812003.pdf)
- Inter-Governmental Agreement for the Regulatory and Operational Reform in Road, Rail and Intermodal Transport (IGA) –  
<http://www.atcouncil.gov.au/documents/NTCIGA.aspx>
- Review of the *National Road Transport Commission Act 1991* -  
<http://www.atcouncil.gov.au/documents/atcnrtc.aspx>
- National Transport Plan -  
<http://www.ntc.gov.au/viewpage.aspx?AreaId=34&DocumentId=1750>  
<http://www.ntc.gov.au/filemedia/Publications/NationalTransportPlanVol1Mar2008.pdf>  
<http://www.ntc.gov.au/filemedia/Publications/NationalTransportPlanVol2Mar2008.pdf>
- Consultation Regulatory Impact Statement into a National Framework for Regulation, Registration and Licensing of Heavy Vehicles -  
[http://www.infrastructure.gov.au/roads/vehicle\\_regulation/ris/hvreform\\_ris.aspx](http://www.infrastructure.gov.au/roads/vehicle_regulation/ris/hvreform_ris.aspx)
- Single National Rail Safety Regulatory and Investigation Framework Draft RIS –  
<http://www.ntc.gov.au/DocView.aspx?DocumentId=1790>

- NTC website – <http://www.ntc.gov.au/>
- ATC website – <http://www.atcouncil.gov.au/>

We look forward to your feedback.

NTC Review Steering Committee  
Bruce Wilson (Chair), Tania Whyte, Adam Lewis

## National Transport Commission Review Terms of Reference

### Introduction

Section 51 of the *National Transport Commission Act 2003* (NTC Act) requires that the Australian Transport Council (ATC) reviews, no later than the sixth anniversary of the commencement of the Act, both the Act itself and the Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport (the IGA), and provide a report to the Prime Minister and all Premiers and Chief Ministers.

The report must include:

- a) A recommendation whether to continue the National Transport Commission (NTC);
- b) A recommendation whether to amend or repeal the Act; and
- c) The reasons for the recommendations.

Sections 1 and 2 of the NTC Act commenced on proclamation of the Act on 9 September 2003 with the balance commencing on 14 January 2004, therefore the review should be finalised by 9 September 2009.

### The Task

The Review should:

- a) Be overseen by a steering committee;
- b) Call for public submissions;
- c) Provide to the steering committee a copy of every submission received by the review;
- d) Assess the effectiveness of the National Transport Commission in meeting the objective of the Intergovernmental Agreement to improve transport productivity, efficiency, safety and environmental performance and regulatory efficiency in a uniform or nationally consistent manner;
- e) Assess the effectiveness of the NTC in delivering regulatory and operational road, rail and intermodal transport reform for the ATC in terms of timeliness, quality, content and value for money;
- f) Assess the effectiveness of the NTC's reform maintenance process in supporting the delivery of regulatory and operational reform;
- g) Assess the overall effectiveness of the governance arrangements outlined in the NTC Act and the IGA, and advise on their effectiveness in ensuring the delivery of tasks determined by ATC and whether any change is warranted to either the NTC Act or the IGA;
- h) Make recommendations on whether the NTC should continue in operation and whether there are other alternate governance, institutional or legislative structures that would give an enhanced outcome for road, rail and intermodal reform;
  - If the recommendation is to continue to operate, make recommendations on any suggested amendments to both the NTC Act and IGA;
  - If the recommendation is to discontinue the operation of the NTC, suggest alternate institutional arrangements for recommending road, rail and intermodal reform to Australian Transport Ministers;
- i) In considering appropriate institutional arrangements for regulatory and operational reform for road, rail and intermodal transport, the review will address:

- Whether those arrangements should encompass issues beyond regulatory and operational reform, and address both passenger and freight transport issues;
  - Whether, and how, the National Transport Commission should interact directly (that is, outside any direct tasking by the ATC) with other national and state/territory agencies that potentially impact on national transport policy development and implementation, such Infrastructure Australia, economic regulatory agencies, or other government agencies;
- j) Recommend what would be the appropriate level of resourcing for the future body; and
- k) Provide findings, recommendations and the background reasoning in a report that would be provided to First Ministers in line with legislative requirements; and
- l) The review is to have regard to the work being undertaken as part of the National Transport Policy Framework and the impact that this may have on the NTC, the Act and the IGA.

## **Questions to answer in your submission to the National Transport Commission Review Steering Committee**

The National Transport Commission (NTC) Review Steering Committee, on behalf of the Australian Transport Council (ATC) invites stakeholders to make submissions that address the following questions. These questions cover the Terms of Reference for the Review and allow for additional comments as required. Your answers will assist the Steering Committee to prepare its report to the ATC on the performance and future direction of the NTC.

### **Questions**

1. Name of organisation.
2. Please nominate which area your organisation represents.
3. What are the big issues (eg. climate change, world oil supply, urban transport, national markets, and safety) that will face the Australian transport industry in the next five years, and further into the future? What are the big changes that will be required? (That is, what should the reform agenda comprise?)
4. How well is the reform agenda going? Are governments, including the NTC, and industry making enough progress on the big issues?
5. What changes to the current institutional and/or regulatory frameworks, as well as reform priorities, are needed to drive the reform agenda forward faster and more effectively? What role, if any, should the NTC play?
6. How does and should the NTC's role fit with the various other government branches and agencies and industry stakeholders? How effective are the interactions now? Will the new reform agenda require changes to this role and interactions?
7. What has your experience of dealing with the NTC been like? How effective have you found the NTC to be? What do you consider is the basis for their effectiveness?
8. Has the NTC been effective in improving, and/or achieving an appropriate balance, in the specific areas that it is responsible for: productivity, regulatory efficiency, safety and environmental performance of transport?
9. Has the NTC's process for reviewing the implementation of reforms and refining them been effective in supporting the delivery of regulatory and operational reform?
10. Has there been sufficient alignment between the NTC's work agenda and the major issues facing industry and the community?