

# 2021 Review of the National Transport Commission

Report prepared for the Department of  
Infrastructure, Transport, Regional  
Development and Communications

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# Table of Contents

Executive summary.....	4
Introduction.....	8
1. Operational effectiveness .....	9
1.1 Regulatory and operational road, rail and intermodal reform delivery .....	9
1.2 The reform maintenance process that supports the delivery of regulatory and operational reform.....	9
1.3 Governance arrangements in facilitating the delivery of tasks .....	10
2. Role and relationships.....	11
2.1 Effectiveness of NTC in delivering Ministers' work program .....	11
2.2 Effectiveness of the processes that the NTC uses when performing its role .....	12
2.3 Relationship between the NTC and jurisdictions.....	15
2.4 Relationship between the NTC, national regulators and other stakeholders.....	16
2.5 Relationship of the NTC with the Infrastructure and Transport Senior Officials' Committee (ITSOC) .....	18
2.6 Strategic drivers impacting on the future role of the NTC.....	20
3. Future work priorities and governance arrangements .....	22
3.1 The role of the NTC in relation to Commonwealth, state, territory and local governments and other government agencies .....	22
3.2 NTC changes following the National Cabinet Review of COAG Councils and Ministerial Forums .....	24
3.3 The appropriateness of the NTC's future work priorities.....	24
3.4 The appropriateness of the NTC's current funding arrangements for the NTC's future role.....	25
3.5 Any necessary amendments to the Act and/or the IGA.....	27
Appendix A: Terms of Reference.....	28
Appendix B: Summary of organisations consulted .....	30
Appendix C: Summary of 2015 Review of the NTC .....	32
Appendix D: Glossary of abbreviations.....	35

# Executive summary

The National Transport Commission (NTC) is a statutory body established in 2003 under the *National Transport Commission Act 2003* (the NTC Act). The NTC leads national land transport reform in support of all Australian governments to improve safety, productivity, environmental outcomes, and regulatory efficiency. The National Transport Commission Act 2003 (the Act) requires Infrastructure and Transport Ministers' to complete a statutory review of the NTC every six years. The 2021 Review (the Review) is the third such review under the NTC Act.

The NTC's operating environment has changed since the last statutory review was undertaken in 2015 as national regulators have matured and the transport agenda has expanded. In addition, the NTC has implemented significant organisational changes in response to a further (non-statutory) review undertaken in 2018 focusing on how the NTC and senior officials support the strategic directions of Ministers.

The key objective of this Review is to consider whether the NTC should continue to operate, and if so in what role.

Findings from the Review are summarised below.

## **Evaluation of the NTC's operational effectiveness**

- 1-1 The NTC is effective in delivering regulatory and operational road, rail, and intermodal transport reform in accordance with the Act, the Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport (IGA) and the Statement of Expectations. The NTC delivers its Reform Maintenance Program effectively.
- 1-2 Governance arrangements in place for facilitating the delivery of the NTC's work are reasonable. Stakeholders support changes that the NTC is making to the way that work is organised and delivered.

## **Evolution of the transport reform environment — consideration of the NTC's future role and relationships**

- 2-1 Stakeholders generally believe that the NTC is effective in delivering Transport Ministers' work program.
- 2-2 Most stakeholders agreed that the NTC could play a stronger role analysing the effectiveness of reforms through quantitative assessment and providing independent advice on achievement of reform outcomes to Transport Ministers.
- 2-3 Recent organisational changes implemented by the NTC have been well received by jurisdictions, who have acknowledged a significant improvement to stakeholder engagement.
- 2-4 The NTC's traditional approach to undertaking work, such as the development of options papers and reports and then seeking comment, was challenged by many stakeholders who expressed a desire to be more equally engaged in the process of defining problems and areas of potential investigation, and then agreeing on solutions and implementation approaches. Stakeholders noted that traditional approaches to work by the NTC, combined with the impact of overarching governance arrangements for the transport reform environment, can create challenges for the timely delivery of work.

- 2-5 A number of industry stakeholders want greater feedback from the NTC about how their advice has been considered, and where it has been considered and rejected, why this is the case. These industry stakeholders felt there was insufficient visibility regarding NTC recommendations made to ITSOC and ITMM. However it is acknowledged there are limits to the information that the NTC and other bodies can share with industry stakeholders when providing advice to Transport Ministers.
- 2-6 Industry and government stakeholders see a clear ongoing role for the NTC in developing and delivering nationally consistent transport reforms and providing advice to Transport Ministers on strategic directions and reform priorities. The NTC remains relevant and needed.
- 2-7 Jurisdictions value the resources provided by the NTC for policy and technical work, describe positive engagement with the NTC, and consider the organisation to be value for money.
- 2-8 The NTC and national regulators have a clear understanding of their respective roles, with the NTC developing strategic transport reforms and regulators responsible for operational matters. However, these divisions of responsibility are not reflected in the Act and the IGA, both of which were developed prior to the establishment of national regulators.
- 2-9 Feedback suggests that engagement with some sections of industry remain a challenge, with some stakeholders indicating that since organisation changes to the NTC, they have experienced less interaction with the NTC's executive.
- 2-10 Industry bodies, particularly those representing the freight sector, stressed the importance of the NTC playing a stronger and more independent role advocating key transport reforms informed by independent analysis and input from industry. The Productivity Commission was cited as an example of a body which plays such a role. However, the NTC is accountable to Transport Ministers and must respond to the priorities they set. Suggestions from some stakeholders that the NTC should play a more independent role must be seen in this context. The NTC can provide independent advice to Ministers to assist them in setting transport reform priorities.
- 2-11 Previous statutory reviews of the NTC have clarified the relationship between ITSOC and the NTC. Feedback from most stakeholders interviewed for the Review suggest that the relationship between ITSOC and NTC is generally well understood.
- 2-12 Given the environment in which the NTC operates, satisfying all stakeholders may be difficult to achieve. The NTC's role is nuanced and involves considering a variety of perspectives balanced against its own research and evidence to develop reforms that will ultimately provide economic and safety benefits for the community. In delivering its work program, it will be important for the NTC to:
- consistently complete projects on time and to a high standard to 'maintain its seat at the table';
  - work collaboratively with stakeholders and being seen as organisation that groups want to work with and that always listens, through improvements to engagement, and;
  - lead rigorous analysis to inform decisions by Transport Ministers and ensuring that evidence which supports recommendations is transparent to stakeholders. This should align with any improvements implemented by the ITMM Secretariat to improve the quality of advice to Transport Ministers and make decision making more transparent.
- 2-13 Jurisdictions agree that the NTC could play a more meaningful role in evaluating the economic benefits of reform implementation, provided that the intent was not to 'name and shame' individual jurisdictions on implementation approach.

- 2-14 The National Transport Reform Implementation Monitoring Report published by the NTC each year principally reports on whether jurisdictions implemented a reform or not in accordance with the recommended approach. It requires significant work and offers little value in return.
- 2-15 There is a perception among stakeholders that work is regularly duplicated across national transport bodies and working groups in the delivery of transport reforms.

**Future work priorities and governance arrangements (if the NTC is to continue)**

- 3-1 Feedback suggests roles and responsibilities between the NTC and the Department of Infrastructure, Transport, Regional Development and Communications for strategic policy development are not always clear at officer level.
- 3-2 While there is support for the NTC to play a role in intermodal transport, before doing so, stakeholders suggested that reform priorities in this area could be more clearly defined.
- 3-3 There is a lack of understanding regarding the role of national bodies, their remit, and contribution to the national reform agenda. The Department of Infrastructure, Transport, Regional Development and Communications could consider how it can provide stakeholders with a greater understanding of how and why ITMM priorities are set.
- 3-4 The 2020 Conran Review of COAG Councils and Ministerial Forums does not suggest that any significant changes need to be made to ITMM, and therefore the role played by the NTC. The NTC should implement any improvements put in place by the Department of Infrastructure, Transport, Regional Development and Communications in response to the Conran Review to streamline processes for providing advice to Transport Ministers.
- 3-5 Most stakeholders expressed the view that the NTC's current priorities and work program are appropriate. Stakeholders suggested ideas for new projects which could be included in the NTC's work program. However, the NTC would need to be directed by ITMM to undertake any major new projects and/or provide advice to Ministers about the need for national work in these areas.
- 3-6 No significant issues or concerns were raised by stakeholders in relation to funding arrangements for the NTC. Stakeholders recognise the need to provide some flexibility in funding arrangements to accommodate changes to priorities throughout the financial year.
- 3-7 The Inter-Governmental Agreement does not accurately reflect the environment that the NTC now works in and there is support for it to be updated.

Recommendations are as follows.

1. The NTC should continue as an independent statutory authority.
2. The NTC should play a stronger role in evaluating the outcomes of national transport reforms, in particular whether economic and safety benefits were achieved and to what extent. This would allow Ministers to determine the need for further actions and reforms. Transport Ministers should also periodically invite the NTC to suggest reforms for evaluation. Suggestions identified by stakeholders during this review could be considered as part of this process.
3. The NTC should take a more collaborative approach to working with stakeholders to define problems and areas of potential investigation, and then agree on solutions and implementation approaches. This approach should take into account the capacity for individual stakeholders, particularly smaller jurisdictions, to participate in the reform development and implementation process.

4. The NTC should consider the following actions to better manage stakeholder input and feedback:
  - adopting a program approach to engagement rather than separate engagement on individual projects;
  - application of 'co-design principles', involving a more collaborative approach to problem definition, the investigation of solutions and development of implementation options;
  - where possible, developing shorter and more targeted consultation products as an alternative to formal papers and reports; and
  - Providing feedback to key stakeholders on how and why their comments were considered and/or rejected, along with greater visibility of NTC recommendations to ITSOC and ITMM, to the extent possible.
5. The NTC should continue to engage the national regulators early in reform development, consistent with MoUs, to ensure that the operational knowledge of regulators can add value. The NTC should continue to assess opportunities to transition relevant legislative maintenance tasks or operational policy to national regulators, to allow a greater focus on strategic reform and priority initiatives.
6. The NTC should enhance its general analytical capability, including with respect to economics, to ensure that it can provide strong evidence on the value and impact of transport reforms.
7. The Reform Implementation Monitoring Report published by the NTC each year should be changed to provide Ministers with an understanding of whether reform objectives and their anticipated economic and safety benefits were achieved. If an activity-based report is to be retained, consideration should be given to this being led by the Department of Infrastructure, Transport, Regional Development and Communications.
8. A process is instituted to enable Transport Ministers to request the NTC to provide a national view of a reform program to understand how the work of multiple national bodies, contributes to reform development, delivery and implementation.
9. Articulation of the respective roles of the NTC and the Department of Infrastructure, Transport, Regional Development and Communications in strategic policy development should be agreed and communicated at officer level.
10. The Department of Infrastructure, Transport, Regional Development and Communications should undertake a targeted project to document the remit of national bodies i.e., who does what and why in land transport reform.
11. The NTC's current level of funding should continue. The recommendations of this Review should not have a material impact on funding arrangements.
12. The NTC's funding arrangements should be reviewed to ensure there is flexibility to support new priorities that may emerge during a given financial year or work program lifecycle.
13. The IGA should be updated to reflect the NTC's current operating arrangements and the Statement of Expectations. The Statement of Expectations should also be updated as part of this process.



# Introduction

The National Transport Commission (NTC) is a statutory body established in 2003 under the *National Transport Commission Act 2003* (the NTC Act). The NTC leads national land transport reform in support of all Australian governments to improve safety, productivity, environmental outcomes and regulatory efficiency. The NTC is a key contributor to the transport reform environment with accountability to Infrastructure and Transport Ministers and the Infrastructure and Transport Senior Officials' Committee.

The National Transport Commission Act 2003 (the Act) requires Infrastructure and Transport Ministers' to complete a statutory review of the NTC every six years. The Department of Infrastructure, Transport, Regional Development and Communications has been tasked with overseeing the conduct of the Review.

The 2021 Review (the Review) is the third such review under the NTC Act and has been undertaken by NineSquared. The Review has been conducted in accordance with the Terms of Reference (Appendix A), agreed at the Infrastructure and Transport Ministers Meeting (ITMM) on 20 November 2020.

The Review must report on the operations of the NTC and the NTC Act, its associated Inter-Government Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport 2003 (IGA), and make recommendations about whether the NTC should continue and/or the NTC Act be repealed.

The Review presents recommendations based on a review of the NTC's:

- Operational effectiveness;
- Role and relationships; and
- Future work priorities and governance arrangements.

As part of the review process, discussions were held with the NTC, senior officials from each jurisdiction road and rail national regulators, research groups and representatives of relevant national and state transport industry associations. In total, close to 30 stakeholders were engaged during the six-week consultation period, including six written submissions from peak industry bodies. A summary of organisations who provided input into the review is provided in Appendix B.

An interim report was prepared for comment by jurisdictions and has since been updated and finalised to reflect feedback. It is expected that the final report will be provided to Infrastructure and Transport Ministers in May 2021. Following this ITSOC will consider the response to the Review's recommendations out-of-session.

# 1. Operational effectiveness

The Review will assess the effectiveness of:

- the Commission in delivering regulatory and operational road, rail and intermodal transport reform in accordance with:
  - the National Transport Commission Act 2003 ('the Act');
  - the Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport (IGA); and
  - the Statement of Expectations (September 2019)
- the Commission's reform maintenance process that supports the delivery of regulatory and operational reform; and
- the Commission's governance arrangements in facilitating the delivery of tasks and whether any changes should be considered.

Feedback describing the operational effectiveness of the NTC varied by stakeholder group. Common themes against the terms of reference are discussed below.

## 1.1 Regulatory and operational road, rail and intermodal reform delivery

**Stakeholders provided positive feedback regarding the NTC's overall effectiveness.**

Stakeholders indicated that the NTC is broadly effective in delivering regulatory and operational road, rail, and intermodal transport reform in accordance with the Act, the Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport and the Statement of Expectations.

Road and heavy vehicle reform were identified as areas where the NTC plays a strong role. Stakeholders in the rail sector were highly complementary of the role that the NTC is playing in the development of the National Rail Action Plan (NRAP) and support further work by the NTC in this area.

Stakeholders indicated that some aspects of the NTC's role could be clarified, such as its role in relation to operational reforms, and in relation to intermodal reform delivery. These issues are discussed in Section 2.4 and Section 3.1, respectively.

## 1.2 The reform maintenance process that supports the delivery of regulatory and operational reform

**The majority of stakeholders provided positive feedback regarding the NTC's reform maintenance program and highlighted the importance of this work.**

Examples include work by the NTC on heavy vehicle maintenance standards, codes and guidelines, such as the Australian Dangerous Goods Code, and work to develop, maintain, monitor and review national transport laws. These initiatives were generally considered to be well run, enabling strong industry input and rigorous debate. Many stakeholders highlighted the ongoing importance of this work, even though it does not always have the same profile as more strategic, longer term reforms.

### 1.3 Governance arrangements in facilitating the delivery of tasks

While questions were raised on roles and responsibilities of different bodies working in the transport reform environment, few issues were raised with governance arrangements in facilitating the delivery of the NTC's work.

Stakeholders acknowledged the complex environment in which the NTC operates and the competing interests of stakeholders. Many raised issues with the lack of clarity in the roles of responsibilities of different bodies working in the national transport reform environment, and the potential for duplication of work (discussed further in Section 3.1). The balance of effort between 'macro' and 'micro' reform was also questioned, mostly in relation to the scope of the NTC's role. For example, stakeholders questioned whether the NTC should focus more strongly on short term technical projects compared to work on longer term reforms.

Few issues were raised with governance arrangements in place for facilitating the delivery of the NTC's work. Jurisdictional stakeholders had a strong understanding of processes and governance arrangements in place for setting and overseeing the work program of the NTC, noting that this has been a focus area of previous reviews, with subsequent changes in governance arrangements implemented in response to them.

Stakeholders expressed support for changes that the NTC is making to the way that work is organised and delivered, such as moving to a program-based approach for engaging on the delivery of projects. This will help to streamline engagement with key stakeholders, and help better prioritise outputs for comment and review (e.g. providing the groups of stakeholders with briefings on multiple projects rather than engaging with them separately on individual projects).

#### Findings

- 1-1 The NTC is effective in delivering regulatory and operational road, rail, and intermodal transport reform in accordance with the Act, the Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport and the Statement of Expectations. The NTC effectively delivers its Reform Maintenance Program.
- 1-2 Governance arrangements in place for facilitating the delivery of the NTC's work are reasonable. Stakeholders support changes that the NTC is making to the way that work is organised and delivered.

## 2. Role and relationships

The Review will make recommendations on whether the Commission should continue in operation, and in doing so:

- consider the effectiveness of the Commission in delivering the Infrastructure and Transport Ministers' Meeting (ITMM) work program;
- examine the relationship between the Commission and jurisdictions;
- examine the relationship between the Commission, the National Heavy Vehicle Regulator, the Office of the National Rail Safety Regulator, Austroads and other key stakeholders—including consideration of the clarity of its regulatory, policy advising and operational roles;
- examine the effectiveness of the processes the Commission uses when performing its role, developing national reform and delivering on expected outcomes;
- examine the relationship of the Commission with the Infrastructure and Transport Senior Officials' Committee (ITSOC), including the role of ITSOC in overseeing the Commission's work program; and
- consider any strategic drivers impacting on the future role of the Commission and the advice that will be required by jurisdictions, noting the policy environment and challenges that governments will face in coming years.

### 2.1 Effectiveness of NTC in delivering Ministers' work program

**Stakeholders were generally appreciative of the NTC's role in delivering the Ministers' work program.**

Stakeholders generally believe that the NTC is effective in delivering the Ministers' work program and provided feedback on specific items along with suggestions for consideration. These are discussed in Section 3.3.

**The NTC should have a stronger focus on reviewing, quantifying, and analysing the effectiveness of reforms in delivering anticipated benefits.**

Most stakeholders agreed that the NTC could play a stronger role analysing the effectiveness of reforms through quantitative assessment and providing independent advice on achievement of reform outcomes to Transport Ministers. Stakeholders considered reform evaluations should be conducted within clear parameters and in accordance with priorities of Transport Ministers. Jurisdictions highlighted the importance of a strategic focus for evaluations, e.g., assessing economic impacts/opportunity costs of partial reform implementation. In previous reviews, stakeholders have also suggested that the NTC needs to play a stronger role in evaluating reforms<sup>1</sup>.

Related to this, several stakeholders suggested that the NTC could also play a greater role in benchmarking Australian transport networks and supply chains to better understand efficiency and international competitiveness. However, it should be noted that benchmarking of Australian transport networks and supply chains is already being carried out as a key Commonwealth action under the National Freight and Supply Chain Strategy.

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<sup>1</sup> See Recommendation 4 of 2009 Review, Recommendation 10 of the 2012 Review and Recommendation 10 of the 2015 Review

Stakeholders including industry, research bodies, jurisdictions and Commonwealth agencies are being engaged in this process.

#### Findings

- 2-1 Stakeholders generally believe that the NTC is effective in delivering Transport Ministers' work program.
- 2-2 Most stakeholders agreed that the NTC could play a stronger role analysing the effectiveness of reforms through quantitative assessment and providing independent advice on achievement of reform outcomes to Transport Ministers.

#### Recommendations

- 1. The NTC should continue as an independent statutory authority.
- 2. The NTC should play a stronger role in evaluating the outcomes of national transport reforms, in particular whether economic and safety benefits were achieved and to what extent. This would allow Ministers to determine the need for further actions and reforms. Transport Ministers should also periodically invite the NTC to suggest reforms for evaluation. Suggestions identified by stakeholders during this review could be considered as part of this process.

## 2.2 Effectiveness of the processes that the NTC uses when performing its role

### Stakeholders acknowledged organisational change implemented by the NTC.

Most stakeholders, particularly jurisdictions, provided positive feedback on organisational changes that have been implemented by the NTC since 2018, and indicated there has been a significant improvement in engagement since that time. However, some industry bodies stated the NTC has moved "away from industry" in recent years, noting reduced levels of engagement, limited visibility into decision making processes and a perception that the NTC focuses more on the needs of government stakeholders compared to those of industry (see Section 2.4).

There was general agreement that the NTC has excellent staff, skills, and capabilities. Many stakeholders indicated that a large component of the NTC's value lies in its experienced staff with strong corporate and technical knowledge. Stakeholders consistently noted that NTC staff are committed, competent and approachable.

### Stakeholders identified issues with the delivery of some projects.

The review of Heavy Vehicle National Law (HVNL) was mentioned by stakeholders as an example of a delayed project yet to achieve desired outcomes. Feedback from the NTC indicates that extended project timeframes can be attributed to a number of factors including a six-month extension endorsed by Minister's requested by a jurisdiction, as well as the complexity of the task, and interdependencies across the HVNL that have required the project to be managed differently to other projects.

Stakeholders emphasised the importance of delivering reforms to the HVNL for industry and productivity more broadly, with the timeliness of the work considered to be a significant issue. While recent efforts made by the NTC and others to refocus the project were acknowledged, several stakeholders suggested that in hindsight, the NTC could have focused on a smaller number of priority issues at the beginning of the process. It was suggested that, the approach of developing a large number of issues papers added significant time and effort to the consultation process, impacting on delivery of improvements.

**Stakeholders expressed a desire to be more equally engaged in the process of defining problems and areas of potential investigation, and then agreeing on solutions and implementation approaches.**

The NTC's traditional approach to reform development such as the release of options papers for comment, then responding to those comments and usually releasing further papers or reports was challenged by many stakeholders. The importance of a co-design approach using early engagement to jointly define problem areas for investigation, and similarly for developing solutions, was seen as a much better way of achieving reform objectives and practical solutions that may be implemented quickly.

There was agreement that more 'agile' approaches to development of reforms would be beneficial. This was related to applying general principles of Agile Project Management to reform development and implementation, rather than specific aspects of the project management discipline used for technology projects. Stakeholders expressed a desire to be more equally engaged in the process of defining problems and areas of potential investigation, and again in agreeing solutions and implementation approaches.

A further criticism was the NTC's bilateral approach to stakeholder engagement on specific projects which was seen as ineffective and inefficient. The benefit of having key stakeholders in the room was considered important so that 'everyone went on the journey' and 'practical implementation approaches' were identified.

One industry body highlighted the value of 'pre-discussion papers', providing examples of foundation and issues papers<sup>2</sup> that summarise the state of play within an area of interest and pose questions about potential future reform and direction. It was felt that these helped to generate useful input at an early stage of the process of investigating reforms.

**A more targeted approach to engagement with ITMM could help with program delivery.**

The NTC along with several stakeholders suggested that a more targeted approach to engagement with ITMM might enable priority projects to be delivered more quickly and/or free up resources for other reform projects. This could involve removing potentially unnecessary steps in engagement, for example the expectation for the NTC to produce activity based reports such as the Reform Implementation Report (see Section 2.6). Prior to commencing work on key projects, the NTC could propose targeted engagement approaches that could streamline approval processes.

**Stakeholders suggested the NTC could take further action to better manage stakeholder input and feedback.**

Several stakeholders stated that changes implemented from the 2018 Comley Review intended to ensure the NTC is more responsive to the needs of decision makers, has placed greater pressure on jurisdictional resources. For example, the NTC often requests comment on a variety of policy issues at once and with short deadlines. This was particularly an issue for smaller jurisdictions because of fewer staff who are required to provide advice on a wide range of issues.

The short consultation and feedback timeframes also raised concerns as to the quality of feedback that can be provided. Further, stakeholders noted that the shorter timeframes sometimes deterred them from putting forward views for fear it may further slow the NTC's program of work. While stakeholders acknowledged that timeframes are often outside the direct control of the NTC, they were supportive of the NTC taking the following actions to better manage stakeholder input and feedback:

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<sup>2</sup> For example, National Transport Commission (2016) Regulatory barriers to more automated road and rail vehicles, Issues paper, February 2016 and National Transport Commission (2016) Land Transport Regulation 2040 Technology, trends and other factors of change, Foundation Paper, October 2016

- adopting a program approach to engagement rather than separate engagement on individual projects (see Section 1.3).
- application of 'co-design principles', involving a more collaborative approach to problem definition, the investigation of solutions and development of implementation options. This approach could also reduce the risk of substantial work because of insufficient input from key stakeholders during the early stages of a project.
- where possible, developing shorter and more targeted consultation products as an alternative to formal papers and reports.

**Processes to provide feedback to key stakeholders could be improved.**

A few industry stakeholders also believe that there is insufficient feedback provided by the NTC about how and why their comments have been considered, and in some cases rejected. Additionally, there is felt to be insufficient visibility given to NTC recommendations to ITSOC and ITMM. While the sensitive nature of advice to Ministers was acknowledged, it was suggested that informal approaches to sharing information (e.g. industry pre-briefing sessions prior to senior official and ministerial meetings) have been used successfully in the past and could be re-instituted.

**Findings**

- 2-3 Recent organisational changes implemented by the NTC have been well received by jurisdictions, who have acknowledged a significant improvement to stakeholder engagement.
- 2-4 The NTC's traditional approach to undertaking work, such as the development of options papers and reports and then seeking comment, was challenged by many stakeholders who expressed a desire to be more equally engaged in the process of defining problems and areas of potential investigation, and then agreeing on solutions and implementation approaches. Stakeholders noted that traditional approaches to work by the NTC, combined with the impact of overarching governance arrangements for the transport reform environment, can create challenges for the timely delivery of work.
- 2-5 A number of industry stakeholders want greater feedback from the NTC about how their advice has been considered, and where it has been considered and rejected, why this is the case. These stakeholders felt there was insufficient visibility regarding NTC recommendations made to ITSOC and ITMM, however it is acknowledged that there are limits to the information that the NTC and other bodies can share with industry stakeholders when providing advice to Transport Ministers.

**Recommendations**

- 3. The NTC should take a more collaborative approach to working with stakeholders to define problems and areas of potential investigation, and then agree on solutions and implementation approaches. This approach should take into account the capacity for individual stakeholders, particularly smaller jurisdictions, to participate in the reform development and implementation process.
- 4. The NTC should consider the following actions to better manage stakeholder input and feedback:
  - adopting a program approach to engagement rather than separate engagement on individual projects (see Section 1.3);
  - application of 'co-design principles', involving a more collaborative approach to problem definition, the investigation of solutions and development of implementation options;

- where possible, developing shorter and more targeted consultation products as an alternative to formal papers and reports; and
- Providing feedback to key stakeholders on how and why their comments were considered and/or rejected, along with greater visibility of NTC recommendations to ITSOC and ITMM, to the extent possible.

## 2.3 Relationship between the NTC and jurisdictions

### **Stakeholders see a clear role for the NTC in developing and delivering nationally consistent transport reforms.**

Jurisdictions had a clear understanding of the NTC's role in developing and delivering strategic transport reforms, the reform maintenance program, the rationale for the NTC being established and its value to the transport reform environment, including:

- providing advice on priorities and strategic reform directions and key issues in transport that is independent of any one jurisdiction,
- evaluating reform implementation and the economic impacts of reform, including evaluating whether reforms achieved objectives and benefits,
- supporting the delivery of national reforms which require national consistency,
- having the ability to provide a national perspective on transport reform issues, irrespective of whether key national reforms have been implemented by all jurisdictions (e.g. heavy vehicle charges, national laws and regulators)
- providing technical expertise on matters relating to the land transport reform agenda, including maintenance of legislation and work that supports decision making of smaller jurisdictions.

### **Smaller jurisdictions appreciate the opportunity provided by the NTC to contribute to reforms that align with their priorities, and more generally the information provided by the NTC.**

There was general agreement that the NTC provides valuable resources for policy and technical work, and a depth of expertise that is otherwise not available to some jurisdictions. This was particularly the case for small and medium jurisdictions. Such jurisdictions appreciate the opportunity provided by the NTC to contribute to reforms that align with their priorities, and more generally the information that is provided by the NTC. The work of the NTC in maintaining heavy vehicle charges was identified as a positive example by numerous stakeholders.

Several stakeholders indicated that they found the work of the NTC useful in situations where their particular jurisdiction was not part of a specific reform, because the information provided by the NTC assisted them in their own decision-making processes. Smaller jurisdictions consistently expressed a view that the NTC provides value for money, and that they would not have the ability to obtain similar advice on transport reform issues based on the value of their financial contribution alone.

### **Jurisdictions described overall positive engagement with the NTC.**

Most government stakeholders indicated that organisational changes implemented to the NTC since 2018 have had a positive impact on their relationship with the organisation. They consistently acknowledged efforts being made by the NTC to engage more effectively to build the case for reforms, and a greater willingness to listen and learn from others.

Other large jurisdictions shared this view, however indicated there were still some opportunities to improve overall engagement. For example, it was suggested the NTC Chair and CEO could engage with jurisdictions directly and more frequently to ensure the national reform agenda better reflects key issues common across jurisdictions. One smaller



jurisdiction did not see the need for greater engagement with the NTC leadership given the positive working relationship in place.

Several stakeholders mentioned that while COVID-19 has demonstrated that remote meetings can be productive and useful, it has also highlighted the value of face-to-face meetings in building relationships. It was suggested that face-to-face meetings should continue to remain a key part of the way in which the NTC builds and maintains relationships with its key stakeholders.

**Engagement is considered most effective in situations where there is a direct connection between individuals in the NTC and other organisations.**

Stakeholders highlighted that in general, there are strong relationships between officers of their organisation and the NTC, and that this is critical to strong ongoing engagement. This view was shared by representatives from all stakeholder groups. Several stakeholders indicated that strong relationships between specific individuals has been critical to delivering work, especially during COVID-19.

#### Findings

- 2-6 Industry and government stakeholders see a clear ongoing role for the NTC in developing and delivering nationally consistent transport reforms and providing advice to Transport Ministers on strategic directions and reform priorities. The NTC remains relevant and needed.
- 2-7 Jurisdictions value the resources provided by the NTC for policy and technical work, describe positive engagement with the NTC, and consider the organisation to be value for money.

## 2.4 Relationship between the NTC, national regulators and other stakeholders

**National regulators understand the role of NTC to develop transport reforms.**

The national road and rail regulators each have a Memorandum of Understanding (MoU) in place with the NTC. The NTC and regulators have a clear understanding of their respective roles, with the NTC developing strategic transport reforms while the regulators are responsible for operational matters. The recently updated MoU between the NTC and NHVR<sup>3</sup> notes the Transport and Infrastructure Senior Officials Committee (TISOC, now ITSOC) 2017 decision that the NTC transfer operational policy and the routine maintenance of the HVNL to the NHVR. In accordance with this agreement the NTC retains responsibility for:

- *substantive and material (i.e. strategic and not operational) policy changes agreed to within the HVNL, notably reforms agreed as part of the HVNL Review; and*
- *changes to subordinate legislation that relate to:*
  - *strategic and non-operational policy changes agreed to within the HVNL that also require changes to the regulations;*
  - *regulations relying on sections of the law that have not commenced (responsibility for these regulations will be transferred to the NHVR once they commence); and*
  - *regulations covering in-service vehicle standards, specifically the Heavy Vehicle (Vehicle Standards) National Regulation*

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<sup>3</sup> Memorandum of Understanding between National Heavy Vehicle Regulator ('NHVR') and National Transport Commission ('NTC'), draft 2021

The MoU between the NTC and the Office of the National Rail Safety Regulator (ONRSR) notes that both the NTC and ONRSR share responsibility of the maintenance of the Rail Safety National Law (RSNL). Matters that constitute operational policy, streamlining business processes or is part of a Ministerial Council directed review are progressed by ONRSR, with major policy maintenance items led by the NTC.<sup>4</sup>

These divisions of responsibility are not reflected in the Act and the IGA, both of which were developed prior to the establishment of national regulators. Regulators emphasised that they are now mature organisations with the capability to lead and develop operational policy and contribute significantly to the development and delivery of strategic national reforms. The MoUs set expectations for early and effective engagement with Regulators, to ensure that their operational knowledge can add significant value to the process of developing national reforms.

**Various industry representatives are dissatisfied with their relationship with the NTC, and are of the view that the NTC has moved “away from industry” in recent years**

Some industry stakeholders indicated that where the NTC has engaged with them, their advice and technical expertise were not adequately recognised. As a result of this, one stakeholder chose not to make a submission to a recent NTC discussion paper, *National In-Service Safety Law for Autonomous Vehicles – October 2020*<sup>5</sup>. The organisation felt that making a submission would be a waste of effort, given a lack of acknowledgment of previous submissions. This was the first time the industry body had chosen not to make a submission to a discussion paper on a critical topic.

Several industry stakeholders indicated that since organisation changes have been implemented by the NTC in recent years, they have had significantly less interaction with the organisation’s executive. Industry stakeholders indicated that they would like to see the NTC to engage earlier and more directly with industry through face-to-face meetings, video conferences, phone calls, and/or attendance at conferences (see Recommendation 3).

Several stakeholders noted that general industry briefings and working group meetings, such as the *NTC Industry Advisory Group*, which has provided a platform for road focussed discussion with the NTC, have been valuable but no longer operate.

Industry generally understands the role of the NTC is to develop and deliver policy reforms, and maintenance of national laws, rules and operational changes that support productivity and the reduction of red tape. Various industry stakeholders stated that in recent years the NTC has moved to a coordinator of policy reform rather than a ‘driver’ of reform. Several industry representatives believed this to be a less useful role for the NTC. Concerns were also raised about a perceived change in approach with the NTC seen as seeking a consensus from jurisdictions leading to a “lowest common denominator” reform outcome that could be agreed rather than the best policy outcome.

**Most freight industry bodies argue that the NTC should play a greater advocacy role.**

Industry bodies representing the freight sector, stressed the importance of the NTC in playing a stronger and more independent role in advocating for key transport reforms informed by independent analysis and input from industry. The Productivity Commission was cited on numerous occasions as an example of a body which plays such a role, and that the NTC could play a similar role given that it was also established as a commission. This view was not however shared by all non-government stakeholders, with one such stakeholder

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<sup>4</sup> Memorandum of Understanding between Office of the National Rail Safety Regulator (‘ONRSR’) and National Transport Commission (‘NTC’), 2018-2021.

<sup>5</sup> NTC (2020), A national in-service safety law for automated vehicles: discussion paper, online at: <https://www.ntc.gov.au/sites/default/files/assets/files/NTC-Discussion-Paper-national-in-service-safety-law-for-AVs.pdf>.

suggesting that the Productivity Commission could continue to periodically play a role in transport reforms, citing their recent work to assess the economic impact of reforms to transport regulation<sup>6</sup>.

#### Findings

- 2-8 The NTC and national regulators have a clear understanding of their respective roles, with the NTC developing strategic transport reforms with regulators responsible for operational matters. However, these divisions of responsibility are not reflected in the Act and the IGA, both of which were developed prior to the establishment of national regulators.
- 2-9 Feedback suggests that engagement with some sections of industry remain a challenge, with some stakeholders indicating that since organisational changes to the NTC, they have experienced less interaction with the NTC's executive.
- 2-10 Industry bodies, particularly those representing the freight sector, stressed the importance of the NTC playing a stronger and more independent role advocating key transport reforms informed by independent analysis and input from industry. The Productivity Commission was cited as an example of a body which plays such a role. However, the NTC is accountable to Transport Ministers and must respond to the priorities they set. Suggestions from some stakeholders that the NTC should play a more independent role must be seen in this context. The NTC can provide independent advice to Ministers to assist them in setting transport reform priorities.

#### Recommendations

5. The NTC should continue to engage the national regulators early in reform development, consistent with MoUs, to ensure that the operational knowledge of regulators can add value. The NTC should continue to assess opportunities to transition relevant legislative maintenance tasks or operational policy to national regulators, to allow a greater focus on strategic reform and priority initiatives.

## 2.5 Relationship of the NTC with the Infrastructure and Transport Senior Officials' Committee (ITSOC)

Previous reviews have clarified the relationship between ITSOC and the NTC.

The 2015 Review of the NTC (See Appendix C: Summary of 2015 Review of the NTC) made several recommendations relevant to the relationship between the NTC the TISOC, mainly:

*that the board governance arrangements of the NTC should be reconsidered to ensure their continued effectiveness in providing expert advice to governments on transport policy reform (Recommendation 6); and*

*TISOC should provide targeted oversight and clarification of the work program boundaries to the NTC to ensure the efficient and effective transition of operational policy and the routine maintenance of national law to the national regulators which takes into account the developing capacity of the regulators and avoids duplication of roles (Recommendation 7)*

Transport Ministers agreed to these recommendations and re-confirmed the role of the NTC in its response<sup>7</sup>. The role of the NTC and its relationship to the Transport Infrastructure

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<sup>6</sup> See National Transport Regulatory Reform Inquiry, Productivity Commission, 2020

<sup>7</sup> Transport Infrastructure Council, Council response to National Transport Commission Review 2015

Council (TIC, now ITMM) and TISOC was further scrutinised in 2018, when the Transport Ministers engaged Mr Blair Comley to examine how the NTC and TISOC support the strategic directions of Ministers<sup>8</sup>. Recommendations from the Review further clarified the role and responsibilities of the NTC in relation to these decision-making bodies:

*The NTC is responsible for development, maintenance and negotiation of model law as tasked by TIC. The core value of the NTC is to act as a body independent of any one jurisdiction to practically deliver model law outcomes. NTC should act as an agent of TIC to deliver the TIC agenda (Recommendation 8).*

*The NTC also undertakes research, as directed by TIC, to support model law reform and broader strategic transport policy (Recommendation 9).*

Feedback from most stakeholders interviewed for this Review suggest that the relationship between ITSOC and NTC is generally well understood.

Direction for the NTC's work is set by ITMM, with a work program overseen by senior officials (ITSOC). While the NTC is funded by jurisdictions and works closely with industry and jurisdictions in the development and delivery of its transport reform and reform maintenance programs, it maintains a level of independence from them and is accountable to Transport Ministers.

The NTC works in an environment shared with many other related bodies including organisations devoted to transport research, standards, data, and infrastructure. The expanding operational remit of national transport regulators also has a significant impact on the NTC given the role it has historically played in developing and delivering operational reforms. Much of this work, particularly with respect to heavy vehicles, has transitioned, or is in the process of transitioning to the national regulator.

**The NTC operates in an increasingly complex environment which poses practical challenges to the delivery of transport reforms.**

Stakeholders acknowledge that the NTC's operating environment creates practical challenges, for example:

- The need to support funding jurisdictions, while at the same time maintaining a level of independence from them;
- The risk of duplicating work undertaken by related bodies or lack of a coherent picture of the contribution to reforms that national bodies provide;
- Expectations of some industry bodies and representatives that the NTC's role is to publicly advocate for specific reforms; and
- The limits that governance and reporting arrangements place on the speed with which reforms can be implemented.

Given the environment in which the NTC operates, satisfying all stakeholders may be difficult to achieve. The NTC's role is nuanced and involves considering a variety of perspectives balanced against its own research and evidence to develop reforms that will ultimately provide economic and safety benefits for the community.

Feedback suggests that the ability of the NTC to provide impartial evidence and advice is essential to it being a respected body that adds value to the transport reform process. Several stakeholders suggested that the NTC could enhance its general analytical capability, including with respect to economics, to ensure that it can provide strong evidence as to the value and impact of transport reforms. This is also linked to the suggestion that the NTC play a greater role in analysing the benefits of reform implementation (see Section 2.6).

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<sup>8</sup> Blair Comley PSM (2018), *Review of the support arrangements for the Transport and Infrastructure Council and the National Transport Commission*.

## Findings

- 2-11 Previous statutory reviews of the NTC have clarified the relationship between ITSOC and the NTC. Feedback from most stakeholders interviewed for the Review suggest that the relationship between ITSOC and NTC is generally well understood.
- 2-12 Given the environment in which the NTC operates, satisfying all stakeholders may be difficult to achieve. The NTC's role is nuanced and involves considering a variety of perspectives balanced against its own research and evidence to develop reforms that will ultimately provide economic and safety benefits for the community. In delivering its work program, it will be important for the NTC to:
- consistently complete projects on time and to a high standard to 'maintain its seat at the table';
  - work collaboratively with stakeholders and being seen as organisation that groups want to work with and that always listens, through improvements to engagement, and;
  - lead rigorous analysis to inform decisions by Transport Ministers and ensuring that evidence which supports recommendations is transparent to stakeholders. This should align with any improvements implemented by the ITMM Secretariat to improve the quality of advice to Transport Ministers and make decision making more transparent.

## Recommendations

6. The NTC should enhance its general analytical capability, including with respect to economics, to ensure that it can provide strong evidence on the value and impact of transport reforms.

## 2.6 Strategic drivers impacting on the future role of the NTC

A number of strategic drivers emerged through consultation with stakeholders that may impact on the future role of the NTC.

### **The NTC could play a more meaningful role in evaluating the benefits of reform implementation.**

Jurisdictions were generally supportive of the NTC playing a more meaningful role in evaluating the benefits of reform implementation, particularly whether intended benefits were achieved but not to 'name and shame' individual jurisdictions as to their chosen method of implementation. There was broad agreement that the National Transport Reform Implementation Monitoring Report published by the NTC each year does not achieve this objective. It principally reports on whether jurisdictions implemented a reform or not in accordance with the recommended approach rather than on the economic impact of reform implementation (including unrealised benefits from partially implemented reforms). Many stakeholders believe this report generates a significant amount of work to provide advice to the NTC with very little value-add in its current form.

### **The NTC could play a greater role in coordinating transport reform across national bodies where desired by Ministers.**

Many stakeholders expressed concerns about duplication of work across national transport bodies, especially the NTC, Austroads and ARRB in the delivery of reforms as well as multiple committees comprised of different stakeholder groups established to support national initiatives.

Initiatives established for the HVNL Review were provided as examples of where duplication may have occurred, specifically;

- The Jurisdiction Strategic Oversight Panel (JSOP), which was formed to provide high-level advice to the NTC from a government perspective. It is comprised of senior level officers from all jurisdictions.
- The Industry Expert Panel which was formed to provide high-level advice to the NTC from an industry perspective. It was comprised of senior industry representatives from across Australia.
- The Reform Reference Committee which was formed to provide advice to the NTC from regulators and at officer level.

To reduce duplication across reform work, it was suggested that the NTC could present a cohesive national view on 'who is doing what' for reform programs that involve multiple national bodies as well as streamlining committee structures by bringing relevant parties together into one group, to help reduce the risk of duplication and help to deliver policy outcomes more effectively.

#### Findings

- 2-13 Jurisdictions agree that the NTC could play a more meaningful role in evaluating the economic benefits of reform implementation, provided that the intent was not to 'name and shame' individual jurisdictions on implementation approach.
- 2-14 The National Transport Reform Implementation Monitoring Report published by the NTC each year principally reports on whether jurisdictions implemented a reform or not in accordance with the recommended approach. It requires significant work and offers little value in return.
- 2-15 There is a perception among stakeholders that work is regularly duplicated across national transport bodies and working groups in the delivery of transport reforms.

#### Recommendations

- 7. The Reform Implementation Monitoring Report published by the NTC each year should be changed to provide Ministers with an understanding of whether reform objectives and their anticipated economic and safety benefits were achieved. If an activity-based report is to be retained, consideration should be given to this being led by the Department of Infrastructure, Transport, Regional Development and Communications.
- 8. A process is introduced to enable Transport Ministers to request the NTC to provide a national view of a reform program to understand how the work of multiple national bodies, contributes to reform development, delivery and implementation.

### 3. Future work priorities and governance arrangements

If the Review recommends the continuation of the Commission, it will also make recommendations on:

- the role of the Commission in relation to Commonwealth, state, territory and local governments and other government agencies;
- any necessary changes to the Commission following the recently announced National Cabinet Review of COAG Councils and Ministerial Forums;
- the appropriateness of the Commission's future work priorities;
- the appropriateness of current funding arrangements for the Commission's future role; and
- any necessary amendments to the Act and or the IGA to implement these changes.

#### 3.1 The role of the NTC in relation to Commonwealth, state, territory and local governments and other government agencies

**Stakeholder feedback suggests that there is a need to clarify roles and responsibilities between the NTC and the Department.**

The Department of Infrastructure, Transport, Regional Development and Communications (the Department) recognises that the NTC provides a depth of resources and expertise in reform that is not available elsewhere and is also critical to bringing jurisdictions together on complex issues and maintaining transport reform momentum. There is a strong appreciation of the work led by the NTC, and the challenge of meeting the dual (and often competing) expectations of 'driving reform' and 'bringing people along the journey'. The difficulty achieving consensus on major reform projects can sometimes lead to a situation where a significant body of work is done before a proposal 'falls over' at the stage where final agreement is needed from jurisdictions. This was also noted as a challenge for the Department. The Department supports the NTC being able to provide advice to Ministers on reforms that are not supported by all jurisdictions but would still provide benefits if partially implemented.

Government officials recognised the importance of the NTC having the ability to suggest projects to Transport Ministers but would like to see the NTC engage more strongly with them as it prepares advice and makes recommendations. Department officials stated that they do not always have sufficient time to review papers before meetings, and that they would often not see advice until too late in the process to discuss advice further or suggest improvements.

It was suggested that clarification of the respective roles of the NTC and the Department in strategic policy development is warranted. Feedback suggests the roles and responsibilities between the NTC and the Department are not always clear at officer level, particularly in relation to strategic policy development. There was a view that the NTC has sometimes initiated work that would have been more appropriately led by the Commonwealth or another government jurisdiction. Stakeholders acknowledged the NTC has generally taken such action where it perceived a gap in capability and the work was viewed as a natural extension of a task already assigned to the NTC through Transport Ministers.

**It was suggested that priorities relating to intermodal transport could be clarified.**

While stakeholders were supportive of the NTC playing a role in road, rail and intermodal transport reforms, outside of work being done on stevedore infrastructure and access charges, the role of the NTC in relation to intermodal transport was not clear to some stakeholders. These stakeholders suggested that priorities in this area could be more clearly defined, supported by evidence, and undertaken where there is a need for greater economic efficiencies and reform. This could consider whether the NTC should focus on problems or issues as they emerge (e.g., landside transport charges at ports), longer term reform projects, or both.

**The NTC could provide a whole of reform view to Ministers including what different national bodies contribute on specific reform programs.**

The majority of stakeholders expressed some difficulty in understanding the national reform roles and responsibilities of different national bodies and believed there was duplication. An example given was the work underway on connected and automated vehicles where several national bodies are contributing to national reforms without a clear understanding of the remit of each organisation and its relationship to others working in the same space.

The NTC is ideally placed to provide a whole of reform view including what different national bodies contribute so Ministers get the whole picture on a national reform program.

**Stakeholders generally agreed that there is a need to document who does what and why in the transport reform environment.**

Stakeholders also agreed that there would be value in documenting the remit of different national bodies, to clarify the role played by each and their contribution to the national reform agenda. Documentation should be targeted i.e. who does what and why, rather than a formal review.

**Findings**

- 3-1 Feedback suggests roles and responsibilities between the NTC and the Department of Infrastructure, Transport, Regional Development and Communications for strategic policy development are not always clear at officer level.
- 3-2 While there is support for the NTC to play a role in intermodal transport, before doing so, stakeholders suggested that reform priorities in this area could be more clearly defined.
- 3-3 There is a lack of understanding regarding the role of national bodies, their remit, and contribution to the national reform agenda. The Department of Infrastructure, Transport, Regional Development and Communications could consider how it can provide stakeholders with a greater understanding of how and why ITMM priorities are set.

**Recommendations**

- 9. Articulation of the respective roles of the NTC and the Department of Infrastructure, Transport, Regional Development and Communications in strategic policy development should be agreed and communicated at officer level.
- 10. The Department of Infrastructure, Transport, Regional Development and Communications should undertake a targeted project to document the remit of national bodies i.e., who does what and why in land transport reform.



## 3.2 NTC changes following the National Cabinet Review of COAG Councils and Ministerial Forums

### The role and operations of ITMM in light of the Conran Review

In May 2020, the Prime Minister announced that National Cabinet agreed to a review of the former COAG Councils and ministerial forum, with a view to rationalise and reset their work structure programs. The Conran Review<sup>9</sup> was published in October 2020, with recommendations on how to achieve a more streamlined intergovernmental structure by rationalising the former COAG Councils and ministerial forums. As part of this, it was recommended that the current arrangements for ITMM be maintained and reset. A number of improvements will be implemented to streamline processes for providing advice to Transport Ministers (e.g. shorter, higher quality papers).

Findings from the Conran Review suggest that no changes are required to the role played by the NTC.

#### Findings

- 3-4 The 2020 Conran Review of COAG Councils and Ministerial Forums does not suggest that any significant changes need to be made to ITMM, and therefore the role played by the NTC. The NTC should implement any improvements put in place by the Department of Infrastructure, Transport, Regional Development and Communications in response to the Conran Review to streamline processes for providing advice to Transport Ministers.

## 3.3 The appropriateness of the NTC's future work priorities

Most stakeholders expressed the view that the NTC's current priorities and work program are appropriate. It was suggested that it would be more valuable for the NTC to focus resources on delivering initiatives they have already committed to, and ensure these are delivered well, before taking on additional priorities.

**Some stakeholders believe that the NTCs focus on long term strategic reforms can detract from the delivery of more important, shorter term initiatives.**

There is a perception by some in the heavy vehicle industry that the NTC can focus too much on long term reforms over other more pressing reforms related to productivity and red tape reduction.

Connected and autonomous vehicles were identified as an example, with the suggestion that the level of resourcing is disproportionate to long lead times associated with implementation, Australia's small market size and the tendency of Australia to adopt international vehicle standards.

While it was acknowledged that priorities for the NTC, including connected and autonomous vehicles, are set by Transport Ministers, feedback suggests that processes for setting work priorities are not always well understood by non-government stakeholders.

**Stakeholders have diverse views on the future work priorities for the NTC.**

Stakeholders suggested a number of new priorities:

- Better balance of priorities with greater focus on the rail sector. While rail industry stakeholders unanimously commented on their positive experiences to date in

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<sup>9</sup> Peter Conran AM (2020), *Review of COAG Councils and Ministerial Forums*.

developing the National Rail Action Plan (NRAP)<sup>10</sup>, and were appreciative of the work that the NTC has done in coordinating and delivering the project, these stakeholders noted that this is the only major rail related project currently led by the NTC;

- Increased focus on reducing the impact of transport on the environment through inclusion of priorities on developing national vehicle emission standards and identifying alternative fuel sources;
- Greater focus on public transport policy priorities, with specific emphasis on the zero-emissions buses transition, and accompanying charging infrastructure, its impact on the electricity grid, and accessibility. Reform in the bus regulatory environment was also suggested; and
- Play a stronger role in developing national transport datasets for use by industry and jurisdictions, working closely with BITRE and other key stakeholders.

Stakeholders also suggested a variety of priority initiatives:

- Evaluate progress with the development of Performance Based Standards networks for high productivity vehicles;
- Develop a roadmap for achieving all-electric bus fleets. This would involve the NTC working with jurisdictions to identify and solve challenges to find a national approach to delivery; and
- Undertake research to evaluate the national impact of speed limit reductions.

These ideas reflect the specific interests and priorities of stakeholders, but not necessarily with the priorities of Transport Ministers. The NTC would need to be directed by Transport Ministers to undertake any major new projects and/or provide advice to Ministers about the need for national work in these areas.

#### Findings

- 3-5 Most stakeholders expressed the view that the NTC's current priorities and work program are appropriate. Stakeholders suggested ideas for new projects which could be included in the NTC's work program. The NTC would need to be directed by ITMM to undertake any major new projects and/or provide advice to Ministers about the need for national work in these areas.

### 3.4 The appropriateness of the NTC's current funding arrangements for the NTC's future role

**Stakeholders were generally supportive of the current funding arrangements for the NTC.**

Section 4 of the IGA sets out the funding arrangements for the NTC. While no significant issues or concerns were raised by stakeholders in relation to funding arrangements for the NTC, stakeholders supported consideration of the NTC funding arrangements as part of the process of updating the IGA. This could focus on whether there are any changes to the funding arrangements which could provide the NTC with greater flexibility for undertaking priority projects outside of its core work program, to avoid situations where existing projects with funding are delayed or deferred because new priorities emerge.

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<sup>10</sup> NRAP is an initiative led by the NTC which aims to ensure the rail sector has the skills and labour required to build and operate an efficient and safe rail network. The NTC has established three industry and government working groups to deliver the plan, which was agreed by the Transport and Infrastructure Council in 2019.

The NRAP was provided as an example of where greater flexibility in the NTC's funding arrangements would have been beneficial. The NRAP was set by ITMM as a new priority during the financial year, however the NTC did not have funds to allocate to it mid-year. As a result, two jurisdictions have provided additional funds to support the important work.

#### Findings

- 3-6 No significant issues or concerns were raised by stakeholders in relation to funding arrangements for the NTC. Stakeholders recognise the need to provide some flexibility in funding arrangements to accommodate changes to priorities throughout the financial year.

#### Recommendations

11. The NTC's current level of funding should continue. The recommendations of this Review should not have a material impact on funding arrangements.
12. The NTC's funding arrangements should be reviewed to ensure there is flexibility to support new priorities that may emerge during a given financial year or work program lifecycle.

### 3.5 Any necessary amendments to the Act and/or the IGA.

#### **There is broad support for an update of the Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport 2003 (IGA).**

The majority of stakeholders indicated that while many of the substantive sections of the IGA, such those documenting objectives, principles for implementing reforms, and funding arrangements, remain relevant, many of the organisation and decision making body names and details regarding specific work priorities are now out of date. The IGA does not accurately reflect the environment that the NTC now works in, including the role played by national transport regulators. Most stakeholders held the view that while some aspects of the IGA may need to be changed, the fundamental issues related to national reform would not. As a result, amendments to the IGA should focus on updates to reflect current arrangements including the Statement of Expectations, rather than revisiting the basis for the agreement itself.

Stakeholders suggested updates to the IGA could reflect transition of operational matters to national regulators, clarify the role of the NTC in relation to the Department of Infrastructure, Transport, Regional Development and Communications and update sections and references that are no longer applicable (e.g. the role of the NTC monitoring the Code of Practice for the Defined Interstate Rail Network).

The Statement of Expectations expires at the end of 2021 and could be updated as part of the process of amending the IGA.

#### Findings

- 3-7 The Inter-Governmental Agreement does not accurately reflect the environment that the NTC now works in and there is support for it to be updated.

#### Recommendations

13. The IGA should be updated to reflect the NTC's current operating arrangements and the Statement of Expectations. The Statement of Expectations should also be updated as part of this process.

# Appendix A: Terms of Reference

## **Evaluation of the National Transport Commission's ('the Commission') operational effectiveness**

The Review will assess the effectiveness of:

- the Commission in delivering regulatory and operational road, rail and intermodal transport reform in accordance with:
  - the National Transport Commission Act 2003 ('the Act');
  - the Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport (IGA); and
  - the Statement of Expectations (September 2019)
- the Commission's reform maintenance process that supports the delivery of regulatory and operational reform; and
- the Commission's governance arrangements in facilitating the delivery of tasks and whether any changes should be considered.

## **Evolution of the transport reform environment—consideration of the Commission's future role and relationships**

The Review will:

- make recommendations on whether the Commission should continue in operation, and in doing so:
  - consider the effectiveness of the Commission in delivering the Infrastructure and Transport Ministers' Meeting (ITMM) work program;
  - examine the relationship between the Commission and jurisdictions;
  - examine the relationship between the Commission, the National Heavy Vehicle Regulator, the Office of the National Rail Safety Regulator, Austroads and other key stakeholders—including consideration of the clarity of its regulatory, policy advising and operational roles;
  - examine the effectiveness of the processes the Commission uses when performing its role, developing national reform and delivering on expected outcomes;
  - examine the relationship of the Commission with the Infrastructure and Transport Senior Officials' Committee (ITSOC), including the role of ITSOC in overseeing the Commission's work program; and
  - consider any strategic drivers impacting on the future role of the Commission and the advice that will be required by jurisdictions, noting the policy environment and challenges that governments will face in coming years.

## **Future work priorities and governance arrangements (if the Commission is to continue)**

If the Review recommends the continuation of the Commission, it will also make recommendations on:

- the role of the Commission in relation to Commonwealth, state, territory and local governments and other government agencies;
- any necessary changes to the Commission following the recently announced National Cabinet Review of COAG Councils and Ministerial Forums;
- the appropriateness of the Commission's future work priorities;

- the appropriateness of current funding arrangements for the Commission's future role;  
and
- any necessary amendments to the Act and or the IGA to implement these changes.

## Appendix B: Summary of organisations consulted

Table 1 2021 Statutory Review of the NTC stakeholder list

Stakeholder group	Organisation
NTC	National Transport Commission (NTC)
Commonwealth	Department of Infrastructure, Transport, Regional Development and Communication (DITRDC)
Jurisdictions	Queensland Department of Transport and Main Roads (DTMR)
	Transport for New South Wales (TfNSW)
	Tasmanian Department of State Growth (State Growth)
	South Australian Department of Planning, Transport, and Infrastructure (DPTI)
	Western Australia Department of Transport (DOT)
	Victorian Department of Transport (DoT)
	Northern Territory Department of Infrastructure, Planning and Logistics (DIPL)
	Australian Capital Territory Transport Canberra and City Services (TCCS)
National Regulators	National Heavy Vehicle Regulator (NHVR)
	Office of the National Rail Safety Regulator (ONRSR)
Other government bodies	Austroroads
	Infrastructure Australia (IA)
	New South Wales Police Force (NSWPF) Traffic Highway and Patrol Command
Industry	Infrastructure Partnerships Australia (IPA)
	Australian Logistics Council (ALC)
	Australasian Railways Association (ARA)
	Australian Trucking Association (ATA)
	Roads Australia
	Truck Industry Council (TIC)
	Australasian College of Road Safety (ACRS)
	Australian Livestock and Rural Transporters Association (ALRTA)
	The International Association of Public Transport Australia New Zealand (UTIPANZ)

	Rail Industry Safety Standards Board (RISSB)
	Australian Road Research Board (ARRB)
	Ports Australia
	Australian Automobile Association (AAA)
	Bus Industry Council (BIC)



# Appendix C: Summary of 2015 Review of the NTC

The 2015 Statutory Review was the second such review under the *National Transport Commission Act 2003* (NTC Act), the first was undertaken in 2009. The 2015 Review was undertaken by an independent Expert Panel and reported on the operations of the NTC and the NTC Act, its associated *Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport 2003* (IGA), and make recommendations about whether the NTC should continue and/or the NTC Act be repealed.

The 2015 Review found that the jurisdictions and the road transport industry sector generally support an ongoing role for the NTC, however there were conflicting views on the role of the NTC in strategic transport reform. There were concerns regarding the NTC's lack of expertise in this area. There was a strong view among most stakeholders that the NTC should focus on progressing major strategic transport policy issues as directed by Transport Ministers, and that jurisdictions should maintain responsibility for regulatory reform. Stakeholders emphasised that transitioning operational policy and maintenance of laws to the national regulators should remain a key priority for the NTC.

A notable recommendation from the 2015 Review was the need to clarify the role of the NTC in relation to rail reform.

The Transport and Infrastructure Council (TIC, now ITMM) responded to the 2015 Review recommendations and these are summarised in the table below.

Table 2 NTC Review 2015 recommendation summary and Council response

Recommendation		Council Response
1	The NTC should continue as an independent statutory authority.	Agree.
2	The Council should charge the Transport and Infrastructure Senior Officials' Committee (TISOC) to develop a nationally agreed policy agenda for rail and recommend whether there remains a role for the NTC, or another suitable organisation, to progress further reforms in this area.	Agree. Council directs TISOC to develop a national policy agenda for rail, including implementation responsibilities, for Council consideration and endorsement in the first half of 2016.
3	The NTC should continue to transition its focus to higher level strategic policy work, consistent with its core reform role to improve transport productivity, safety, environmental outcomes and regulatory efficiency, as directed by the Council.	Agree. Council notes that the NTC will also maintain responsibility for ongoing regulatory and law reform.
4	The Council's current voting protocols and the NTC's reporting and accountability arrangements should continue.	Agree.
5	The NTC should work with TISOC to develop a formal approach to reduce the consultation burden on industry stakeholders.	Agree. The Council directs the NTC to work with TISOC to improve the efficiency of its consultation processes with industry stakeholders under the current NTC

Recommendation		Council Response
		governance arrangements. Arrangements will be put in place to ensure that industry has adequate opportunity to comment on strategic and operational reform issues being considered by TISOC and the Council.
6	The current board governance arrangements of the NTC should be reconsidered in 2016, to ensure their continued effectiveness in providing expert advice to governments on transport policy reform.	Agree. The current NTC commissioner terms expire in 2016. This recommendation will be taken into account by the Council in deliberations on appointments. The Council does not see the need to effect any changes to the governance arrangements of the NTC or the IGA at this time.
7	TISOC should provide targeted oversight and clarification of the work programme boundaries to the NTC to ensure the efficient and effective transition of operational policy and the routine maintenance of national law to the national regulators which takes into account the developing capacity of the regulators and avoids duplication of roles.	<p>Agree. The Council acknowledges the NTC will maintain responsibility for strategic policy and ongoing regulatory and law reform. The Council directs NTC to work with the national regulators to:</p> <ul style="list-style-type: none"> <li>• expedite transition of operational policy and the routine maintenance of relevant national law to the national regulators;</li> <li>• strengthen their formal working relationship to improve collaboration and share knowledge and expertise;</li> <li>• ensure respective work programmes are harmonised and complementary; and</li> <li>• reflect these commitments in revised MoUs between the NTC and national regulators by January 2016.</li> </ul>
8	The NTC should complete its current work programme including chain of responsibility, heavy vehicle charges determination and reviewing and simplifying national vehicle law.	Agree.
9	The Council should identify those key strategic transport reform issues to determine the NTC's short to medium-term work priorities, including reforms to road pricing and investment (taking account of any response to the Harper Review), transport regulation, intermodal and addressing the regulatory barriers to increasing the adoption of current and emerging technologies by the transport sector.	Agree. The Council will consider a revised performance based framework and Statement of Expectations for the NTC in 2016. The Council will ensure the NTC's short to medium work priorities and responsibilities are well defined and avoid duplication of effort of other transport related bodies.

Recommendation		Council Response
10	The NTC should work with relevant technical/research bodies and industry to develop key performance indicators to track the effectiveness of reform initiatives to improve transport productivity and efficiency and provide an evidence base for future reforms.	Agree.
11	The NTC should continue to ensure that it has the appropriate skills and capabilities best suited to delivering the Council's strategic transport reform agenda.	Agree. While noting that as the NTC transfer routine maintenance laws to the national regulators, and completes its current work programme, the NTC should work to build its staff skills and capacity to deliver those work priorities identified by Council.
12	The NTC's current level of funding should continue.	Agree.
13	Changes to the IGA should only be considered following agreement on a nationally agreed policy agenda for rail in accordance with recommendation 2 and the Council's identification of key strategic transport reform issues in accordance with recommendation 9.	Agree. The Council does not see the need to effect any changes to the governance arrangements of the NTC or the IGA at this time.

## Appendix D: Glossary of abbreviations

Abbreviation	Full term
ACRI	Australasian Centre for Rail Innovation
ADVI	Australia and New Zealand Driverless Vehicle Initiative
ARRB	Australian Road Research Board
BITRE	Bureau of Infrastructure, Transport and Regional Economics
COAG	Former Council of Australian Governments
DITRDC	Department of Infrastructure, Transport, Regional Development and Communications
HVNL	Heavy Vehicle National Law
IGA	Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport
ITMM	Infrastructure and Transport Minister's Meeting
ITSOC	Infrastructure and Transport Senior Officials Committee
JSOP	Jurisdiction Strategic Oversight Panel
MoU	Memorandum of Understanding
NEVDIS	National Exchange of Vehicle and Driver Information System
NHVR	National Heavy Vehicle Regulator
NRAP	National Rail Action Plan
NTC	National Transport Commission
ONRSR	Office of the Rail Safety Regulator
PBS	Performance-Based Standards
RISSB	Rail Industry Safety and Standards Board
TCA	Transport Certification Australia