

ATTACHMENT A

OVERVIEW OF CHANGES MADE SINCE NPA WAS CONSIDERED BY ATC IN APRIL

- The draft NPA has been:
 1. **streamlined** to better reflect the intent of NPAs and link performance milestones and schedules to the outputs
 2. updated to be **more consistent** with the NPA template and its standard clauses, and
 3. to take into account **progress** on the reforms.
- These changes also take into account feedback received from Commonwealth Treasury.

Streamlined

- The NPA is now structured to clearly support the achievement of the outputs. The performance monitoring and reporting section and the schedules are structured to reflect the NPA's outputs.
- Much of the detail in the agreement has been moved to schedules to ensure these matters are within the purview of the Ministerial Council – the ATC.
 - [Note: critical aspects of the reforms such as productivity initiatives, the NHVR having a role to review access decisions for national applicability, etc have been maintained in the body of agreement as these can't be changed by the ATC.]

More consistent

- Many of the standard sections of the agreement pertaining to operation and governance have been amended to better reflect standard NPA clauses.
- Unnecessary detail has been removed – e.g. removal of definitions such as 'Agreement', 'COAG'.

Reflects progress

- References to host jurisdiction have been updated to reflect Queensland is the host jurisdiction.
- This version of the draft NPA provides for a different approach to matters yet to be resolved, but need to be covered by the agreement: transition and ongoing funding, and the development of those outputs that are less progressed – national standards and service level agreements.
- The draft NPA provides a framework to progress these matters cooperatively.
 - The timeframe for resolving these matters (as per the table outlining performance indicators on pages 8-9) is designed to support states and territories to introduce legislation to support the implementation of these reforms by 1 January 2013 and also recognises their interconnectedness. It is with this in mind, that:
 - national standards are to be agreed by February 2011
 - a framework for service level agreements is to be agreed by February 2011
 - an approach to transition funding is to be agreed by March 2011, and
 - an approach to ongoing funding is to be agreed by July 2011.
- This approach enables COAG to sign the NPA by the end of the year, while providing the framework for pursuing outstanding matters on the resolution of key policy matters, but within a timeframe that does not jeopardise the boarder reform timetable.

Possible discussion points

- What are people's initial reactions to the proposed approach for those matters yet to be resolved?
- Are schedules A & B needed given that the policy for the National Law is substantially resolved with processes set up to address remaining elements, drafting of the legislation establishing the NHVR is expected to commence soon with the ATC to sign off both the National Law and the NHVR legislation by the end of the year?
- Is there a benefit in retaining the detail as a means of communicating with industry the progress thus far as the NPA, if signed, would be available publicly much sooner than the other outputs?

Specific changes (if needed; key content changes highlighted)

Section	Change
Entire document	- All references to ATC changed to Ministerial Council which is then defined as council responsible for transport matters, currently ATC. This is to reflect current review of ministerial councils. - Previous references to 'host' jurisdiction now specify Queensland.
Preliminaries	Now includes reference in para 7 to Cth and S&Ts recognising they have a mutual interest... to reflect template
Formalities	- Parties to this agreement paragraph changed to reflect template. Now stipulates who the actual parties are - Term of the agreement section changed to include specific end date – 31 December 2013 to better reflect template and Treasury advice.
Objectives, outcomes and outputs	- Objectives and outcomes amended to reflect Treasury comments Outputs amended to further specify need to agree funding approach - Outputs amended to refer to part of Agreement and schedules which further describe output
National System	- Reordered to reflect order of outputs and remove detail and place in schedules - NHVR Act no longer defined, so no corresponding sub-section needed. All appropriate references included under NHVR section, with Act referred to as NHVR legislation or the legislation establishing the NHVR where appropriate. Definition specifically removed because was circular with the NHVR definition Sub-section on national standards now included here rather than under roles and responsibilities. Amended to reflect that these are not likely to be agreed by the end of the year. Sub-section on service level agreements now included in this part – previously under roles and responsibilities. Key change is that the SLA section puts a framework around their development by requiring SLAs to support the objectives and outcomes, achieving the national standards while enabling a flexible approach to recognise the risk and operational context of jurisdictions.
Roles and responsibilities	- Ministerial Council – detail on roles and responsibilities with respect to the NHVR governing board removed to schedule B. Ministerial Council roles and responsibilities section of NPA reframed to fit within the parameters of what the Council needs to do to achieve the outputs - Role of Commonwealth – Reference to working cooperatively removed because is now covered in preliminaries section and wasn't repeated for other governments - s22(1)(a)(ii) s22(1)(a)(ii) - Role of states and territories s22(1)(a)(ii) - Roles relating to NHVR relationship removed and put in Schedule B - Implementation arrangements are now included in this section as sets out project director's responsibilities and maps to the implementation plan

	section in the NPA template
Performance monitoring and reporting	- Title changed to reflect template Table amended to better reflect performance indicators/milestones against outputs and indicate responsibility. Note this does result in some duplication. Also expanded to include all outputs – not just the establishment of the NHVR and enactment of the National Law - Reporting arrangements included under this section as per the template. Reporting arrangements simplified
Financial arrangements	Divided into three sections – project office funding; implementation arrangements and ongoing arrangements Latter two sections provide for the mechanisms through which agreement is to be obtained. As a result, previous clauses reflecting the guiding principles have been removed
Governance arrangements	- Amended to reflect template - Given timeframe of agreement references to reviews occurring beyond it have been removed with a review to consider progress achieving reforms six months before agreement ends. This reflects the template
Schedules	Reordered to reflect outputs Schedule A now describes National Law further rather than a timetable for service delivery (as this is not agreed) Schedule B now describes NHVR arrangements, combining the two previous schedules covering NHVR matters. It no longer refers to service delivery standards as they are not agreed Schedule C now describes the Ministerial Council procedure and voting arrangements, while streamlining those arrangements to only cover those that are different to the standard procedures and voting arrangements of the ATC The schedule on the project plan has been removed as a key reason for retaining it was the streamlining of work which is no longer going ahead

Substantive state/territory issues

State / territory	Issue	Action
Australian Capital Territory	s22(1)(a)(ii)	
New South Wales		
Northern Territory	Suggests amending para referring to states and territories repealing existing legislation to states and territories using their 'best endeavours'	Not actioned. Relevant paras are 17, 18, 35 and 40. Applying National Law and recognising NHVR legislation as law of each Parliament is necessary to support reforms in timeframes agreed by COAG
	Standards need to reflect different operating environments (e.g. east coast vs remote / regional)	SLA framework to be developed as per para 30 states the SLAs are to be agreed to... "achieve the national standards to be agreed as per paragraph 14 through a flexible approach that considers the risk and operational context of each jurisdiction"
	Funding – principle of no additional cost based on implementing existing reforms, which NT hasn't. Therefore NT subject to additional costs	Such issues to be considered in context of approach to transitional funding
Queensland	s22(1)(a)(ii)	
South Australia		
Tasmania		
Victoria		
Western Australia	Would like the Ministerial Council to be able to vary the body of the agreement	This is contrary to NPA governance arrangements
	Rather than define local productivity initiative, schedule should be created which lists what is or is not a local productivity initiative	No definition or schedule. Definition / criteria should be covered by National Law – <i>need to check</i>

	Definition of heavy vehicle is too broad; some vehicles over 4.5 tonnes may be exempt	No change
	WA requires more detail regarding the legal mechanisms to be used to maintain existing local productivity initiatives	No change. Should be covered by National Law – <i>need to check</i>
	WA wants states and territories to be involved in the NHVR process of reviewing local productivity initiatives on a national basis	No change. For negotiation and may be covered by National Law – <i>need to check</i>
	Would like to amend the leading sentence to the performance indicators to include “where possible and in all good faith”	No change. Achieving these milestones is necessary to support achieving the reforms within the timeframe agreed by COAG
	Notes that the principle: “at its establishment, the costs of operating the national system on a ‘no policy change’ basis, will be no greater than the existing costs of regulation” is not possible given the policy variations that may be required	Such issues are to be considered in context of approaches to transitional and ongoing funding

NATIONAL PARTNERSHIP AGREEMENT – STATE AND TERRITORY COMMENTS

[Analysis of comments provided by states and territories mostly on draft NPA provided in January 2010]

Contents

Northern Territory
Queensland
South Australia
Tasmania
Victoria
Western Australia

Note: No comments have been received from the ACT to date. NSW had no comments additional to those made by SA.

Northern Territory's Comments (12 February 2010)

Section / Reference	Comment / Issue	Action undertaken (26 July draft NPA)
Preliminaries and Objectives	Para 6 and Para 14– NT suggested include 'without reducing productivity'	COAG words used
Interpretation	Para 10 (l) - A definition of Local Productivity Initiatives suggested.	Definition removed
Part 2 - Objectives, Outcomes and Outputs	Para 15 – delete para that says objective is to be achieved with <u>no overall increase in regulatory compliance burden</u> .	Removed
Part 3 – National System	Para 32 – Para refers to S&T repealing existing legislation in accordance with Performance Milestones established in NPA. NT suggests wording should refer to 'best endeavours' because there may be other priorities.	NPA reflects COAG decision that reforms will be in place by end 2012. Matter for negotiation.
Productivity initiatives	Para 33 (o) NT added 'Local productivity initiatives where appropriate.'	Para 21 states that laws will maintain existing productivity initiatives.
	Para 35 – NT added 'and provide for future enhanced productivity initiatives'	Para 22 provides for a process for granting future productivity initiatives
	Inserted: "Parties agree that where jurisdictions with similar conditions (remote and regional) agree to a local productivity initiative the NHVR will consider the application of the initiative to that specific zone."	<i>Needs further action: A matter for discussion with jurisdictions.</i>

Section / Reference	Comment / Issue	Action undertaken (26 July draft NPA)
Heavy Vehicle driver licensing and competencies	Para 43 (b) – Parties to agree national implementation arrangements for single driver licence etc once completion of current work in this area. NT added ‘subject to resources’.	Paragraph amended so that parties ‘may’ include the work within the ambit of the agreement.
Access Decisions	Amended “decisions on access will be made based on national guidelines approved by the ATC” to “decisions on access will be made having regard to national guidelines approved by the ATC, while recognising jurisdictional imperatives”.	Change to first half of sentence included, but not ‘while recognising jurisdictional imperatives’. Access decisions remain with asset owner. National Guidelines will be decision making considerations rather than stipulations.
Service Delivery Arrangements		
Preferred Service Standards (PSS)	Para 54 – PSS will need to take into account different operating conditions in jurisdictions eg. east coast/remote regional.	Section on service level agreements in Part 3 notes that SLAs need to achieve national standards “through a flexible approach that considers the risk and operational context of each jurisdiction.”
Delivery of national system to PSS	Para 55 – Every effort would be made to deliver to PSS but limited resources and competing government priorities may impact.	
Mechanism for updating PSS	Para 56 – NPA says parties agree that PSS will require updating. NT wants more information in the NPA about who will recommend updates and how will approve updates to the PSS.	Version now only notes that national standards are an output that needs to be developed and agreed by the ministerial council.
Enforcement Plan	Para 57 – Need to take into account difference in cost of delivering enforcement in different operating environments.	Section on service level agreements in Part 3 notes that SLAs need to achieve national standards “through a flexible approach that considers the risk and operational context of each jurisdiction.”
Part 5 - Performance Milestones	Para 64 – Table of Milestones is v simplistic as no reflection of the work required to actually be operational.	Performance indicators now for all 5 outputs.
Part 6 - Financial Arrangements	Para 73 – No policy change basis refers to existing reforms. For NT there will be additional cost moving to national system because NT has not yet implemented all reforms.	Such issues to be considered in context of approach to transitional funding.
Schedule B – Service Delivery Standards Urban v remote operating environments	Standards need to reflect different operating environments eg urban, high congestion v remote long distances and low traffic volumes.	Section on service level agreements in Part 3 notes that SLAs need to achieve national standards “through a flexible approach that considers the risk

Section / Reference	Comment / Issue	Action undertaken (26 July draft NPA)
		and operational context of each jurisdiction.”
Schedule C – Scope, Role and function of NHVR		
Role of NHVR	Clause 6(h) – Para refers to uptake of new technologies (NT added: <u>which are fit for operating conditions</u>) as part of achieving improved road safety outcomes.	Role and functions of NHVR have already been agreed by ATC.
Functions of the NHVR	Clause 7 (b) – NHVR is to collect monies including <u>fin</u> es. NT thought fines were to remain with jurisdiction.	Movement of monies between jurisdictions will be addressed in the funding model.
Schedule D – NHVR Board Structure & Operations		
Membership of board	Clause 1 (a) NT suggests an odd number rather than current ‘six’.	NT’s comments were passed to SC.
Term of board appointment	Clause 1 (d) Extension of appointment beyond 2 years subject to ATC approval?	Comment included in NPA version going to NTC. <i>Question for PO: Has this comment been taken into consideration with respect to drafting the instructions for the NHVR legislation?</i>
Skills mix for Board	Clause 2(c) NT suggests ‘transport innovation for improved safety, economic and sustainable performance’	Schedule no longer contains this level of detail. <i>Pass on to PO.</i>
Schedule E - Project Plan		
Guiding Principles	Clause 1(b) NT thought sustainability and efficiency were also principles?	Schedule no longer exists as no longer relevant.

WA Comments 13 April 2010

Section / Reference	Comment / Issue	Action undertaken
Part 1 – Formalities		
Part 1 – Term of the Agreement	Term of the Agreement – outlines when it will commence. WA Comment: They don't agree with using "term of agreement" because it describes the commencement of the agreement	Comment ignored. "term of agreement" still being used. New version has a note that the term is still to be determined with Treasury.
Part 1 – Interpretation	Para 10(g)- Existing Local Productivity Initiatives WA Comment: Rather than defining "local productivity initiative" a schedule should be created which lists what is or is not a local productivity initiative	Local productivity initiative remains defined but schedule F – already identified productivity initiatives exists.
Part 1 – Interpretation	Para 10(i)- Heavy vehicles means a vehicle that has a GVM greater than 4.5 tonnes. WA Comment: The definition of heavy vehicle is too broad and some vehicles over 4.5 tonnes may be exempt.	The same definition appears. All vehicles over 4.5 tonnes included.
Part 1- Interpretation	Para 10(o)- Definition of National law WA Comment: Want the term "heavy vehicle" to be capitalised as it is a defined term	The term "heavy vehicle" is not capitalised.
Part 1- Delegations	Para 11- Relevant Ministers can agree schedules, change schedules attached to the agreement. Comment: There should be provision for a variations clause	A separate variations clause has been included.
Part 2 – Objectives, Outcomes and Outputs	Para 13 – Parties committing to reform objectives, removing inefficiencies etc. WA Comment: Want consistent wording through document on clauses with similar intent	There is only one definition of objective in new NPA

Part 3 – National System, National Heavy Vehicle Regulator	Para 18(a) – Colourful description of the objectives of the NHVR. WA Comment: Too many adjectives in clause.	Clause no longer present in new NPA
Part 3 – National system, National Heavy Vehicle Regulator	Para 21 – Nothing in this agreement prevents a Party or an ATC Minister, under there law from enabling the NHVR to operate. Or carry out regulatory functions. WA Comment: may be instances when a jurisdiction’s legislation overrides the functions performed by the regulator. Including “ nothing in this agreement prevents” exposes the parties to this risk.	This clause does not appear in the new NPA
Part 3 – National System, National Heavy Vehicle Regulator	Para 22 – NHVR to report inconsistent actions of parties to this agreement to ATC. WA Comment: WA suggests a link to dispute resolution clause.	The clause does not appear in new NPA and the dispute resolution clause in the new NPA does not cover the clause’s content.
Part 3 – National system, National Heavy Vehicle Regulator	Para 23 – NHVR has to consult with appropriate stakeholders. WA Comment: if the role of the NHVR changes, full consultation is required and not “when appropriate”	There are consultation provisions in the new NPA under Schedule B.
Part 3- National system, National Law	Para 26 – The national law and any subsequent amendments will be developed by the Commission and agreed by the ATC..... WA Comment: Commission is a defined term and has not been highlighted.	It is not a defined term in the new NPA and the clause does not appear in new NPA.
Part 3 –National System, National Law	Para 29 – Jurisdictions will not alter National Law without ATC agreement. WA Comment: WA requires linkages to dispute or termination clauses	The clause has not been altered to reflect this change in new NPA
Part 3 – National System, National Law	Para 30 – Jurisdictions to ensure existing HV Law is	The term is not used in corresponding clause of

	repealed in accordance with Performance Milestones. WA Comment: performance milestone is not a defined term.	new NPA.
Part 3 –National System, National Law	Para 32- In reference to issues related to HVs becoming part of the national law with agreement of the Parties or the ATC. WA Comment: point to uncertainty created by using “or” regarding who may vary what is included in the national law.	There is no uncertainty. The NTC is responsible in the new NPA subject to agreement by ATC
Part 3 National System, Productivity Initiatives	Para 34 – The national law will include legal mechanisms for maintaining existing local productivity initiatives. WA Comment: WA requires more detail regarding the legal mechanisms to be used to maintain existing local productivity initiatives.	There is no detail of the legal mechanisms to be used to achieve this in new NPA. Still to be resolved?
Part 3 National System, Productivity Initiatives	Para 36 – The NHVR to review decisions on productivity initiatives on an annual basis. Comment: WA wants the ability to repeal productivity initiatives. They also want for parties to be able determine their applicability.	The clause appears unchanged in new NPA
Part 3 National System, Heavy vehicle driver Licensing and competencies	Para 37 – work by the parties towards a single national heavy vehicle license is to be part of a separate agreement. Comment: want this to be an exclusion to clause 31 and not have its own clause	Under the new npa it has its own separate clause.
Part 3 National System, Roles and responsibilities	Para 42 (f) – the ATC can direct the NHVR to provide information in addition to annual report of its functions. Comment – WA does not understand why the	No clause of this kind appears in the new NPA

	clause is required since the minister is able to require information from the regulator.	
Part 3 National System, Roles and responsibilities	Para 45(a) state ministers may refer matters to the NHCR for advice and action subject to amongst other things states meeting any additional costs not provided for in the SLA. Comment – WA argues that there should not be any additional costs which are not provided for in the SLA.	Comment ignored. The clause is unchanged
Part 3 National System, Roles and responsibilities, Roles of state and territory ministers	Para 45(c) – state ministers may requests info on the application and admin of the national law in the NHVR’s decision making process. Comment – the clause is too narrow and ministers should be able to request the same info. As the ATC	Comment ignored. The clause is unchanged.
Part 3 National System, Access decision	Para 47 (a) – the NHVR will manage the access application and decision making process and issue decision on access. Comment- “decision making process” highlighted by WA- it conflicts with statement at Para 47 that decision on access remains in the hands of the asset owner.	“decision making process” deleted from clause.
Part 3 National System, Service delivery arrangements.	Para 49- NHVR is responsible for the national law in each state and territory and for the delivery of services and function that support the admin. Of heavy vehicle laws Comment- the legislation remains the responsibility of each parliament.	Clause not present in new NPA
Part 3 National System, Service delivery arrangements.	Para 54 – States and territories to agree to an annual enforcement plan to form part of the service level agreement	Clause not present in new NPA

	Comment – who is responsible for this work?	
Part 3 National System, Service delivery arrangements.	Para 57 – the ATC to propose actions to coag following consideration of progress reports Comment- should it be assumed that there will be a mechanism for each jurisdiction to provide commentary on the proposed recommendation prior to the report being released	Clause not present in new NPA
Part 5, Performance Milestones	Para 61 – parties to agree to the following implementation milestones Comment – WA would like the addition of “where possible and in all good faith”	Comment ignored.
Part 5, Performance milestones	Para 62 – the parties will agree to any changes to these performance milestones Comment-WA asks the question: collectively?	Clause not present in new NPA.
Part 6, Financial arrangements	Para 65 – the project office will be jointly funded to approximately... Comment: WA would like a maximum figure instead to an approximation	Comment ignored.
Part 6, Financial arrangements	Para 66- beyond the outlined costs, the parties will bear their own costs of participating in the project office activities Comment- WA to include: “where reasonable and in line with NHVR transitional activities”	Clause does not refer to project office, but apart from this remains unchanged. Comment has been ignored.
Part 6, Financial arrangements	Para 69 –the NHVR will be jointly funded by the states and over time it will operate on a cost recovery basis Comment: what will be the mechanism to jointly fund the NHVR? And is there a definite timeframe for when the NHVR will recover its costs	Issue not addressed in new NPA
Part 6, Financial arrangements	Para 70 – the parties agree the costs of operating	Issue not addressed in new NPA.

	the national system on a no policy change basis will be no greater than the existing cost of regulation Comment: this is not possible	
Part 6, Financial arrangements	Para 73 – provision allowing states to purchase additional regulatory services from the NHVR Comment: perceived conflict from WA with para 70	Issue not addressed in new NPA.
Part 6, Financial arrangements	Para 74 – levies, stamp duty and other taxes levied by the states upon registration are not part of this reform Comment: instead of using “not considered in this reform”, not included should be used	Comment ignored.
Part 7, establishment and operation	Para 76 – Amendment to the schedules will be made by agreement between the relevant individual ministers Comment: Variations may also be made to the agreement its self. The delegation powers do not go far enough.	No corresponding clause in new NPA
Part 7, establishment and operation	Para 77 – amendments to the agreement and schedule consistent with clauses 11 and 12 and part 2 of the agreement can be requested by any of the parties with amendments to be subject to negotiation between the parties Comment- references to clause 11 and 12 do not provide for changes to the agreement; only the schedule. If the intent is for both, the clause needs to reflect this. WA suggests that both clause 76 and 77 be removed. They are about varying the agreement	No corresponding clause in new NPA.

	not about establishing or operation	
Part 7, establishment and operation	Para 78 – progress report clause. Biannual reports to be produced until the national system is fully implemented. The states and territories need to provide input to the Cth on progress in achieving milestones Comment – this clause is redundant and is already covered in other clauses	No corresponding clause in new NPA.
Part 8 governance arrangements	Para 79 – a dispute is a matter covered by the agreement where one party has differing interpretation of a provision of the agreement Comments- disputes are not necessarily limited to interpretation	Dispute is not defined in new NPA
PART 8 – Dispute Resolution	Para 83 – Parties to a dispute must formally negotiate on matters in dispute. If resolved the Terms must be advised to all Parties. WA Comments: If it affects a variation to the agreement then a new amended version of the agreement must be issued to all Parties.	The new version does not give details regarding outcomes other than if no resolution is met, then it needs to be escalated to appropriate Ministers.
Part 8 – Review of the Agreement	Para 86 – The agreement to be reviewed in 5 yrs of full implementation of national system, determined by ATC within 4yrs of implementation. WA Comment: Earliest review would be 2018 wouldn't it?	The new version have redefined the targets of review including, key operational arrangements (within 3 yrs) and the national system (within 5 yrs).
Part 8 – Review of the Agreement	Para 87 – Key performance indicators to be reviewed by ATC within 2 years of commencement of NHVR. WA Comment: These are implementation milestones, not KPIs.	The new version have redefined the targets of review including, key operational arrangements (within 3 yrs) and the national system (within 5 yrs).
	Para 90 – The Parties will agree any changes to the Performance Milestones in the Agreement. WA Comments: Any clause of the Agreement is subject to agreed variation. Not required.	The new version has simplified the variation clause.
Part 8 – Variation of the Agreement	Para 91 – Amendments to the Agreement and	The new version has simplified the variation clause

	schedules in writing, subject to clauses 11 and 12. WA Comment: Considers the clauses 11 and 12 have limitations.	taking out references to 11 and 12.
Part 8 - Withdrawal and Cessation	Para 93 – Timeframe for giving written notice, 12 months. WA Comments: Too long a timeframe, 3 months.	The new version does not have a withdrawal and cessation section but covers the matter off under the Termination of the Agreement.
Part 8 – Withdrawal and Cessation	Para 94 – In the event of the withdrawal of one party the other parties remain bound unless otherwise agreed by COAG. WA Comment – What if more than one party withdraws? A Party should be able to withdraw at anytime and not waiting on COAG decisions.	The new version does not have a withdrawal and cessation section but covers the matter off under the Termination of the Agreement.
Part 8 – Termination of the Agreement	Para 96 – A Party to the Agreement may terminate their participation in the Agreement at any time with 12 months notice by notifying all other Parties in writing. WA Comment: Its not a termination clause, a termination clause exists to terminate/cease the Agreement between all parties simultaneously, needs rewording.	TC comments: 90 days -180 at the longest. The new version has taken out a reference to timing in giving notice.

National Partnership Agreement Consultations

MATRIX OF COMMENTS RECEIVED ON NPA REVISED POST ATC CONSIDERATION AT APRIL 2010 MEETING

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
Preliminaries (p.1)	s22(1)(a)(ii)					Clause 6: The phrase "passing enabling template legislation" is confusing. It should read "passing enabling legislation."	s22(1)(a)(ii)
							WA: <i>The template law approach was agreed by ATC and is key to the success of these reforms. This approach needs to be clearly stated in the NPA . The wording will be reconsidered to make it clearer but the concept of template legislation will be retained.</i>
Part 1 – Formalities (p.2-4)							
s22(1)(a)(ii)							

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
	s22(1)(a)(ii)						
Enforceability							
Delegations							s22(1)(a)(ii)
Interpretation						It's critical that WA's existing local productivity variations are recognised and a definition included: "local legislation, policy or operational practice that departs from model law, national policy or national operational practice to allow a more productive, efficient or sustainable means of carrying out the freight task where local conditions enable this to occur without compromising safety or asset protection demands." (i) The local productivity variations schedule has also been removed. In order to ensure no ambiguity, a schedule listing examples of local productivity initiatives currently in use, needs to be reinstated. (ii)	s22(1)(a)(ii) • WA: Definition of local productivity initiative included, but refers to balancing the lower risk presented by local conditions with safety and asset protection risks, providing a framework for assessing the initiatives into the future. • WA: Schedule on local productivity initiatives has not been included at this stage as it is not agreed and doesn't seem likely to be within the timeframe necessary for COAG consideration by end of 2010.
Part 2 – Objectives, outcomes and outputs (p.4-5)							
Outcomes	s22(1)(a)(ii)						

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
s22(1)(a)(ii)							
Part 3 – National System (p.6-7)							
Opening paragraph	s22(1)(a)(ii)						
National Law	s22(1)(a)(ii)		s22(1)(a)(ii)			We cannot "secure" passage through our parliaments - this should read "Each party will use their best endeavours to ensure passage."	s22(1)(a)(ii)
Productivity initiatives		Previously suggested definition of local productivity initiatives. (i) Also need to ensure there's a mechanism for deciding on and granting future productivity initiatives. (ii)				Clause 21: should read "... the National Law will include means for maintaining existing local productivity initiatives" (ie not legal mechanisms, as the Law is the legal mechanism). (i) Clause 36 from the previous version re: jurisdictions approving productivity initiatives, has been removed. It needs to be reinstated. (ii)	• WA: Agreed. • All: A definition of local productivity variations has now been included in the NPA. • All: The draft NPA does allow for the NHVR to grant future local productivity initiatives. Paragraph 22 states: "The Parties agree that under the National Law, the NHVR will make decisions on the granting of future productivity initiatives based on national guidelines approved by the Ministerial Council..." the proposed definition provides a useful framework for assessing future initiatives on a risk basis. This paragraph goes on to express the mechanism by which such grants would be assessed for national applicability, combining two paragraphs in a previous version of the NPA. The intent of these paragraphs has not changed. • All: Schedule on local productivity initiatives has not been included at this stage as it is not agreed and doesn't seem likely to be within the timeframe necessary for COAG consideration by end of 2010.
							s22(1)(a)(ii)

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
	s22(1)(a)(ii)						s22(1)(a)(ii)
Heavy vehicle driver licensing and competencies						Takes a passive approach to the heavy vehicle driver licensing and competencies area. One of the main objectives of the NHVR is to “ensure improved industry understanding of, and compliance with, national regulation through effective and targeted industry liaison, education and enforcement activities”. The competencies and testing area would fall into the “education” category. Therefore the clause should read: “... the Parties agree that the outcomes of that work will be included within the ambit of the agreement...”	• s22(1)(a)(ii) WA(i): Agreed. • WA(ii): This specific clause was not included in the version considered by ATC in April. As paragraph 22 requires the NHVR to make decisions based on guidelines approved by the Ministerial Council and that those considered to have national applicability will be adopted through the NTC legislative maintenance process or some other process as agreed by the Ministerial Council, this seems sufficient to enable jurisdictions to ensure their concerns are taken on board in the decision making process without unduly slowing down or impeding the processes.
National Heavy Vehicle Regulator							s22(1)(a)(ii)
Service level agreements							
Part 4 – Roles and responsibilities (p.7-9)							
Ministerial Council	s22(1)(a)(ii)						

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
Commonwealth	s22(1)(a)(ii)						s22(1)(a)(ii)
Queensland							
States and territories (except Qld)							
Asset owners							
Implementation arrangements						Clauses 39: as reference to transitional arrangements and staging implementation of the NHVR has been removed, this clause should now read: "The Project Office and the position of Project Director will be disbanded at 1 January 2013 or at another time as agreed by the Ministerial Council upon recommendation from SCOT." This will ensure that any follow-up work required for NHVR establishment that has been identified by SCOT can be undertaken after the "go live" date by the Project Office and not the Regulator.	WA: Agreed. Comments not received in time to take on board for version circulated for SCOT meeting.
Part 5 – Performance monitoring and reporting (p.9-11)							

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
Table with performance indicators	s22(1)(a)(ii)						
Reporting							
Part 6 – Financial arrangements (p.11)							
General comments, including need for opt-out clause		Needs to include a clause that enables jurisdictions to walk away from this if the funding is not resolved satisfactorily.	s22(1)(a)(ii)				All: A specific ‘opt-out’ clause has been included in the draft NPA: “The Parties agree that the obligations of a State or Territory under this Agreement are subject to the satisfactory resolution of these financial arrangements by 31 July 2011.” s22(1)(a)(ii)

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
	s22(1)(a)(ii)						
Part 7 – Governance (p.11-12)							
Review	s22(1)(a)(ii)					s22(1)(a)(ii)	
Variation						The process for termination by Parties to the NPA needs to be a separate clause named “Termination of the Agreement” (it is currently under “Variation to the Agreement.”). s22(1)(ii) WA: Not consistent with template. Have been advised to use standard NPA words with respect to governance arrangements.	
Schedule A – National Law							
Coverage of the National Law	s22(1)(a)(ii)						
Schedule B – NHVR arrangements							
Objectives	s22(1)(a)(ii)						
Functions	s22(1)(a)(ii)					Item A7 ii and iii: These clauses refer to the collection and distribution of revenue by the NHVR. In the absence of a funding model, it has not yet been decided whether the NHVR will be collecting and re-distributing revenue. Based on previous discussions, it is likely that this will not be the supported model and therefore it is suggested that these clauses are re-worded slightly to capture	s22(1)(a)(ii) WA: These paragraphs do not constrain another model from being adopted. If a model is adopted that requires the NHVR to undertake these functions, then the agreement acknowledges them and supports the drafting of legislation to ensure the NHVR can fulfil those roles. This is particularly important as the NHVR and its relationships with all or some jurisdictions mature, the way business is done may change and having the power to undertake these functions embedded in the legislation will enable the NHVR to respond readily to changing requirements.

Reference	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
Structure and governance	s22(1)(a)(ii)					this.	
Arrangements for delivering regulatory services and activities							
Other / general							
Schedule C – Procedural and voting arrangements							

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

National Heavy Vehicle Regulator (NHVR)

National Partnership Agreement Draft – WA Comments

Clause 6: The phrase "passing enabling template legislation" is confusing. It should read "passing enabling legislation."

Clause 11: Existing Local Productivity Variations has been removed from the list of definitions, which leaves the definition open to interpretation. It is critical that WA's existing local productivity variations are recognised and therefore a definition must be included. The suggested definition is:

"local legislation, policy or operational practice that departs from model law, national policy or national operational practice to allow a more productive, efficient or sustainable means of carrying out the freight task where local conditions enable this to occur without compromising safety or asset protection demands."

The LPV schedule has also been removed from the document. In order to ensure no ambiguity, this schedule, which should provide a list of examples of local productivity initiatives currently in use, needs to be reinstated.

Clause 18: We cannot "secure" passage through our parliaments - this should read "Each party will use their best endeavours to ensure passage."

Clause 21: should read "... the National Law will include **means** for maintaining existing local productivity initiatives" (ie not legal mechanisms, as the Law is the legal mechanism).

Clause 36 from the previous version re: jurisdictions approving productivity initiatives, has been removed. It needs to be reinstated.

Clause 23: The document takes a passive approach to the heavy vehicle driver licensing and competencies area. One of the main objectives of the NHVR is to "ensure improved industry understanding of, and compliance with, national regulation through effective and targeted industry liaison, education and enforcement activities". The competencies and testing area would fall into the "education" category. Therefore instead of:

"... the Parties agree that the outcomes of that work **may** be included within the ambit of the agreement..."

The clause should read:

"... the Parties agree that the outcomes of that work **will** be included within the ambit of the agreement..."

Clauses 39: as reference to transitional arrangements and staging implementation of the NHVR has been removed, this clause should now read:

"The Project Office and the position of Project Director will be disbanded at 1 January 2013 or at another time as agreed by the Ministerial Council **upon recommendation from SCOT.**"

This will ensure that any follow-up work required for NHVR establishment that has been identified by SCOT can be undertaken after the "go live" date by the Project Office and not the Regulator.

Clause 55: The process for termination by Parties to the NPA needs to be a separate clause named "Termination of the Agreement" (it is currently under "Variation to the Agreement.").

Item A7 ii and iii: These clauses refer to the collection and distribution of revenue by the NHVR. In the absence of a funding model, it has not yet been decided whether the NHVR will be collecting and re-distributing revenue. Based on previous discussions, it is likely that this will not be the supported model and therefore it is suggested that these clauses are re-worded slightly to capture this.

NATIONAL PARTNERSHIP AGREEMENT CONSULTATIONS

Response to Western Australia's comments – 9 August 2010

Note: Comments were not received in time to enable them to be included in the draft NPA circulated for SCOT's 19 August 2010 meeting

Reference	Comment	Response
Preliminaries	Clause 6: The phrase "passing enabling template legislation" is confusing. It should read "passing enabling legislation."	The approach of having a regulator established in one jurisdiction and given powers in every other jurisdiction by template legislation is key to the success of these reforms. Hence, it is vital that this approach, as agreed by the ATC, is accurately captured in the preliminaries section.
Definitions / interpretation	Clause 11: Existing Local Productivity Variations has been removed from the list of definitions, which leaves the definition open to interpretation. It is critical that WA's existing local productivity variations are recognised and therefore a definition must be included. The suggested definition is: "local legislation, policy or operational practice that departs from model law, national policy or national operational practice to allow a more productive, efficient or sustainable means of carrying out the freight task where local conditions enable this to occur without compromising safety or asset protection demands." The LPV schedule has also been removed from the document. In order to ensure no ambiguity, this schedule, which should provide a list of examples of local productivity initiatives currently in use, needs to be reinstated.	A definition of local productivity initiatives has been included in the draft NPA circulated for the SCOT meeting. This definition refers to balancing the lower risk presented by local conditions with safety and asset protection risks, providing a framework for assessing the initiatives into the future. A schedule on local productivity initiatives has not been included at this stage as it is not agreed and doesn't seem likely within the timeframe necessary for COAG consideration by end of 2010. It would assist if WA could provide a list of what you consider your existing local productivity initiatives are as well as outline their cost implications.
Part 3, section on National Law	Clause 18: We cannot "secure" passage through our parliaments - this should read "Each party will use their best endeavours to ensure passage."	Agreed.
Part 3, section on local productivity	Clause 21: should read "... the National Law will include means for maintaining existing local productivity initiatives" (ie not	Agreed and already actioned. The version of NPA circulated for SCOT meeting states: "21. The Parties agree that the National

Reference	Comment	Response
initiatives	legal mechanisms, as the Law is the legal mechanism). Clause 36 from the previous version re: jurisdictions approving productivity initiatives, has been removed. It needs to be reinstated.	Law will include mechanisms for maintaining existing local productivity initiatives." This specific clause was not included in the version considered by ATC in April. As paragraph 22 requires the NHVR to make decisions based on guidelines approved by the Ministerial Council and that those considered to have national applicability will be adopted through the NTC legislative maintenance process or some other process as agreed by the Ministerial Council, this should ensure jurisdictions' concerns are taken on board in the decision making process without unduly slowing down or impeding the processes.
Part 3, section on vehicle driver licensing and competencies	Clause 23: The document takes a passive approach to the heavy vehicle driver licensing and competencies area. One of the main objectives of the NHVR is to "ensure improved industry understanding of, and compliance with, national regulation through effective and targeted industry liaison, education and enforcement activities". The competencies and testing area would fall into the "education" category. Therefore instead of: "... the Parties agree that the outcomes of that work may be included within the ambit of the agreement..." The clause should read: "... the Parties agree that the outcomes of that work will be included within the ambit of the agreement..."	Other jurisdictions have expressed views that they do not want this work to be included in the ambit of this agreement. To take into account these views the paragraph has been amended so the outcomes are "included within the ambit of the National Law." This approach enables parties to decide the most appropriate agreement to progress the outcomes at that time.
Implementation arrangements	Clauses 39: as reference to transitional arrangements and staging implementation of the NHVR has been removed, this clause should now read: "The Project Office and the position of Project Director will be disbanded at 1 January 2013 or at another time as agreed by the Ministerial Council upon recommendation from SCOT."	In principle agreed, but do not think specific words "upon recommendation from SCOT" are necessary as the arrangements governing the operation of the ATC necessitate SCOT consideration anyway.

Reference	Comment	Response
	This will ensure that any follow-up work required for NHVR establishment that has been identified by SCOT can be undertaken after the “go live” date by the Project Office and not the Regulator.	
Variation of the Agreement	Clause 55: The process for termination by Parties to the NPA needs to be a separate clause named “Termination of the Agreement” (it is currently under “Variation to the Agreement.”).	Not consistent with template. Have been advised to use standard NPA words with respect to governance arrangements. A paragraph on the enforceability of the NPA has been included in Part 1 which notes that the agreement is not intended to be legally enforceable.
Schedule B	Item A7 ii and iii: These clauses refer to the collection and distribution of revenue by the NHVR. In the absence of a funding model, it has not yet been decided whether the NHVR will be collecting and re-distributing revenue. Based on previous discussions, it is likely that this will not be the supported model and therefore it is suggested that these clauses are re-worded slightly to capture this.	These paragraphs do not constrain another model from being adopted. If a model is adopted that requires the NHVR to undertake these functions, then the agreement acknowledges them and supports the drafting of legislation to ensure the NHVR can fulfil those roles. This is particularly important as the NHVR and its relationships with all or some jurisdictions mature, the way business is done may change and having the power to undertake these functions embedded in the legislation will enable the NHVR to respond readily to changing requirements. Also as the schedules describing the funding arrangement, once agreed by COAG, will be attached to the agreement so the reference “according to the approach agreed under this Agreement” remains correct.

Supplementary SCOT Briefing – Agenda Item 10a

HEAVY VEHICLE NATIONAL PARTNERSHIP AGREEMENT (NPA) – KEY ISSUES RAISED BY JURISDICTIONS

Funding

- Comment (^{s22(1)(a)(ii)} NT, ^{s22(1)(a)(ii)}): Biggest issue is funding. ^{s22(1)(a)(ii)}

^{s22(1)(a)(ii)}

Local productivity initiatives

- Comment (WA & NT): Definition needed. ^{s22(1)(a)(ii)}
- Comment (^{s22(1)(a)(ii)} WA & NT): Existing initiatives should be identified and listed.

^{s22(1)(a)(ii)}

Heavy vehicle driver licensing and competencies

- Comments (conflicting views expressed): ^{s22(1)(a)(ii)} WA wanted the outcome of this work to be included within the ambit of this NPA.

^{s22(1)(a)(ii)}

National Law

- Comment (WA ^{s22(1)(a)(ii)}): Cannot bind parliaments to “secure” passage of legislation. ^{s22(1)(a)(ii)}

^{s22(1)(a)(ii)}

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Heavy Vehicle National Partnership Agreement Consultations

MATRIX OF COMMENTS RECEIVED ON NPA REVISED POST ATC CONSIDERATION AT APRIL 2010 MEETING

Key to response column: **green responses** indicate agreement; **orange responses** indicate partial agreement, a matter outside the NPA or where jurisdictions may not be fully satisfied with the response; and **red responses** indicate that the comment or suggestion is not supported.

Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
Preliminaries (page 2)								
Preliminaries [paras 1 – 6, page 2 in SCOT distributed version]	s22(1)(a)(ii)						The phrase "passing enabling template legislation" is confusing. It should read "passing enabling legislation." [para 5 in SCOT distributed version]	s22(1)(a)(ii) WA: The template law approach was agreed by ATC and is key to the success of these reforms. This approach needs to be clearly stated in the NPA.
Part 1 – Formalities (pages 2-4)								
Term of the Agreement [para 8, page 3 in the SCOT]	s22(1)(a)(ii)							

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Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
<i>distributed version]</i>	s22(1)(a)(ii)							
Enforceability	NEW PARAGRAPH – describes that the agreement is not intended to be legally enforceable but parties are committed to the agreement. This is a standard paragraph taken from the NPA template.							
Delegations	s22(1)(a)(ii)							
<i>[para 10, page 3 in the SCOT distributed version]</i>								
Interpretation	s22(1)(a)(ii)							
<i>[para 11, pages 3 – 4 in the SCOT distributed version]</i>							It's critical that WA's existing local productivity variations are recognised and a definition included: "local legislation, policy or operational practice that departs from model law, national policy or national operational practice to allow a more productive, efficient or sustainable means of carrying out the freight task where local conditions enable this to occur without compromising safety or asset protection demands." (i) The local productivity variations schedule has also been removed. In order to ensure no ambiguity, a schedule listing examples of local productivity initiatives currently in use, needs to be reinstated. (ii)	s22(1)(a)(ii) • WA: Definition of local productivity initiative included, but refers to balancing the lower risk presented by local conditions with safety and asset protection risks, providing a framework for assessing the initiatives into the future. • WA: Schedule on local productivity initiatives has not been included at this stage as it is not agreed and doesn't seem likely to be within the timeframe necessary for COAG consideration by end of 2010.
Part 2 – Objectives, outcomes and outputs (pages 4-5)								
Outcomes	s22(1)(a)(ii)							
<i>[para 13, page</i>								

Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
4 in the SCOT distributed version]	s22(1)(a)(ii)							
Outputs [para 14, pages 4-5 in the SCOT distributed version]								
Part 3 – National System (pages 6-7)								
Opening paragraph [para 15, page 5 in the SCOT distributed version]	s22(1)(a)(ii)							
National Law [paras 16 -20, page 6 in the SCOT distributed version]	s22(1)(a)(ii)						We cannot "secure" passage through our parliaments - this should read "Each party will use their best endeavours to ensure passage."	s22(1)(a)(ii) • WA: Agreed.
Productivity initiatives [paras 21-22, page 6 in the SCOT	s22(1)(a)(ii)		Previously suggested definition of local productivity initiatives. (i) Also need to ensure there's a mechanism for	s22(1)(a)(ii)			The first para should read "... the National Law will include means for maintaining existing local productivity initiatives" (ie not legal mechanisms,	All: A definition of local productivity variations has now been included in the NPA. All: The draft NPA does allow for the NHVR to grant future local productivity initiatives. Paragraph 22 states: "The Parties agree that under the National Law, the NHVR will make decisions on

Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
<i>distributed version]</i>	s22(1)(a)(ii)		deciding on and granting future productivity initiatives. (ii)	s22(1)(a)(ii)			as the Law is the legal mechanism). (i) [para 21 in the SCOT distributed version] In a previous version there was a reference to jurisdictions approving productivity initiatives which has been removed. It needs to be reinstated. (ii)	s22(1)(a)(ii) <i>All: Schedule on local productivity initiatives has not been included at this stage as it is not agreed and doesn't seem likely to be within the timeframe necessary for COAG consideration by end of 2010.</i> s22(1)(a)(ii)
Heavy vehicle driver licensing and competencies [para 23, page 6 in the SCOT distributed version]							Takes a passive approach to the heavy vehicle driver licensing and competencies area. One of the main objectives of the NHVR is to "ensure improved industry understanding of, and compliance with, national regulation through effective and targeted industry liaison, education and enforcement activities". The competencies and testing area would fall into the "education" category. Therefore the clause should read: "... s22(1)(a)(ii)	 s22(1)(a)(ii) WA(i): Agreed. WA(ii): This specific clause was not included in the version considered by ATC in April. As paragraph 22 requires the NHVR to make decisions based on guidelines approved by the Ministerial Council and that those considered to have national applicability will be adopted through the NTC legislative maintenance process or some other process as agreed by the Ministerial Council, this should ensure jurisdictions' concerns are taken on board in the decision making process without unduly slowing down or impeding the processes.

Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
	s22(1)(a)(ii)						the Parties agree that the outcomes of that work will be included within the ambit of the agreement..."	s22(1)(a)(ii) WA: Other jurisdictions have expressed views that they do not want this work to be included in the ambit of this agreement. To take into account these views the paragraph has been amended so the outcomes are "included within the ambit of the National Law." This approach enables parties to decide the most appropriate agreement to progress the outcomes at that time.
National Heavy Vehicle Regulator [para 24-27, pages 6-7 in the SCOT distributed version]	s22(1)(a)(ii)							
Service level agreements [para 28, page 7 in the SCOT distributed version]								
Part 4 – Roles and responsibilities (pages 7-9)								
Ministerial Council [para 32, page 7 in the SCOT distributed version]	s22(1)(a)(ii)							
Queensland [para 34, page 8 in the SCOT distributed version]								
States and territories (except Qld) [para 35, page 8-9 in SCOT distributed version]								
Asset owners [para 36, page 9								

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Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
<i>in the SCOT distributed version]</i>	s22(1)(a)(ii)							
Implementation arrangements <i>[paras 37-39, page 9 in the SCOT distributed version]</i>	s22(1)(a)(ii)						As reference to transitional arrangements and staging implementation of the NHVR has been removed, this clause should now read: "The Project Office and the position of Project Director will be disbanded at 1 January 2013 or at another time as agreed by the Ministerial Council upon recommendation from SCOT." to ensure any follow-up work required for NHVR establishment that has been identified by SCOT can be undertaken after the "go live" date by the Project Office and not the Regulator. <i>[para 39 in the SCOT distributed version]</i>	s22(1)(a)(ii) <i>WA: In principle agreed, but do not think specific words "upon recommendation from SCOT" are necessary as the arrangements governing the operation of the ATC necessitate SCOT consideration anyway.</i>
Part 5 – Performance monitoring and reporting (pages 9-11)								
Table with performance indicators <i>[para 40, pages 9-10 in the SCOT distributed version]</i>	s22(1)(a)(ii)							

Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
	s22(1)(a)(ii)							
Reporting [para 41, page 11 in the SCOT distributed version]								
Part 6 – Financial arrangements (page 11)								
General comments, including need for opt-out clause	s22(1)(a)(ii)		Needs to include a clause that enables jurisdictions to walk away from this if the funding is not resolved satisfactorily.	s22(1)(a)(ii)			All: A specific ‘opt-out’ clause has been included in the draft NPA: “The Parties agree that the obligations of a State or Territory under this Agreement are subject to the satisfactory resolution of these financial arrangements by 31 July 2011.”	s22(1)(a)(ii)

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Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
	s22(1)(a)(ii)							
Part 7 – Governance (page 11-12)								
Review of the Agreement [para 50, page 12 in the SCOT distributed version]	s22(1)(a)(ii)							
Variation of the Agreement [para 51-52, page 12 in SCOT distributed version]	s22(1)(a)(ii)						The process for termination by Parties to the NPA needs to be a separate clause named “Termination of the Agreement” (it is currently under “Variation to the Agreement.”). s22(1)(vii) WA: Not consistent with template. Have been advised to use standard NPA words with respect to governance arrangements. A paragraph on the enforceability of the NPA has been included in Part 1 which notes that the agreement is not intended to be legally enforceable.	
Schedule A – National Law (page A-1)								
Coverage of the National Law [para A3, page A-1 in the SCOT distributed version]	s22(1)(a)(ii)							
Schedule B – NHVR arrangements (page B-1 – B-6)								
Objectives [para A4, page B-1 in the SCOT distributed version]	s22(1)(a)(ii)							
Functions [para A6, page B-2 – B-4 in the SCOT distributed version]	s22(1)(a)(ii)						Second and third sub-clauses refer to the collection and distribution of revenue by the NHVR. In the absence of a funding model, it has not yet been decided whether the NHVR will be collecting and re- s22(1)(a)(ii) WA: These paragraphs do not constrain another model from being adopted. If a model is adopted that requires the NHVR to undertake these functions, then the agreement acknowledges them and supports the drafting of legislation to ensure the NHVR can fulfil those roles. This is particularly important as the NHVR and its relationships with all or some jurisdictions mature, the way business	

Reference	Australian Capital Territory (comments not received in time for inclusion)	New South Wales	Northern Territory	Queensland	South Australia	Victoria	Western Australia (Comments not received in time for inclusion)	Response
	s22(1)(a)(ii)						distributing revenue. Based on previous discussions, it is likely that this will not be the supported model and therefore it is suggested that these clauses are re-worded slightly to capture this.	<i>is done may change and having the power to undertake these functions embedded in the legislation will enable the NHVR to respond readily to changing requirements. Also as the schedules describing the funding arrangement, once agreed by COAG, will be attached to the agreement so the reference “according to the approach agreed under this Agreement” remains correct.</i>
Structure and governance [paras A7 – A13, pages B-4 – B-5 in SCOT distributed version]								s22(1)(a)(ii)
Arrangements for delivering regulatory services and activities [paras A18-A21, page B-6 in the SCOT distributed version]								
Other / general								

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NATIONAL PARTNERSHIP AGREEMENT CONSULTATIONS

Response to Western Australia's comments – 9 August 2010

Note: Comments were not received in time to enable them to be included in the draft NPA circulated for SCOT's 19 August 2010 meeting

Reference	Comment	Response
Preliminaries	Clause 6: The phrase "passing enabling template legislation" is confusing. It should read "passing enabling legislation."	The approach of having a regulator established in one jurisdiction and given powers in every other jurisdiction by template legislation is key to the success of these reforms. Hence, it is vital that this approach, as agreed by the ATC, is accurately captured in the preliminaries section.
Definitions / interpretation	Clause 11: Existing Local Productivity Variations has been removed from the list of definitions, which leaves the definition open to interpretation. It is critical that WA's existing local productivity variations are recognised and therefore a definition must be included. The suggested definition is: "local legislation, policy or operational practice that departs from model law, national policy or national operational practice to allow a more productive, efficient or sustainable means of carrying out the freight task where local conditions enable this to occur without compromising safety or asset protection demands." The LPV schedule has also been removed from the document. In order to ensure no ambiguity, this schedule, which should provide a list of examples of local productivity initiatives currently in use, needs to be reinstated.	A definition of local productivity initiatives has been included in the draft NPA circulated for the SCOT meeting. This definition refers to balancing the lower risk presented by local conditions with safety and asset protection risks, providing a framework for assessing the initiatives into the future. A schedule on local productivity initiatives has not been included at this stage as it is not agreed and doesn't seem likely within the timeframe necessary for COAG consideration by end of 2010. It would assist if WA could provide a list of what you consider your existing local productivity initiatives are as well as outline their cost implications.
Part 3, section on National Law	Clause 18: We cannot "secure" passage through our parliaments - this should read "Each party will use their best endeavours to ensure passage."	Agreed.
Part 3, section on local productivity	Clause 21: should read "... the National Law will include means for maintaining existing local productivity initiatives" (ie not	Agreed and already actioned. The version of NPA circulated for SCOT meeting states: "21. The Parties agree that the National

Reference	Comment	Response
initiatives	legal mechanisms, as the Law is the legal mechanism). Clause 36 from the previous version re: jurisdictions approving productivity initiatives, has been removed. It needs to be reinstated.	Law will include mechanisms for maintaining existing local productivity initiatives.” This specific clause was not included in the version considered by ATC in April. As paragraph 22 requires the NHVR to make decisions based on guidelines approved by the Ministerial Council and that those considered to have national applicability will be adopted through the NTC legislative maintenance process or some other process as agreed by the Ministerial Council, this should ensure jurisdictions’ concerns are taken on board in the decision making process without unduly slowing down or impeding the processes.
Part 3, section on vehicle driver licensing and competencies	Clause 23: The document takes a passive approach to the heavy vehicle driver licensing and competencies area. One of the main objectives of the NHVR is to “ensure improved industry understanding of, and compliance with, national regulation through effective and targeted industry liaison, education and enforcement activities”. The competencies and testing area would fall into the “education” category. Therefore instead of: “... the Parties agree that the outcomes of that work may be included within the ambit of the agreement...” The clause should read: “... the Parties agree that the outcomes of that work will be included within the ambit of the agreement...”	Other jurisdictions have expressed views that they do not want this work to be included in the ambit of this agreement. To take into account these views the paragraph has been amended so the outcomes are “included within the ambit of the National Law.” This approach enables parties to decide the most appropriate agreement to progress the outcomes at that time.
Implementation arrangements	Clauses 39: as reference to transitional arrangements and staging implementation of the NHVR has been removed, this clause should now read: “The Project Office and the position of Project Director will be disbanded at 1 January 2013 or at another time as agreed by the Ministerial Council upon recommendation from SCOT.”	In principle agreed, but do not think specific words “upon recommendation from SCOT” are necessary as the arrangements governing the operation of the ATC necessitate SCOT consideration anyway.

Reference	Comment	Response
	This will ensure that any follow-up work required for NHVR establishment that has been identified by SCOT can be undertaken after the “go live” date by the Project Office and not the Regulator.	
Variation of the Agreement	Clause 55: The process for termination by Parties to the NPA needs to be a separate clause named “Termination of the Agreement” (it is currently under “Variation to the Agreement.”).	Not consistent with template. Have been advised to use standard NPA words with respect to governance arrangements. A paragraph on the enforceability of the NPA has been included in Part 1 which notes that the agreement is not intended to be legally enforceable.
Schedule B	Item A7 ii and iii: These clauses refer to the collection and distribution of revenue by the NHVR. In the absence of a funding model, it has not yet been decided whether the NHVR will be collecting and re-distributing revenue. Based on previous discussions, it is likely that this will not be the supported model and therefore it is suggested that these clauses are re-worded slightly to capture this.	These paragraphs do not constrain another model from being adopted. If a model is adopted that requires the NHVR to undertake these functions, then the agreement acknowledges them and supports the drafting of legislation to ensure the NHVR can fulfil those roles. This is particularly important as the NHVR and its relationships with all or some jurisdictions mature, the way business is done may change and having the power to undertake these functions embedded in the legislation will enable the NHVR to respond readily to changing requirements. Also as the schedules describing the funding arrangement, once agreed by COAG, will be attached to the agreement so the reference “according to the approach agreed under this Agreement” remains correct.

HEAVY VEHICLE NATIONAL PARTNERSHIP AGREEMENT (NPA) – KEY ISSUES RAISED

s22(1)(a)(ii)

National Law

- Comment (WA ^{s22(1)(a)(ii)}): Cannot bind parliaments to 'secure' passage of legislation (paragraph 18).
s22(1)(a)(ii)

Local productivity initiatives (paragraphs 21 and 22)

- Comment (WA & NT): Definition needed.
s22(1)(a)(ii)
- Comment (^{s22(1)(a)} WA & NT): Existing initiatives should be identified and listed.
s22(1)(a)(ii)

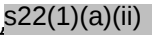
s22(1)(a)(ii)

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Transport, Regional Development, Communications, Sport and the Arts

s22(1)(a)(ii)



Funding

- Comment ( NT  s22(1)(a)(ii)): Biggest issue is funding. NPA needs clause to enable jurisdictions to opt-out if satisfactory arrangements cannot be negotiated.

s22(1)(a)(ii)



- Comment (WA): Concern that references to the NHVR collecting and distributing monies (Schedule B) in the absence of an agreed funding model may limit the consideration of options.

s22(1)(a)(ii)



Heavy Vehicle National Partnership Agreement Consultations

MATRIX OF COMMENTS RECEIVED ON NPA (version Mar 2011) before SCOT at 30 March 2011 Meeting

Key to response column: **green responses** indicate agreement; **orange responses** indicate partial agreement, a matter outside the NPA or where jurisdictions may not be fully satisfied with the response; and **red responses** indicate that the comment or suggestion is not supported.

Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
General Comments	s22(1)(a)(ii)			Given the nature of this agreement is it first Ministers or the Transport ministers that will sign off on this. (i) Do we need to make reference to the establishment of the project office anywhere as a precursor to the NHVR as we're already funding it..? (ii) I understand we are now considering and IGA in marine ... so are we contemplating this in HVs (iii) Our central agencies have indicated a reluctance to be party to an agreement until such time as the funding arrangements are clearly articulated. (iv)	s22(1)(a)(ii)					NTC: s22(1)(a)(ii) agreed NT (i): s22(1)(a)(ii) First Ministers are to sign this NPA, as required by COAG. NT (ii) (iii): s22(1)(a)(ii) Project offices are not required to be mentioned in this NPA – we already have separate bilateral NPAs for the project offices with QLD and SA. NPAs are a requirement of the Federal Financial Relations Act to make payments to any or all states and territories from the Commonwealth. As we expect to make some contribution to the HV and Rail reforms to an entity established under state laws, we will need to retain the NPA as an implementation instrument (an IGA does not meet our legal obligations under the Federal Financial Relations Act . I expect that <u>post implementation</u> there will need to be a governing document for the regulators and these could take the form of an IGA. The maritime reforms do not involve payments from the C/W to the states, so that project can move to an IGA now.
Preliminaries (page 2)										
Preliminaries [paras 1-6, page 2]	s22(1)(a)(ii)									

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Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
	s22(1)(a)(ii)			economic benefits (and potentially a net economic cost) in the NT. (i) Clause 11 (d) provides for changes in the MinCo arrangements however is this now broad enough to capture the move to a Standing Committee on Transport and Infrastructure and the relationship with the BRCWG? (ii)	s22(1)(a)(ii)			departs from model law, national policy or national operational practice to allow a more productive, efficient or sustainable means of carrying out the freight task where local conditions enable this to occur without compromising safety or asset protection demands	s22(1)(a)(ii)	wording as it moves through the final process. WA: s22(1)(a)(ii) We cannot agree to remove 11 (c)(ii) altogether and the alternative is not supported by other jurisdictions. It might help if I outline my understanding of how this will work in practice, in line with all the recent project board decisions on this matter. COAG has agreed that existing LPVs will remain. The national law allows the existing LPVs to be maintained. The national regulator (who is independent and operates within the bounds of the national law and the ministerial council agreed signoff on workplans and strategic direction) will have a register of existing LPVs (developed by HLRG and agreed by the project board). Over time we expect that the regulator will look at existing LPV's, which are predominantly permits/notices etc, and see if they can apply more broadly to other jurisdictions in similar circumstances – this is likely to lead to more uniformity of LPVs in the direction of productivity (ie more likely that other jurisdictions will need to line up with WA and NT practices re access for bigger vehicles for example). The second clause (11(c)(ii)) is there to protect against <u>new</u> LPVs being developed in a jurisdiction without regard for national outcomes. If that is not in place we are wasting our time in implementing national laws. We cannot accept its removal. <u>However</u>, we expect that the regulator and jurisdictions will continue to come up with new ideas to increase productivity. We see the new system would allow the flexibility to trial these in particular areas (which might not mean even a whole jurisdiction per se) or go nationally. If those productivity ideas required law or regulation amendments then the normal processes for getting those changes through would be used (ie NTC involvement, ministerial council involvement etc)

Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
Outcomes [para 13, page 4]	s22(1)(a)(ii)								s22(1)(a)(ii)	
Outputs [para 14, pages 4-5]								Clause 14 (c) (page 4): reference to Service Delivery Standards has been removed. Has there been any consideration of how these will be addressed if not in the NPA?		
Part 3 – National System (pages 6-8)										
Opening paragraph [paras 15-16, page 6]	s22(1)(a)(ii)									
National Law [paras 17-20, page 6]										

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Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
	s22(1)(a)(ii)									
Heavy vehicle driver licensin and competencies [para 23, page 6]										
National Heavy Vehicle Regulator [paras 24-27, pages 6-7]	s22(1)(a)(ii)							Clause 26 (page 7): there is a typo <u>l</u> at the beginning of the sentence	s22(1)(a)(ii)	WA: fixed

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Transport, Regional Development, Communications, Sport and the Arts

Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
and territories (except Qld) [para 36, page 9] Implementatio n arrangements [paras 37-39, page 9]	s22(1)(a)(ii)									
Part 5 – Performance monitoring and reporting (pages 9-11)										
Table with performance indicators [para 40, page 9-10]	s22(1)(a)(ii)							Clause 40 (page 10): near the bottom of the page re: Service Level Agreements, a framework for SLAs is to be developed however no date has been indicated - we need to know when this will be before we can agree to meet it.	s22(1)(a)(ii)	WA: Addressed in new version

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Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
	s22(1)(a)(ii)									
Reporting arrangements [para 41, page 11]	s22(1)(a)(ii)			Clause 41 only requires states and territories to report back on agreed performance measures yet the agreement also imposes obligations on the C'wealth – should not the Commonwealth be included in clause 41.		s22(1)(a)(ii)				NT: (s22(1)(a)(ii)) Performance reporting for the C/W is not required in the NPA. The only performance indicator the Commonwealth has to meet under this agreement is to repeal FIRS, and this is dependent on the passage by <u>all</u> jurisdictions of the national law and the exemption from stamp duty for those operators transferring their registration to under the national law. We will report to SCOTI on progress of this anyway (it is in our interests to repeal ASAP)
Part 6 – Financial arrangements (page 11)										
Set-up costs [paras 42-43, page 11]	s22(1)(a)(ii)			However based on the options provided option c is our preferred option in relation to set up costs and		s22(1)(a)(ii)		Clause 42 (page 11): states that the minimum amount of IT will be implemented to create a “seamless” NHVR. However it is WA’s view that a seamless NHVR would require the “Rolls Royce” model. (i) Clause 43 (page 11): WA supports option (c) Commonwealth to meet set-up costs. (ii)	s22(1)(a)(ii)	

Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
	s22(1)(a)(ii)								s22(1)(a)(ii)	
Transitional costs [para 44, page 11]	s22(1)(a)(ii)							Clause 44 (page 11): nil Commonwealth contribution to transitional costs is not acceptable for WA.	s22(1)(a)(ii)	WA (i): The final model for the IT system is a matter for the Board to examine once we have the detail from the project office. WA (ii): (s22(1)(a)(ii)) Noted. I note WA's comments regarding funding and revenue – hopefully we will make some progress on this at SCOT and ATC WA: (s22(1)(a)(ii)) Noted s22(1)(a)(ii)

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Reference <i>[in the 1 Feb 2011 version]</i>	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
On-going cost (includes proposed exemption from stamp duty for transferring FIRS registrations) <i>[paras 45-47, page 11]</i>	s22(1)(a)(ii) s22(1)(a)(ii)			our central agencies require more detailed information about what the funding clauses will mean in terms of impact on revenue and industry before a commitment to a particular model for ongoing and transition would be forthcoming.	s22(1)(a)(ii)			Clause 45 (page 11): the funding model including ongoing costs and full recovery from operators has not yet been determined. (i) Clause 47 (page 11): a one-off stamp duty exemption for vehicles transferring from FIRS has been agreed to by the jurisdictions. As WA is awaiting a Treasury determination on this issue, we are not comfortable having this clause in the NPA until it is actually agreed to. (ii)	s22(1)(a)(ii)	WA (i): (s22(1)(a)(ii)) The existing HV charge fully recovers costs from industry. While we don't know the ongoing costs it would be a departure from current practice to not fully cost recover regulation costs from industry. I do note that WA is behind other jurisdictions in implementing the HV charges determination. WA (ii): (s22(1)(a)(ii)) The C/W will include clauses in the draft NPA that are our negotiation position. This is one that we cannot negotiate away, as industry will not agree to the abolition of FIRS without it. Our only alternative would be to not close FIRS in the new system (in which case WA and others will miss out on an opportunity to increase stamp duty revenue in the future). We provided a paper to SCOT members on this to assist jurisdictions in briefing their treasuries – happy to provide a copy if you need that.
Part 7 – Governance Arrangements (page 12)										
Dispute resolution <i>[paras 48-51, page 12]</i>	s22(1)(a)(ii)									
Review of the Agreement <i>[para 52, page 12]</i>										
Variation of th Agreement <i>[para 53-54, page 12]</i>										
Schedule A – National Law (page A-1)										
Developing the National Law <i>[paras A1-A2, page A-1n]</i>	s22(1)(a)(ii)									
Coverage of the National Law <i>[para A3, page</i>										

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Reference [in the 1 Feb 2011 version]	National Transport Commission	New South Wales	Tasmania	Northern Territory	Queensland	South Australia	Victoria	Western Australia	Australian Capital Territory	Response
	s22(1)(a)(ii)							and/or NHVR Act); ○ xviii. Monitor and report on the operation of the national laws (with the NTC), including compliance and enforcement activities and outcomes to ensure relevance of those laws and activities; (i)	s22(1)(a)(ii)	
Structure and governance [paras B4 – B14, pages B-4 – B-5]	s22(1)(a)(ii)							Clause B9 (page B-5): there is a typo <i>i</i> (ii)		

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NATIONAL PARTNERSHIP AGREEMENT CONSULTATIONS

Response to WA comments – March 2011

Response to comments received on March 2011

Reference	Comment	Response
Part 1, Section on Interpretation	Clause 11 (c) (page 3): as previously advised, the definition for Local Productivity Variations is not supported by WA. We suggest the following: 1. Remove clause 11 (c) (ii) altogether; or 2. Replace the whole definition with WA's original recommendation: • <i>local legislation, policy or operational practice that departs from model law, national policy or national operational practice to allow a more productive, efficient or sustainable means of carrying out the freight task where local conditions enable this to occur without compromising safety or asset protection demands.</i>	
Part 2, Section on Outputs	Clause 14 (c): reference to Service Delivery Standards has been removed. Has there been any consideration of how these will be addressed if not in the NPA?	
Part 3, Section on National Heavy Vehicle Regulator	Clause 26 (page 7): there is a typo <u>L</u> at the beginning of the sentence.	
Part 5, Section on Table with performance indicators	Clause 40 (page 10): near the bottom of the page re: Service Level Agreements, a framework for SLAs is to be developed however no date has been indicated - we need to know when this will be before we can agree to meet it.	
Part 6, Section on Set-up costs	Clause 42 (page 11): states that the minimum amount of IT will be implemented to create a "seamless" NHVR. However it is WA's view that a seamless NHVR would require the "Rolls Royce" model.	
Part 6, Section on Set-up costs	Clause 43 (page 11): WA supports option (c) Commonwealth to meet set-up costs.	
Part 6, Section on Transitional costs	Clause 44 (page 11): nil Commonwealth contribution to transitional costs is not acceptable for WA	
Part 6, Section on On-going cost	Clause 45 (page 11): the funding model including ongoing costs and full recovery from operators has not yet been determined.	

Reference	Comment	Response
Part 6, Section on On-going cost	Clause 47 (page 11): a one-off stamp duty exemption for vehicles transferring from FIRS has been agreed to by the jurisdictions. As WA is awaiting a Treasury determination on this issue, we are not comfortable having this clause in the NPA until it is actually agreed to.	
Schedule B, Functions	Clause B3 (page B-2): reference to the NTC in administering the National Law seems to have been removed. It is important to replace these references to provide clarity between the role of the NHVR and the NTC. The agreed functions as per the November 2009 ATC paper read: ○ xiv ... Participate in national heavy vehicle policy and regulation development through agreed NTC processes (and as established in the National Partnership Agreement and/or NHVR Act); ○ xviii. Monitor and report on the operation of the national laws (with the NTC), including compliance and enforcement activities and outcomes to ensure relevance of those laws and activities;	
Schedule B, Functions	Clause B9 (page B-5): there is a typo <i>i</i>	

PROJECT AGREEMENT FOR THE IMPLEMENTATION OF NATIONAL TRANSPORT REGULATOR REFORMS

Council of
Australian
Governments

An agreement between

- the Commonwealth of Australia and
- the States and Territories, being:
 - ◆ The State of Tasmania
 - ◆ The Australian Capital Territory
 - ◆ The Northern Territory of Australia

An agreement between the Commonwealth and the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia to assist with the implementation of the agreed National Transport Regulator Reforms.

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

Project Agreement for the implementation of National Transport Regulator Reforms

INTERGOVERNMENTAL AGREEMENT ON FEDERAL FINANCIAL RELATIONS

PRELIMINARIES

1. This Project Agreement (the Agreement) is created subject to the provisions of the **Intergovernmental Agreement on Federal Financial Relations** and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the Intergovernmental Agreement on Federal Financial Relations.
2. In recognition of the administrative and other costs for small jurisdictions, this Agreement will support the State of Tasmania, the Australian Capital Territory, and the Northern Territory of Australia in the transition to agreed National Transport Regulator Reforms.
3. The agreed National Transport Regulator Reforms are in three separate Intergovernmental Agreements (IGAs) on Heavy Vehicle Regulatory Reform, Rail Safety Regulation and Investigation Reform, and Commercial Vessel Safety Reform, signed by the Council of Australian Governments (COAG) at its meeting of 19 August 2011.
4. This Agreement constitutes the entire agreement for this project.

PART 1 – FORMALITIES

Parties to this Agreement

5. This Agreement is between the Commonwealth of Australia (the Commonwealth) and the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia (the States).

Term of the Agreement

6. This Agreement will commence as soon as the Commonwealth and one other Party sign the Agreement and will expire on 30 June 2012, unless terminated earlier or extended as agreed in writing by the Parties.

Enforceability of the Agreement

7. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

Role of the Commonwealth

8. The Commonwealth will be responsible for:
 - (a) providing a one-off financial contribution of \$3 million to assist the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia in recognition of the administrative and other costs for smaller jurisdictions in transitioning to agreed National Transport Regulator Reforms.

Role of the States

9. The States will be responsible for:
 - (a) implementing the agreed administrative and legislative changes to give full effect to the National Transport Regulator Reforms.
10. Both Parties will meet the requirements of Schedule E, Clause 26 of the **Intergovernmental Agreement on Federal Financial Relations**, by ensuring that prior agreement is reached on the nature and content of any events, announcements, promotional material or publicity relating to activities under this Agreement, and that the roles of both Parties will be acknowledged and recognised appropriately.

PART 2 – PROJECT OUTPUT

Output

11. The output(s) of this Agreement will be the implementation of the agreed administrative and legislative changes to give full effect to the National Transport Regulator Reforms, within the specified timeframes, detailed in the IGAs on Heavy Vehicle Regulatory Reform, Rail Safety Regulation and Investigation Reform, and Commercial Vessel Safety Reform, signed at the COAG meeting of 19 August 2011.

PART 3 – FINANCIAL ARRANGEMENTS

12. In respect of this Agreement, the Commonwealth will provide a one-off financial contribution to the States of:
 - (a) \$1.0 million to the State of Tasmania;
 - (b) \$1.0 million to the Australian Capital Territory; and
 - (c) \$1.0 million to the Northern Territory.
13. All payments are GST exclusive.

Intergovernmental Agreement on Federal Financial Relations

14. The Commonwealth's estimated financial contribution to the operation of this Agreement, including through National Partnership payments to the States paid in accordance with *Schedule D — Payment Arrangements* of the Intergovernmental Agreement on Federal Financial Relations, are shown in Table 1.

Table 1: Estimated financial contributions

State of Tasmania	2011-12
Estimated total budget	1.0
Less estimated National Partnership Payments	1.0
Balance of non-Commonwealth contributions	0.0
Australian Capital Territory	2011-12
Estimated total budget	1.0
Less estimated National Partnership Payments	1.0
Balance of non-Commonwealth contributions	0.0
Northern Territory of Australia	2011-12
Estimated total budget	1.0
Less estimated National Partnership Payments	1.0
Balance of non-Commonwealth contributions	0.0

15. National Partnership payments to the States will be paid in accordance with *Schedule D — Payment Arrangements* of the Intergovernmental Agreement on Federal Financial Relations.
16. Having regard to the agreed estimated costs of projects specified in a Project Agreement, a State or Territory will not be required to pay a refund to the Commonwealth if the actual cost of the project is less than the agreed estimated cost of the project. Similarly, the States bear all risk should the costs of a project exceed the agreed estimated costs. The Parties acknowledge that this arrangement provides the maximum incentive for the States to deliver projects cost effectively and efficiently.

PART 4 — PROJECT MILESTONES, REPORTING AND PAYMENTS

17. Upon the commencement of this Agreement in each State, signifying the commitment of that State to transition to the National Transport Regulator Reforms, the Commonwealth will make a one-off payment of \$1 million in assistance to that State.
18. Project milestones and reporting on the transition to the National Transport Regulator Reforms, are as described in the reporting arrangements in Part 5 of the IGAs on Heavy Vehicle Regulatory Reform, Rail Safety Regulation and Investigation Reform, and Commercial Vessel Safety Reform.

PART 5 – GOVERNANCE ARRANGEMENTS

Dispute resolution

19. Any Party may give notice to other Parties of a dispute under this Agreement.
20. Officials of relevant Parties will attempt to resolve any dispute in the first instance.
21. If a dispute cannot be resolved by officials, it may be escalated to the relevant Ministers and if necessary, the relevant Ministerial Council.
22. If a dispute cannot be resolved by the relevant Ministers, it may be referred by a Party to COAG for consideration.

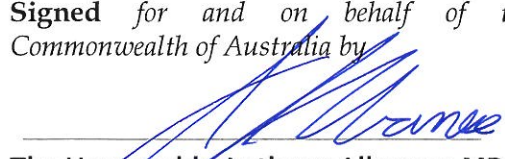
Variation of the Agreement

23. The Agreement may be amended at any time by agreement in writing by all the Parties.
24. A Party to the Agreement may terminate their participation in the Agreement at any time by notifying all the other Parties in writing.

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Transport, Regional Development, Communications, Sport and the Arts

The Parties have confirmed their commitment to this agreement as follows:

Signed for and on behalf of the
Commonwealth of Australia by


The Honourable Anthony Albanese MP
Minister for Infrastructure and Transport

1st of March 2012

Signed for and on behalf of the
State of Tasmania by


The Honourable David O'Byrne MP
Minister for Infrastructure

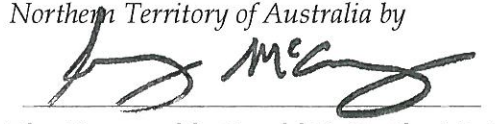
of 2012

Signed for and on behalf of the Australian
Capital Territory by


Mr Simon Corbell MLA
Attorney-General

of 2012

Signed for and on behalf of the
Northern Territory of Australia by


The Honourable Gerald McCarthy MLA
Minister for Transport

13th of MARCH 2012

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HEAVY VEHICLE NATIONAL PARTNERSHIP AGREEMENT (NPA) – KEY ISSUES RAISED**Funding**

- Comment (s22(1)(a)), NT, s22(1)(a)(ii): Biggest issue is funding. NPA needs clause to enable jurisdictions to opt-out if satisfactory arrangements cannot be negotiated.

s22(1)(a)(ii)

- Comment (WA): Concern that references to the NHVR collecting and distributing monies (schedule B) in the absence of an agreed funding model may limit the consideration of options.

s22(1)(a)(ii)

Local productivity initiatives

- Comment (WA & NT): Definition needed.
s22(1)(a)(ii)
- Comment (s22(1)(a)) (WA & NT): Existing initiatives should be identified and listed.

s22(1)(a)(ii)

Heavy vehicle driver licensing and competencies

- Comments (conflicting views expressed): s22(1)(a)(ii)
WA wanted the outcome of this work to be included within the ambit of this NPA.

s22(1)(a)(ii)

National Law

- Comment (WA) (s22(1)(a)(ii)): Cannot bind parliaments to “secure” passage of legislation.