



NATIONAL ROAD TRANSPORT ASSOCIATION

**Submission to the Department of Infrastructure, Transport, Regional
Development and Communications (the Department)**

**Heavy Vehicle Road Reform Consultation Paper: *Proposed
changes to the way heavy vehicle charges are set and invested***

28 October 2020

Introduction

1. The National Road Transport Association (NatRoad) is pleased to make comments on the Heavy Vehicle Road Reform Consultation Paper *Proposed Changes to the way heavy vehicle charges are set and invested*¹ (Consultation Paper).
2. NatRoad is Australia's largest national representative road freight transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators, general freight, road trains, livestock, tippers, car carriers, as well as tankers and refrigerated freight operators.
3. This submission responds to most of the stakeholder questions posed in the Consultation Paper, where four central elements of Heavy Vehicle Road Reform (HVRR) are outlined:
 - National service level standards;
 - Expenditure planning and independent assessment of what costs are recoverable;
 - Independent setting of heavy vehicle charges; and
 - Dedicated road funding (hypothecation).
4. NatRoad notes that we have also provided feedback to the Department on the Consultation Paper and the issues it raises through participation in HVRR workshops.

General Position

5. On 10 August 2020 NatRoad provided to the Department a copy of a submission dated 30 July 2020 (July Submission) made on the Draft Report of the NSW Review of Federal Financial Relations entitled *Supporting the Road to Recovery*² (Draft Report). The July Submission contains material relevant to the content of the Consultation Paper as it discusses NatRoad's policies on cost reflective road pricing. That discussion occurred in the context of the Draft Report recommending, amongst other things, a distance based charging scheme for electric vehicles. The Draft Report proposes that the process of establishing charging for electric vehicles would be utilised as a "trial" before a whole system change to distance priced charging would be implemented.
6. In the context of the last proposition, Recommendation 14 in the Draft Report is as follows:

*Once distance-based charging for electric vehicles has been successfully implemented, the NSW Government should work with the Board of Treasurers to extend the scheme by replacing vehicle registration, licencing, stamp duties on motor vehicles and motor vehicle insurance with a distance-based charging scheme that better reflects the costs to society of road use, including pollution and congestion. Revenue should be hypothecated to expenditure on roads and transport infrastructure.*³
7. Clearly, an overhaul of the system for all motor vehicles is proposed. That would be NatRoad's preference, especially as the issue of the fairest and most appropriate method of charging heavy vehicles for the industry's use of infrastructure remains controversial. For example, NatRoad does not believe that heavy vehicle operators

¹ <https://www.infrastructure.gov.au/roads/heavy/files/hvrr-consultation-paper-20200904.pdf>

² <https://www.treasury.nsw.gov.au/sites/default/files/2020-06/FFR%20Review%20Draft%20Report%20.pdf>

³ Id at p89

should pay for roads which they cannot access. That proposition should be a foundational matter when examining road funding for the future: if heavy vehicles cannot access parts of the road network then they should not be required to pay for those parts of the network. Neither should they be forced to take particular routes that are tolled. Forcing heavy vehicles to use tolled roads without an alternative route being available undermines basic principles of fairness.

8. In addition, the July Submission shows that in particular fuel excise is no longer an effective way of paying for roads and is no longer a reasonable proxy for road use. In the current reform debate, Transport Ministers should address the rapid decline in fuel excise revenue from light vehicles to ensure the road network is funded into the future on a fair basis. The Consultation Paper's emphasis on the continuation of current funding mechanisms for payment by the heavy vehicle sector is disappointing in linking reform to an outmoded tax and to State and Territory discretion.
9. The July Submission also indicated NatRoad's preference for any proposed congestion tax to be targeted to discretionary travelling, noting the importance of the freight task and having any congestion tax facilitate the movement of freight rather than further taxing heavy vehicles. Members have made it plain that HVRR should not be promoted as a means of Government revenue raising.
10. In essence, the NatRoad position is that HVRR must occur contemporaneously with a review of infrastructure funding with the aim of de-politicising decisions about road construction. The goal should be to have all road users contribute their fair share to the construction and maintenance of roads in a system that better connects road demand and supply, and therefore should encompass reform of the contribution of light vehicles as well.

Service Level Standards

11. NatRoad supports the aim of HVRR in establishing service level standards that categorise roads, with a range of service for each category. The Consultation Paper says:

*Roads will be assigned to a category based on the function of the road. It is likely the standards will capture all types of roads, including those usually managed by local governments.*⁴

12. The Consultation Paper says that 'service levels' will "include things road users experience and care about, such as safety, road condition, speed and reliability; all of which will be overlayed with their willingness to pay."⁵ In addition, these standards will be foundational to other elements of the HVRR.
13. Instead of setting out minimum engineering standard for roads, it is indicated that the standards would "seek to document what all road users want from different types of roads. Heavy vehicle operators can expect to contribute to the costs of providing services within or up to the standard through user charges."⁶ But, of course, in considering matters like safety and road condition, engineering standards are central. The assessment of roads without engineering criteria being in play should not occur.
14. The Consultation Paper poses four questions about this element of HVRR, each of

⁴ Above note 1 at p 11

⁵ Ibid

⁶ Above note 1 at p 12

which is now addressed.

15. The first question is: *What do you see as the pros and cons of establishing service level standards?*
16. NatRoad views this supply side development as necessary and useful. There should be a proper, extensive audit of Australian roads utilising both objectively verifiable criteria and qualitative considerations. That should result in an interactive map that reflects the service level standards and which could be utilised to develop the geospatial map that work commissioned for the National Transport Commission⁷ has characterised as being able to provide a “real-time ‘single source of truth’ for road access.”⁸
17. Ideally, the standards would recognise physical characteristics of roads as well as less objectively definable aspects such as amenity. But as recognised by Austroads in the report entitled *Community Service Obligations Framework for the Roads Sector*⁹ (Austroads report) classes of motorists have different requirements.¹⁰ This would include differences between classes of heavy vehicle; for example an operator of a tipper used for construction involving multiple small trips from a construction site to a disposal site will have different requirements from a multi-state road train operator/driver. Despite these differences, there is one overriding criterion for all motorists: roads should be fit for purpose.
18. In this latter context, establishing what is a minimum level of fitness for purpose means that each road must be assigned an appropriate categorisation on a dynamic basis. This is evident from the need for roads which evolve from quotidian rural roads to major freight routes. An example is the Queensland regional road network recently identified by Infrastructure Australia.¹¹
19. In its August 2020 priority update, Infrastructure Australia has taken Queensland Government advice that sections of regional high speed, two-lane highways mostly have narrow shoulders, minimal separation between traffic, minimal safety features (such as audio-tactile line markings) and unprotected roadsides, noting “these sections of road make up 3% of Queensland’s state-controlled road network by length, but 20% of vehicle kilometres travelled and 15% of ‘fatal and serious injury’ crashes.”¹² Rising population and related freight demand means that these relevant roads should be urgently upgraded to ensure safety and better fitness for the purpose of the freight task.
20. There are many issues with categorising roads and over time ensuring that they are fit for purpose on an objective basis: one of the main considerations being that infrastructure design does not adversely affect safety. In addition, an immediate problem evident from the analysis in the Austroads report is ensuring that the jurisdictions and local governments agree on the basis of categorisation. That categorisation should ensure that there are agreed minimum service level standards for all roads in Australia, including rural and regional roads. That is obviously a matter that would require large resource allocation by governments in

⁷ https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.ntc-hvlawreview.files/5715/9304/9833/HVNLR_RIS_25_June.pdf

⁸ Id at p137

⁹ (2017) <https://austroads.com.au/latest-news/community-service-obligations-framework-for-roads>

¹⁰ See the discussion at Id p25

¹¹ https://www.infrastructureaustralia.gov.au/sites/default/files/2020-08/FINAL_Mid-year%202020%20IPL_low_res.pdf at p18

¹² Ibid

first agreeing the categorisation and then in allocating resources to reach the defined standards. But that resource allocation is warranted.

21. Question 2 is: *What are the most important things for the service level standards to capture?*
22. The standards must be transparent and capable of dynamic change, as mentioned above. The first element of assessment must be access. To be blunt, the road condition is unimportant if heavy vehicles cannot access the road. The industry should not be required to pay for roads for which access is not provided. Secondly must be issues of safety that relate to infrastructure design and maintenance, as reflected in the example in paragraph 19 above. Thirdly must be accessibility of mobile and technology connection. These issues are becoming increasingly important as technology guides a greater number of vehicle journeys.
23. The third question is: *What mechanism/s should be established to make sure the service level standards reasonably reflect the views of users, including their willingness to pay? For example, how can a wide range of stakeholders be represented in the process?*
24. Willingness to pay (WTP) is an inappropriate concept in the current context. It is a marketing concept where a maximum amount a customer is willing to pay for a particular product or service is established. This makes WTP a crucial factor when finding the best price at which to sell a product in a competitive market.¹³ WTP is often assessed by reference to consumers' choices among several product alternatives and a "none" choice option, obviously a factor absent in a monopoly provision situation like government provision of fundamental infrastructure such as roads.
25. When this issue was taken up with the Department at one of the workshops held in the lead up to the provision of written submissions, WTP was said to reflect the "trade-off between charges and level of service, not about extracting the highest possible charge." This seems more like a call to establish industry's willingness to accept (WTA)¹⁴ a particular price but this issue remains unclear and should be better clarified.
26. The language should change so that WTP is not alluded to; instead, the establishment of an independent price regulator should be a fundamental driver of HVRR. As NatRoad has communicated to Government previously, 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 HVRR. NatRoad supports the Government establishing an independent price regulator for heavy vehicle charges. Feedback from members is that the regulator must have representation from the transport industry.
27. The issue of transparency is paramount, as mentioned earlier. NatRoad submits that an independent price regulator should possess a broad regulatory role, including the setting of light vehicle charging. The regulator 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

¹³ For more technical arguments on WTP and its distinction from Willingness to Accept see W Michael Hanneman *Willingness to Pay and Willingness to Accept: How Much Can They Differ?* The American Economic Review Vol. 81, No. 3 (Jun., 1991), pp. 635-647

¹⁴ See *ibid* for arguments about the distinction

vehicles. In other words, the setting of toll prices must be linked with the fair reflection of the service levels provided by the toll road rather than set by opaque agreements between State governments and private businesses, as is currently the case.

28. Stakeholders should be able to interact with the independent price regulator with industry consultation being a mandated requirement of the regulator's charter and all proposals subject to public consultation.
29. The fourth question is: *What mechanisms could be used to review the service level standards periodically? For example, should there be a standing body, or consultation periodically when the service level standards are reviewed.*
30. Once the difficult and time consuming task of creating the initial standards has been completed, these should be placed in an interactive map form and vested in the independent price regulator with a requirement that they be regularly (at least annually) updated. The independent price regulator should be required to regularly review the standards and recommend funding for reaching various service levels. Part of the process must be that the interactive maps about road categorisation and the geospatial map related to access for heavy vehicles, referred to earlier in this submission, are updated.

Expenditure to be recovered from heavy vehicles

31. The Consultation Paper says that the relevant process would be as follows:

Using the service level standards (Reform Element 1), state and territory governments would plan their road investments. Under Reform Element 2, these plans would be independently assessed against the service level standards. The assessment would determine what expenditure can be recovered from heavy vehicles and therefore goes through 'the gate' for independent setting of heavy vehicle charges (Reform Element 3).

32. The Consultation Paper makes it plain that under the proposed new system, governments would retain the ability to set the level of investment in roads:

Governments will be able to choose to deliver a higher or lower level of service than is set out in the service level standards. The independent determination of what expenditure is recoverable from heavy vehicle users (Reform Element 2) will assess the proposed spending against the national service level standards, which apply to all users. However, under these reforms, the assessment only determines how much heavy vehicle users should pay. If governments want to spend more to deliver a higher level of service than set out in the service level standards, they could, but the extra cost of this would not be assessed as recoverable from heavy vehicle users, and could not be passed on through national charges.¹⁵

33. The Consultation Paper then sets out various mechanisms by which national or State and Territory governments would make manifest these steps.
34. A critical issue, as expressed in the Consultation Paper, is that when assessing expenditure plans to determine what can be recovered from heavy vehicles, the assessment would need to cover all road expenditure, not just the part of spending that relates to heavy vehicle users with the Consultation Paper noting that:

Heavy vehicles use many of the same roads as light vehicles, meaning it would be

¹⁵ Above note 1 at p14

*impractical to assess projects only against the needs of heavy vehicle users.*¹⁶

35. The Consultation Paper then discusses options for a model to independently determine heavy vehicle charges. The need for these steps would not be present if the approach outlined earlier, that is moving all vehicles to a new pricing model, was adopted.
36. The Consultation Paper then poses a number of questions, each of which are next addressed.
37. The fifth question is: *Which model for independently determining what expenditure is recoverable from heavy vehicle users would you prefer and why?*
38. As is evident from the earlier discussion of this subject, we would prefer a model which incorporated all vehicle use. If there is a focus only on heavy vehicles then NatRoad's preference is for a national body determination, to ensure consistency across jurisdictions, and so that heavy vehicle operators don't pay for roads they can't access.
39. The sixth question is: *If some or all of the independent determination of what is recoverable from heavy vehicle users will take place at the state level, what checks could be put in place to ensure national consistency of expenditure recovery?*
40. NatRoad does not support any part of the independent determination to be made at the State or Territory level. At present, the model of assessing charges through the National Transport Commission (NTC) based on reported expenditure by the States and Territories lacks an audit mechanism. In any confirmation of a national model, the power to audit statistics provided by States and Territories must be vested in the national body. NatRoad is concerned that without greater scrutiny of expenditure and transparency on service delivery the system will remain unfair and the relevant decisions non-transparent.
41. The seventh question is: *How important is the independence of the body/ies assessing expenditure?*
42. The independence of the body is paramount. To be effective and free of political interference, the reform process must be guided by an independent price regulator and the extent to which heavy vehicle road infrastructure may be converted into an economic service explored having regard to the full range of costs imposed on the heavy vehicle industry, not merely reflective of costs of road infrastructure and maintenance.
43. The need for the establishment of an independent price regulator, with powers to set prices independently of government and to potentially perform a range of oversight activities related to forward looking road expenditure is vital. That model contrasts with the current methodology of having the NTC recommend to the Transport Ministers increases based on fluctuating expenditure that is reported ex post facto and which fails the industry at the level of rudimentary fairness.
44. The eighth question is: *What benefits to users do you think particular expenditure review mechanisms might offer compared to the administrative costs associated with that mechanism?*
45. The reforms, when better crystallised, should be the subject of a regulatory impact statement that has quantitative and qualitative assessments underpinning its terms.

¹⁶ Above note 1 at p15

It is too early to respond to this question, save to say that a multiplicity of State and Territory based agencies would not, at a basic level, deliver appropriate efficiencies.

Independent setting of heavy vehicle charges

46. The Consultation Paper indicates that once the amount recoverable from heavy vehicles was established, it would be collected through “the current collection methods of the Road User Charge (i.e. through the fuel system) and registration charges.”¹⁷
47. Hence many of the unacceptable elements of the current system would remain embedded, including the collection of the Road User Charge (RUC) through an unsustainable tax (a point argued at length in the July Submission). A more radical overhaul is required.
48. In addition, unacceptably, the Consultation Paper envisages that registration charges would only be recommended by the independent price regulator:
*States and territories could continue to offer registration concessions (for example to primary producers) or to charge an additional premium above the recommended registration charges.*¹⁸
49. The Consultation Paper then asks a number of questions that relate to the establishment of a forward looking cost base and the independence of any price regulator. These are questions 9-17. NatRoad comprehensively answered these questions in response to the Consultation Regulation Impact Statement on HVRR stage 2.¹⁹ The position has not changed.

Dedicating heavy vehicle revenue to roads (hypothecation)

50. NatRoad fully supports the hypothecation of road charges to the building and maintenance of roads. The Consultation Paper indicates that under HVRR, revenue from heavy vehicle charges would be dedicated to investment in the road network. The Commonwealth would distribute revenue collected from the RUC to states and territories for spending on roads. In addition, each state and territory would dedicate the revenue it collects from recommended heavy vehicle registration charges for spending on roads. Ideally, hypothecated funds should include revenue from light vehicle charges, as was made plain in earlier comments.
51. The Consultation Paper then sets out a methodology for how the dedication of monies for road funding would occur. Question 18 asks if stakeholders “have any comments about how charges are proposed to be dedicated to road infrastructure?”²⁰ NatRoad is concerned that the funding would be unconstrained with the Consultation Paper saying:
*Each jurisdiction would have the flexibility to use their heavy vehicle revenue to fund or finance a range of road-related expenditure. This may include financing the cost of borrowing, or saving for future spending on roads. The jurisdiction’s share of heavy vehicle revenue together with other sources of funding or finance will enable road providers to deliver on their approved expenditure plans.*²¹
52. The saving for future road spending should be required to link to an approved

¹⁷ Above note 1 at p17

¹⁸ Ibid

¹⁹ <https://www.marsdenjacob.com.au/wp-content/uploads/2019/08/NatRoad-Submission.pdf>

²⁰ Above note 1 p22

²¹ Ibid

expenditure plan that includes the investment returns on monies set aside. This leads into question nineteen which is: *What publicly available reporting from either regulatory bodies or state and territory governments would be useful?*

53. Reporting is not solely about utility. It is essential for measuring the fairness of the new system and for matching funds raised and expenditure plans and outcomes. Comprehensive reporting on all measures is a necessity. All transactions and investment decisions in this space should be open to public scrutiny. The new funding framework should not lead to higher charges for the heavy vehicle industry.

Conclusion

54. The Consultation Paper notes that there would be an implementation period of several years while the required processes, governance and institutions are established, and detailed design work completed if Transport Ministers agree to the reforms proposed.
55. Given this timeline, the approach recommended in the Draft Report mentioned at the outset of this submission seems able to be accommodated.
56. In other words, reform should extend to all motor vehicles, heavy and light, and should not be dependent on fuel source. Governments cannot address the question of declining road revenues from fuel-based taxes by focusing on HVRR as it is outlined in the Consultation Paper. The rapid revenue decline for petrol excise cannot be ignored. A higher priority should be given to introducing a road user charging mechanism for electric vehicles as a testing ground, as was recommended in the Draft Report.
57. In addition, the first stages of reform, the establishment of service levels, should proceed apace and would likely provide a number of benefits to the system independently of other reforms such as facilitating the better planning of all vehicle journeys. NatRoad supports the fast tracking of the introduction of service level standards for Australian roads. That process should be given priority.