



8 November 2019

Committee Secretary

Senate Standing Committees on Rural and Regional Affairs and Transport

Via email: rrat.sen@aph.gov.au

Dear Committee Secretary

IMPORTANCE OF A VIABLE, SAFE, SUSTAINABLE AND EFFICIENT ROAD TRANSPORT INDUSTRY

Thank you for the opportunity to provide a submission as part of your Inquiry into the importance of a viable, safe, sustainable and efficient road transport industry.

Please note that this submission replaces the ALRTA's previous submission lodged in October 2019. The extended time period for consultation granted by the Senate Committee has enabled ALRTA to undertake further member consultation which has resulted in refinements to our recommendation 10 (regulatory consistency) and recommendation 12 (operator licensing).

The ALRTA makes the following recommendations:

- **Recommendation 1:** That the Fair Work Commission investigate award and superannuation guarantee compliance rates across various road transport sectors, followed by targeted education and enforcement as necessary.
- **Recommendation 2:** That owner drivers should not be subject to industrial laws, especially general carriers and rural carriers.
- **Recommendation 3:** That the National Heavy Vehicle Registration Plates include a specific type of easily identifiable plates for vehicles operating under conditional registration schemes.
- **Recommendation 4:** That the National Heavy Vehicle Regulator implement a nationally consistent compliance and enforcement strategy under which authorised officers routinely check for conditions that apply to vehicle registrations and, if applicable, whether the operator is complying with those conditions.
- **Recommendation 5:** That the Australian Government establish a national fund of at least \$1bn to improve the standard of key rural freight and tourism roads. In allocating the fund, the Australian Government should:
 - Consult with agricultural producers, rural carriers, processors, exporters and tourism stakeholders to identify our most important freight routes in rural and regional Australia;
 - Assess the quality of each freight route;
 - Establish a minimum service level standard for the rural freight and tourism network;
 - Prioritise upgrades on key freight routes to rapidly remove critical safety and productivity bottlenecks;
 - Establish a longer-term plan to upgrade the entire network to meet the minimum service level standard; and

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- Leverage matching funds from State and Local Governments to maximise overall upgrade potential and ensure that all current programs are working towards a common goal.
- **Recommendation 6:** That the Australian Government develop a plan and sustainable funding mechanism for establishing managed roadside livestock effluent disposal sites on key livestock freight routes in Australia. This should involve:
 - Including roadside effluent disposal sites as part of the minimum service level standard for key livestock freight routes;
 - Identifying and classifying key livestock freight routes;
 - Developing principles for the funding of roadside effluent disposal facilities; and
 - Developing regional plans to eventually establish a strategic network of managed sites.
- **Recommendation 7:** That the Australian Government allocate funding necessary to meet the minimum frequency and quality of heavy vehicle rest areas contained in the Austroads National 'Guidelines for the Provision of Heavy Vehicle Rest Area Facilities'.
- **Recommendation 8:** That Australian Governments focus on rolling out proven, low-cost safety infrastructure such as rumble strips, wider medians and improved road shoulders.
- **Recommendation 9:** That Australian Government plan for a supporting communications network that progressively eliminates black spots that currently have poor or no telecommunications coverage across the entire road network.
- **Recommendation 10:** That the National Heavy Vehicle Regulator must administer one set of laws (the HVNL) for heavy vehicles over 4.5 tonnes GVM in every state and territory exclusive of Western Australia and Northern Territory, and coverage must be to all business types regardless of their size or make up (owner operator, small fleet, large fleet etc).
- **Recommendation 11:** That Australian Governments re-introduce automatic deeming for low level infringeable offences under the Heavy Vehicle National Law chain of responsibility provisions.
- **Recommendation 12:** That transport regulators are empowered to prohibit particular persons or entities from operating or controlling any type of road freight business on a case-by-case basis.
- **Recommendation 13:** That Australian Governments specifically regulate the provision of safe and productive off-road transport infrastructure under the chain of responsibility provisions of the Heavy Vehicle National Law.
- **Recommendation 14:** That Australian Governments do more at the state-level to assist all transport operators by requiring payment of undisputed invoices within 30 days, providing low-cost dispute resolution mechanisms and publishing guide freight rates.
- **Recommendation 15:** That Australian Governments establish a 'top-level' industry-government consultative committee charged with establishing a clear vision for a safer and more productive road transport sector, including a road map for how to get there.

Yours sincerely

Stephen Marley
National President



SUBMISSION TO

INQUIRY INTO THE IMPORTANCE OF A VIABLE, SAFE, SUSTAINABLE AND EFFICIENT ROAD TRANSPORT INDUSTRY

8 NOVEMBER 2019

1.0 Introduction

The Australian Livestock and Rural Transporter's Association (ALRTA) is pleased to offer this submission to the Inquiry into the importance of a viable, safe, sustainable and efficient road transport industry.

The ALRTA is the peak body representing road transport businesses servicing the agricultural supply chain. We are a federation of six state associations including:

- Livestock, Bulk and Rural Carriers Association of New South Wales
- Livestock and Rural Transporters Association of Victoria
- Livestock and Rural Transporters Association of South Australia
- Livestock and Rural Transporters Association of Western Australia
- Livestock and Rural Transporters Association of Queensland
- Livestock Transporters Association of Tasmania

Together our associations represent around 700 transport businesses including owner-drivers, small fleet operators and large fleet operators with hundreds of trucks and trailers.

2.0 Summary of Recommendations

The ALRTA makes the following recommendations:

- **Recommendation 1:** That the Fair Work Commission investigate award and superannuation guarantee compliance rates across various road transport sectors, followed by targeted education and enforcement as necessary.
- **Recommendation 2:** That owner drivers should not be subject to industrial laws, especially general carriers and rural carriers.
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 - Consult with agricultural producers, rural carriers, processors, exporters and tourism stakeholders to identify our most important freight routes in rural and regional Australia;
 - Assess the quality of each freight route;
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 - Prioritise upgrades on key freight routes to rapidly remove critical safety and productivity bottlenecks;
 - Establish a longer-term plan to upgrade the entire network to meet the minimum service level standard; and
 - Leverage matching funds from State and Local Governments to maximise overall upgrade potential and ensure that all current programs are working towards a common goal.

- **Recommendation 6:** That the Australian Government develop a plan and sustainable funding mechanism for establishing managed roadside livestock effluent disposal sites on key livestock freight routes in Australia. This should involve:
 - Including roadside effluent disposal sites as part of the minimum service level standard for key livestock freight routes;
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- **Recommendation 14:** That Australian Governments do more at the state-level to assist all transport operators by requiring payment of undisputed invoices within 30 days, providing low-cost dispute resolution mechanisms and publishing guide freight rates.
- **Recommendation 15:** That Australian Governments establish a 'top-level' industry-government consultative committee charged with establishing a clear vision for a safer and more productive road transport sector, including a road map for how to get there.

3.0 Inquiry Terms of Reference

ALRTA notes that the Inquiry will focus on the importance of a viable, safe, sustainable and efficient road transport industry, with particular reference to:

- a. the importance of an enforceable minimum award rate and sustainable standards and conditions for all stakeholders in the road transport industry;
- b. the development and maintenance of road transport infrastructure to ensure a safe and efficient road transport industry;
- c. the regulatory impact, including the appropriateness, relevance and adequacy of the legislative framework, on all stakeholders in the road transport industry;
- d. the training and career pathways to support, develop and sustain the road transport industry;

- e. the social and economic impact of road-related injury, trauma and death;
- f. efficient cost-recovery measures for industry stakeholders, including subcontractors;
- g. the impact of new technologies and advancements in freight distribution, vehicle design, road safety and alternative fuels;
- h. the importance of establishing a formal consultative relationship between the road transport industry and all levels of government in Australia; and
- i. other related matters.

4.0 About Rural Road Transport

Rural road transport operates very differently from every other road transport sector.

Very little work of most livestock or grain carriers is done under an ongoing written contract. Jobs are more often allocated on a piece-meal basis, as they arise, including during seasonal highs such as the grain harvest. While some carriers have retainers to handle, say, all product moving between a particular feedlot and a certain abattoir which may be amenable to a written contract, most work is ad hoc and at short notice.

Rather than being continuously located at 'the end' of a sub-contracting chain, small rural operators often share work amongst each other and find that they are constantly changing roles. On one day, they will be the 'prime contractor' handing off some work to 'a mate that I trust' and, on the next day, they will act as a sub-contractor, bringing in a backload for 'a mate who can't get out this way' to service his usual client.

It is this short-notice, low red-tape, flexibility that enables the rural road transport sector to move seasonally unpredictable farm produce to domestic and international markets as efficiently as possible.

The reciprocity and continuing exchange of roles in rural sub-contracting creates a market that is quite different to that found, for example, in the long-distance 'general freight' business that runs each night on Australia's East Coast highways.

For many small operators, their truck is also their office from which they organise or accept offers of work while already on the road. Communication technologies are still quite rudimentary in most rural and regional areas of Australia and a high proportion of work is organised verbally via a basic mobile phone, often while a job is already underway. Trucks operating on rough roads generally will not carry printers or faxes and limited communication and technology availability substantially limit the use of electronic exchanges such as email.

5.0 Enforceable Award Rates, Sustainable Standards & Conditions

5.1 Employers and Employees

The ALRTA supports the enforcement of award rates, standards and conditions for employees covered by industrial awards such as the:

- Road Transport and Distribution Award 2010; and
- Road Transport (Long Distance Operations) Award 2010.

ALRTA understands that these instruments are under the jurisdiction of the Fair Work Commission and subject to industrial processes for regular review and variation.

The awards cover a range of important matters including:

- Consultation and dispute resolution;
- Types of employment and termination of employment;
- Minimum wages and related matters;
- Hours of work and related matters; and
- Leave and public holidays.

ALRTA considers that these awards are mature instruments that have general support across the industry both from employers and employees.

The road transport sector is highly competitive. Underpayment of wages / allowances / superannuation or non-adherence to minimum conditions can confer a significant competitive advantage for non-compliant businesses. It is therefore important to ensure that there is a level playing field in terms of the application of relevant industrial and superannuation law.

To a large extent, application of the awards relies on education and enforcement. Inadvertent and deliberate breaches of transport awards are not uncommon, each of which require a different regulatory approach:

- Inadvertent breaches are best reduced by education, simplification and offering avenues for employers and employees to seek advice without disproportionate recrimination; and
- Deliberate breaches are best deterred and punished by reporting options, surveillance and investigative powers, prosecution and a penalty regime sufficient to deter non-compliance.

For this reason, ALRTA is supportive of further work to investigate compliance rates across various road transport sectors, followed by targeted education and enforcement as necessary.

Recommendation 1: That the Fair Work Commission investigate award and superannuation guarantee compliance rates across various road transport sectors, followed by targeted education and enforcement as necessary.

5.2 Owner Drivers

ALRTA does not support the application of awards or other industrial instruments to owner drivers who operate as independent contractors.

During the short period of time in which the 2016 Order of the Road Safety Remuneration Tribunal (RSRT) was in place, ALRTA member owner drivers undertaking supermarket, long distance or interstate work were required to charge statutory minimum rates for their services.

This requirement did not apply to larger companies using employee drivers. Upon commencement of the 2016 Order, this immediately put affected owner drivers at a competitive disadvantage.

Owner-drivers have invested in their own business to give themselves the freedom to innovate, adapt and accept their own work on their own terms. ALRTA considers that the 2016 Order removed much of this freedom and replaced it with a highly regulated industrial landscape that discriminated against owner-drivers in favour of employee drivers.

Upon introduction of the 2016 Order, up to 39,000 affected owner drivers faced financial ruin because they could no longer:

- compete with lower priced competitors for full loads;
- find work involving smaller 'part loads';
- accept 'back loads' on lower rate freight routes; or
- offer fixed price services.

The choice for hirers was simple. The increased costs and paper work could be easily avoided by no longer using owner drivers and instead choosing transport companies that use employee drivers.

The 2016 Order was supposed to improve road safety, but it actually led to poorer safety outcomes for many affected owner drivers by placing them under acute financial pressure – not to mention mental health issues and family stresses as their businesses potentially collapsed through no fault of their own.

If the 2016 Order had continued, these impacts were expected to flow through to the ancillary road transport services located in the smaller local communities in which owner drivers often live. Local mechanics, auto-electricians, panel beaters, parts suppliers, vehicle dealers and finance brokers would all have been affected as bigger fleets using employee drivers began to consolidate in larger population centres.

Over the years there have been many reviews and inquiries concerning the application of mandatory minimum rates for owner drivers in Australia.

In the year 2000, the Federal House of Representatives Standing Committee on Communications, Transport and the Arts published a report entitled '*Beyond the midnight oil: managing fatigue in transport*' which concluded that:

- *It is simply not feasible for governments to make and impose decisions about optimal staffing levels within individual transport companies; or about the rates of payment in haulage contracts; or about payment methodologies. These are matters which the industry itself needs to resolve.*

Reviews of the RSRT undertaken by PricewaterhouseCoopers in 2016 and Mr Rex Deighton-Smith of Jaguar Consulting in April 2014 have determined that:

- The evidence for a link between remuneration and safety is limited and uncertain and does not support a heavy handed regulatory response;
- There will be a significant net cost to the economy of around \$2.3b in net present value over the next 15 years;
- That the Road Safety Remuneration System itself introduces significant regulatory overlap with other transport, safety and consumer laws.

On 14 September 2016, the *'Inquiry into the effect of the RSRT's Payments Order on Australian small businesses'* conducted by the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) published the following recommendation:

- *Given the example of the Payments Order and its detrimental impact on owner drivers, the Inquiry strongly discourages the setting of mandated rates of pay that only apply to owner drivers and small businesses.*

5.2.1 Sham Contracting Arrangements

The Final Report of the *Victorian Inquiry into the Labour Hire Industry and Insecure Work* makes it clear that:

- Independent contracting arrangements can be very beneficial for contractors, resulting in secure work, more control and better income levels than could be achieved as an employee; and
- Much of the concern around independent contracting arrangements actually relates to 'sham contracts' put in place primarily for the purpose of avoiding industrial obligations.

Thus, if intervention is required at all, it should be primarily concerned with 'how to protect vulnerable contractors in employee-like relationships while avoiding imposing unnecessary red-tape or restrictions on free enterprise for genuine independent contractors'.

The ALRTA considers that this particular problem has been largely resolved under Section 309(4)(a) of the *NSW Industrial Relations Act 1996* which specifically excludes from industrial regulation contracts of carriage entered into by a common carrier.

As the ALRTA understands the effect of this provision, the prescribed owner driver protections contained in the *NSW General Carriers Contract Determination* only apply to hirers that engage contractors in an employee-like arrangement (e.g. with requirements such as exclusive work, uniforms, painting trucks in particular colours etc). Common carriers who are free to accept work from any hirer, and who are truly operating as an independent contractor, remain unaffected.

5.2.2 A Sectoral Approach

While it is tempting to lump all trucking businesses into the same basket, the road transport sector is actually a collection of very different business types with very different operating frameworks and cost structures.

The ALRTA has articulated some of the unusual circumstances of the rural transport chain in Section 4.0 of this submission.

In recognition of these fundamental differences, legal regimes regulating owner drivers at the Federal and NSW State levels have included provisions that have either required decision makers to consider the unique needs of rural and regional Australia or have exempted rural carriers altogether.

Two examples are listed below.

Example 1:

Section 20(1)(c) of the now abolished *Road Safety Remuneration Act 2012* (Cth) provided that:

In deciding whether to make a remuneration order, the Tribunal must have regard to the following matters:

(c) the special circumstances of areas that are particularly reliant on the road transport industry, such as rural, regional and other isolated areas.

Example 2:

Section 309(4) of the *NSW Industrial Relations Act 1996* excludes from coverage of laws regulating owner drivers certain types of contracts covering, among other things: milk, livestock, primary produce to or from land used for primary production or in circumstances where the primary contractor is a primary producer and the contract is for the transportation of primary produce.

Further, the Transport Industry – General Carriers Interim Contract Determination made by the NSW Industrial Commission on 24 June 2016 excludes certain types of specialist vehicles used in the rural supply chain such as: tankers or vehicles with tipping trailers or a tipping body.

ALRTA considers that this is a sensible approach for minimising regulatory overlap and preventing the application of unworkable industrial provisions (such as a requirement to have written contracts or safe driving plans in place prior to undertaking work) in the rural transport sector.

Recommendation 2: That owner drivers should not be subject to industrial laws, especially general carriers and rural carriers.

5.3 Misuse of Primary Producer Registration

All states have special ‘primary producer’ registration arrangements in place that can be generally characterised as substantially discounting registration fees for heavy vehicles meeting certain prescribed conditions.

In addition to registration concessions, differential fuel tax arrangements apply to primary production vehicles.

When taken together, a genuine primary producer, moving their own produce in their own vehicle, is able to do so at a significantly lower cost than a competing commercial carrier.

ALRTA is not opposed to such arrangements when used as the law intends. However, our member operators report that vehicles registered under primary producer schemes are commonly observed operating on a commercial basis.

Misuse of primary producer schemes has a threefold impact:

1. Primary producer vehicles compete unfairly with commercial carriers.
2. Governments forgo revenue for infrastructure and regulatory purposes.
3. Persistent non-compliance risks discontinuation of such schemes which would disadvantage legitimate users.

Essentially, primary producer vehicles that are competing on a commercial basis drag down freight rates, squeezing margins and placing financial pressure on genuine commercial carriers.

ALRTA recommends that all heavy vehicles operating under primary producer concession schemes must display appropriately marked registration plates and be subject to a nationally consistent enforcement regimes under which authorised officers routinely check for conditions that apply to vehicle registrations and, if applicable, whether the operator is complying with those conditions.

Recommendation 3: That the National Heavy Vehicle Registration Plates include a specific type of easily identifiable plates for vehicles operating under conditional registration schemes.

Recommendation 4: That the National Heavy Vehicle Regulator implement a nationally consistent compliance and enforcement strategy under which authorised officers routinely check for conditions that apply to vehicle registrations and, if applicable, whether the operator is complying with those conditions.

6.0 Development and Maintenance of Road Transport Infrastructure

6.1 General Condition and Funding of Rural Road Infrastructure

While relatively sparsely populated, it is Australia's rural, regional and remote areas that produce our food, fibre, wood and mineral exports.

This is the backbone of Australia's export economy. When all else fails, people still require food, clothing, shelter and energy.

Road transport is typically the first and last link of our agricultural supply chains, bringing vital supplies to our production centres and taking value-added produce to our markets.

Many of the same roads that service our farms also support a burgeoning domestic tourist industry as baby boomer retirees join the ever-growing ranks of the 'grey nomads'.

However, the current state of roads in most parts of rural Australia is appalling.

Chronic under investment over successive Federal, State and Local Governments has resulted in a general decline in road quality, to the point that local authorities are threatening to reduce road access or impose speed restrictions at the very time when we should be doing quite the opposite.

Even when access is maintained, poor quality roads add significant cost to transport tasks because journeys take longer, maintenance costs are higher and the risk of road trauma is increased.

6.1.1 Important Rural Freight Routes in Distress

Over the last century, grain, fibre and livestock production has increased dramatically in what was once considered more marginal agricultural regions. In the past 30 years, technological advances have resulted in heavy vehicles becoming far more powerful, larger and capable of safely carrying much heavier loads.

Yet most of the roads servicing Australia's agricultural production zones have not had a significant upgrade in 70 years or more.

Across Australia, there are numerous examples of important rural freight and tourism routes that are in distress – far too many to list in this submission.

Many of these routes are country highways or 'cross highway' roads that run between country highways – roads that taxpayers would generally expect to be 'up to the task' of moving rural produce efficiently and safely delivering tourists through the region.

Some examples include:

- Major 'pinch points' around Gunnedah and Temora that prevent road trains from servicing a much larger area of the state;
- Unsafe road design on Buckets Way and Thunderbolt's Way that result in alarmingly regular fatalities often involving heavy vehicles;
- Sections of the Murray Valley Highway lacking shoulders, overtaking lanes and rest areas;
- Sections of the Burnett Highway with dangerous bends, poor edges and regular flooding;
- Sections of the Riverina Highway in a generally poor state of repair;
- Even the Newell Highway is not able to provide continuous road train access for its entire length; and
- General lack of floodproofing right across QLD and NSW.

6.1.2 Current Grant Funding Programs

The ALRTA acknowledges that Federal and State Governments have allocated several pools of money to assist in improving rural and regional roads. For example, Australian Government Programs include:

- Roads to Recovery
- Black Spot
- Heavy Vehicle Safety and Productivity
- Bridges Renewal
- National Highways
- Northern Australia Roads
- Beef Roads

Most State and Territory Governments also allocate a proportion of funding to regional roads projects. However, the reality is that these programs are just scratching the surface. Even with all of these programs, important rural freight and tourism roads continue to decline. Each program is a welcome, but relatively small band-aid solution, for what is a major problem of national significance.

6.1.3 Longer-Term Solutions

A long-term sustainable solution may yet become available through the current land transport charging and investment reform process. However, this process has now been underway in various forms for more than a decade and governments have yet to decide on a model for a new system - let alone begin the transition.

In considering the ALRTA recommendations in the following sections of this submission, we ask Australian Governments to take into account that:

- Heavy vehicle operators have been overcharged by more than \$1bn annually since the 2014 PAYGO review; and
- Only 25% of total fuel tax revenue is currently spent on road infrastructure and maintenance.

The heavy vehicle sector is very much prepared to pay its own way. However, we strongly object to paying more than our fair share.

While overcharging heavy vehicles may assist government budgets in the short-term, taxing commercial road transport above cost recovery is a 'false economy' that unnecessarily increases the cost of doing business in Australia. Ultimately this practice will decrease our relative international competitiveness – to the detriment of our economy as a whole - and longer-term government budgets.

By imposing unnecessary costs on road transport businesses, governments are contributing to the 'cost-squeeze' that puts pressure on businesses to cut corners to make ends meet.

Australia cannot afford to wait another decade or more for these reforms to be agreed, implemented and long-term infrastructure plans developed.

6.1.4 Australia Must Act Now to Maximise Return on Investment

In a globally competitive market, small price differentials can potentially shift trade flows from Australian producers to lower price competitors located further away. If Australia does not act now to lift the standard of our country roads, a significant part of the 'windfall gain' arising from burgeoning trade with Asia will never reach the farm gate.

Failure to capture the full economic benefit of the agricultural boom now, will decrease our ability to invest in regional road infrastructure well into the future.

It makes economic and commercial sense for Australia to immediately begin the process of identifying our most important economic and tourism roads across rural and regional Australia, and to make the necessary investment to drive down freight costs on these corridors as soon as possible - so as to maximise the return on that investment.

Recommendation 5: That the Australian Government establish a national fund of at least \$1bn to improve the standard of key rural freight and tourism roads. In allocating the fund, the Australian Government should:

- Consult with agricultural producers, rural carriers, processors, exporters and tourism stakeholders to identify our most important freight routes in rural and regional Australia;
- Assess the quality of each freight route;
- Establish a minimum service level standard for the rural freight and tourism network;
- Prioritise upgrades on key freight routes to rapidly remove critical safety and productivity bottlenecks;
- Establish a longer-term plan to upgrade the entire network to meet the minimum service level standard; and
- Leverage matching funds from State and Local Governments to maximise overall upgrade potential and ensure that all current programs are working towards a common goal.

6.2 Road-Side Effluent Disposal Facilities

In stark contrast to New Zealand, Australian Governments do not provide managed road-side facilities for heavy vehicles to dispose of livestock effluent generated in transit.

This situation is placing public safety and our entire livestock production chain at risk.

If Australian Governments are serious about protecting public safety and enhancing the domestic and export livestock production chain we must:

1. Establish a network of roadside effluent disposal facilities on key freight routes; and
2. Compel livestock producers to appropriately prepare animals prior to road transport.

6.2.1 Why is Effluent Containment Important?

Effluent control on public roadways is important for number of reasons:

- **Safety:** Concentrated effluent on roadways or spilling onto vehicles in transit can be a safety issue. Motorcyclists are particularly at risk from effluent spills.
- **Animal welfare:** Excessive effluent is uncomfortable for animals and promotes disease, and slipping and falling of animals in transit.
- **Commercial:** Animal skins are devalued when stained by effluent.
- **Amenity:** Public amenity can be decreased when excessive effluent is present.
- **Biosecurity:** Effluent is a known vector for the transmission of infectious diseases and invasive weeds.
- **Environment:** Effluent can cause contamination of waterways.

To put the problem in perspective, the Federal Government has estimated that an outbreak of foot and mouth disease would cost between \$40b - \$60b to the national economy. Livestock effluent is a known disease vector but little is being done to provide a decent network of truckwashes and managed effluent disposal sites.

Further, in some parts of Australia, such as SE QLD, major meat processors are facing significant risks associated with the ongoing operation of their business because of local concerns about effluent impacting public amenity. This problem is becoming more acute as urban encroachment continues to accelerate.

6.2.2 Why is Effluent Lost in Transit?

Livestock can lose up to 5% of their weight as effluent during transit if feed and water curfews are not applied prior to transport. A trailer deck can typically accommodate 40 cattle weighing approximately 600kg each. 5% of this total weight equates to around 1200kg or 1200lt in liquid form.

Even when a standard 300lt effluent tank is fitted to a trailer (which is not mandatory or even common in most parts of Australia), it can only capture around 25% of excessive effluent production. Capturing effluent in tanks on the road also creates a secondary problem concerning the disposal of captured effluent.

There is no network of disposal sites for captured effluent. Major livestock processing facilities are not required to provide dumping areas, primary producers are reluctant to accept it onto their property and it may not be deposited in public places.

6.2.3 What is Being Done?

The loss of effluent from a heavy vehicle is routinely treated as a load restraint breach under the *Heavy Vehicle National Law 2013 (HVNL)*.

The ALRTA is working with the National Transport Commission to improve HVNL chain of responsibility laws to compel livestock producers to identify and address risks arising from feeding practices prior to road transport. The aim of this endeavour is to reduce the volume of effluent entering the transport chain.

However, while improving the legal framework will minimise effluent production, it cannot eliminate it entirely.

In New Zealand, National and Regional Governments are jointly funding, building and operating purpose-built livestock effluent disposal facilities on public roads.

This is exactly what is needed in Australia for the livestock supply chain to co-exist and grow alongside an expanding urban population.

ALRTA has inspected the facilities in NZ and has compiled a large amount of information on facility types, costs and management options. To demonstrate the concept in Australia, the ALRTA is liaising with Australian Governments at the Federal, State and Local level to establish Australia's first managed roadside effluent disposal facility in SE QLD – a high priority 'hot spot'.

6.2.4 A Sustainable Infrastructure Solution

According to the ABS publication *Value of Agricultural Commodities Produced, Australia, 2015-16* the total value of 'Livestock slaughterings and other disposals' is approximately \$21b. Most of these livestock will have been transported by road within Australia on at least one occasion.

Like New Zealand, Australia is heavily reliant on heavy vehicles to transport livestock between supply chain parties, including to processors or ports in densely populated areas. Effluent production in transit is a well-known and predictable part of livestock transport activities and it should be expected that significant effluent loads will need to be managed on key livestock freight corridors.

In this regard, there really are but two options:

1. Accept that excess effluent will be lost by heavy vehicles onto public roadways; or
2. Provide appropriately located roadside sites so that transport operators can capture and dispose of effluent in a managed fashion.

The ALRTA recognises that establishing a network of roadside effluent disposal facilities will come at a significant cost. A basic site will cost around \$250,000 to construct (not including land or slip lanes) and around \$30,000 in maintenance costs thereafter.

However, these facilities are not required on all roads. Rather, they need only be placed strategically on key livestock freight corridors around high risk areas such as major urban population centres.

But how do we pay for an appropriate network of disposal sites?

Simple - roadside effluent disposal sites must become part of the statutory service level standard applied to key livestock freight routes in Australia. All costs associated with the construction and maintenance of such facilities could then be factored into the cost base for calculating heavy vehicle charges and recovered from industry.

This approach will provide a sustainable funding base and enable road managers to routinely consider the need for strategically placed roadside effluent disposal sites when making road investment decisions over the longer term.

Recommendation 6: That the Australian Government develop a plan and sustainable funding mechanism for establishing managed roadside livestock effluent disposal sites on key livestock freight routes in Australia. This should involve:

- Including roadside effluent disposal sites as part of the minimum service level standard for key livestock freight routes;
- Identifying and classifying key livestock freight routes;
- Developing principles for the funding of roadside effluent disposal facilities; and
- Developing regional plans to eventually establish a strategic network of managed sites.

6.3 Specific Types of Safety Infrastructure

Heavy vehicle rest areas are of critical importance to heavy vehicle safety. Suitable rest areas are required to assist drivers to manage fatigue and comply with driving hours regulation.

Austrroads publishes National 'Guidelines for the Provision of Heavy Vehicle Rest Area Facilities' which assists road managers to assess the need and prioritisation for heavy vehicle rest areas as well as planning and design considerations.

A 2008 Austrroads 'Audit of Rest Areas against National Guidelines' found that none of the 12,700km AusLink freight routes subject to auditing fully met the spacing requirements of the National Rest Area Guidelines. Sixty per cent of audited routes had substantial deficiencies in the frequency or provision of rest opportunities.

Major rest areas were under-provided in all jurisdictions except Victoria. Rest areas in Queensland and the Northern Territory were described as 'scarce'.

ALRTA asserts that the situation in most rural and regional areas is even worse. Further, the standard of facilities required at lower tier rest areas in rural and remote Australia is such that basic amenities such as toilets, shade, lighting and rubbish bins are typically completely absent.

To make matters worse, the Australian Government has not in recent years even spent all of the funding budgeted for heavy vehicle rest areas. For example, in 2017-18, Federal Budget documents revealed that just \$46.4 million of the \$60 million allocated to truck rest areas and other productivity measures had been spent.

With the burgeoning march of caravan-towing grey nomads around Australia, ALRTA member operators are reporting that even when an otherwise suitable rest area can be found, it is all too often occupied by caravans.

The provision of more and better rest areas must be one of the highest priorities for Australian, state and local governments with firm commitment, backed by appropriate funding allocations.

Recommendation 7: That the Australian Government allocate funding necessary to meet the minimum frequency and quality of heavy vehicle rest areas contained in the Austrroads National 'Guidelines for the Provision of Heavy Vehicle Rest Area Facilities'.

6.4 Direct Safety Measures

Similarly, to heavy vehicle rest areas, there are other types of specific infrastructure that is known to improve safety outcomes such as:

- rumble strips;
- wider median strips;
- wider road shoulders;
- Flashing amber traffic lights to warn heavy vehicles of an impending slow-down;

- Road signage of variable height to ensure that vision is not blocked for heavy vehicles at intersections.

Australian Governments should be implementing these types of specific interventions wherever possible.

Mobile phone communications infrastructure is also emerging as an important element in ensuring heavy vehicle safety, particularly in remote and rural areas. It is no longer acceptable for drivers to be out of contact for several days at a time with some state workplace authorities suggesting that all drivers should carry satellite phones if likely to be out of contact on a standard mobile for more than 24hrs.

Transport businesses are also increasingly using telematics systems to manage personnel and fleets to maximise productivity. Some governments are currently using telematics to provide assurance around restricted network access and compliance and enforcement. This is likely to expand further into network management functions and may even form the basis of a new mass-distance-location heavy vehicle charging system.

In planning for a safe and efficient heavy vehicle sector into the future, it is vitally important for Australian Governments also plan for a supporting communications network that progressively eliminates black spots that currently have poor or no telecommunications coverage across the entire road network.

Recommendation 8: That Australian Governments focus on rolling out proven, low-cost safety infrastructure such as rumble strips, wider medians and improved road shoulders.

Recommendation 9: That Australian Government plan for a supporting communications network that progressively eliminates black spots that currently have poor or no telecommunications coverage across the entire road network.

7.0 Adequacy of the Legislative Framework

7.1 Review of Heavy Vehicle National Law

While some progress has been made in establishing the Heavy Vehicle National Law (HVNL) in the Eastern States, the overall regulatory approach remains piecemeal and inconsistent at best.

As it currently stands:

- The HVNL is not one law, but mostly harmonised state laws;
- Western Australia and Northern Territory remain outside of the HVNL;
- The Federal Government controls vehicle standards, emissions and fuel tax;
- The Fair Work Commission controls awards and industrial instruments;
- State Governments control licencing, training and vehicle registration;
- The National Heavy Vehicle Regulator controls notices and important business rules;

- A combination of state transport departments, the National Heavy Regulator and police control on-road compliance and enforcement; and
- State and local governments control road access.

It is plainly obvious that the laws regulating heavy vehicles are extremely complex and overlapping.

ALRTA acknowledges that the current review of the HVNL being undertaken by the National Transport Commission and the review of National Transport Regulatory Reform being undertaken by the Productivity Commission may improve the current situation.

However, the fundamental problem lies in the overlapping jurisdiction of the various governments involved in heavy vehicle regulation.

If Australia is ever to achieve world's best infrastructure provisions and heavy vehicle regulation it will be necessary for Australian Governments to embark on a bold journey during which the current 'silo' approach is abolished with key powers referred to a new statutory authority with jurisdiction to regulate all facets of road transport relating to vehicle standards (pre and post service), driver licencing, training, health, charging, infrastructure, access, compliance and enforcement.

Given the history of road transport law and the underlying tiered political system in Australia, this is highly unlikely to be resolved in the near term. ALRTA recommends that all Australian Governments continue to implement incremental reforms that deliver safety and efficiency improvements.

One specific area of the HVNL that requires urgent attention is the chain of responsibility provisions.

ALRTA was supportive of new positive general duties when introduced into the HVNL in October 2018, which included the removal of 'deeming' provisions that enabled authorised officers to issue infringements to all chain parties connected to an observed offence. Essentially, if an infringement was issued to one party, the same infringement could be issued to all other parties with an investigation needing to occur.

However, since October 2018 it has become apparent that the neither the National Heavy Vehicle Regulator, state road agencies or police have sufficient resources to properly investigate the role of other chain parties when an offence occurs. As a result, infringements are generally only ever issued to the driver or operator, and not other influential parties. This also appears to be the case for improvement notices and warning that could alternatively be issued.

ALRTA believes that for chain of responsibility provisions to be effective at the lower-end of offence scale, deeming provisions should be re-introduced.

Another specific area of the HVNL review relates to the prospect of either 'operator licencing' or 'mandatory accreditation'. Essentially, both of these concepts represent different points along the same continuum concerned with ensuring that only 'fit and proper' persons are able to operate road transport businesses.

The primary aim of any form of 'operator licencing' or 'mandatory accreditation' is to ensure that only fit and proper persons are able to operate a road transport business.

Introducing a mandatory licencing or accreditation system would create a significant new regulatory burden and cost for many thousands of small road toad transport businesses, as well as, a significant new regulatory function for governments. The cost of such a system would be expected to be hundreds of millions of dollars annually, all of which would add to Australian freight costs.

A more realistic alternative would be to empower regulators to prohibit certain individuals or entities from operating or controlling any type of road freight business on a case-by-case basis.

Recommendation 10: That the National Heavy Vehicle Regulator must administer one set of laws (the HVNL) for heavy vehicles over 4.5 tonnes GVM in every state and territory exclusive of Western Australia and Northern Territory, and coverage must be to all business types regardless of their size or make up (owner operator, small fleet, large fleet etc).

Recommendation 11: That Australian Governments re-introduce automatic deeming for low level infringeable offences under the Heavy Vehicle National Law chain of responsibility provisions.

Recommendation 12: That transport regulators are empowered to prohibit particular persons or entities from operating or controlling any type of road freight business on a case-by-case basis.

7.2 Regulation of Off-Road Infrastructure

Over the past 40 years, there has been a dramatic improvement in the standard of prime movers and trailers used for the livestock freight task. The safety performance of a modern, purpose built, combination is scarcely comparable to the vehicles used in the 1970s and 80s.

As technology has advanced, so too has the price of purchasing and maintaining a contemporary heavy vehicle combination. Professional livestock transporters invest many hundreds of thousands of dollars in their on-road equipment and are subject to regular observation or inspection by enforcement authorities.

Unfortunately, the same cannot be said for off-road loading and unloading infrastructure in the rural transport sector. All too often, modern vehicles have no choice but to use the very same loading facilities that were built for vehicles designed a generation ago (or even longer).

The reason is simple. The cost of constructing modern loading or unloading infrastructure is borne by the depot owner, while the cost of cumulative inefficiencies in the loading task is borne by the transport operator. It is a classic market failure, and without some form of 'chain of responsibility' there is little incentive for depot owners to keep pace with improvements in vehicle technology.

There is no doubt that community expectations around workplace safety have also changed dramatically over recent decades – we no longer accept the risk of death or critical injury as just ‘part of the job’. ALRTA understands that workplace health and safety laws have a central role to play in requiring plant owners to assess and control safety risks, but such laws are of a general nature and are usually applied only to obvious on-site risks such as slips, trips, falls, crushing, cuts, bruising etc.

In the context of transport safety, there are also less obvious risks for the plant owner that can result in safety problems manifesting off-site, such as fatigue related heavy vehicle accidents.

For example, outdated livestock loading infrastructure is neither vehicle-friendly or animal-friendly. Drivers know that a prolonged and tedious loading or unloading process can significantly affect their fatigue levels over the full length of a transport task.

A survey of 40 members conducted at the Livestock and Rural Transporters Association of Victoria (LRTAV) Annual Conference in August 2019 indicated that:

- 80% of injuries requiring medical attention that occur during livestock loading or unloading are not reported to work safe authorities; and
- For most drivers, near misses occur almost every day.

ALRTA, our State Member Associations, and individual transport businesses are together progressing several initiatives designed to improve safety when loading or unloading livestock.

In July 2015, the ALRTA published a national [Guide for Safe Design of Livestock Loading Ramps and Forcing Yards](#). The Guide summarises the potential hazards of livestock loading ramps and forcing yards and includes practical examples of ways to control associated risks for different types of facilities.

In response to a coroner’s recommendation and an application lodged by ALRTA, Standards Australia is now developing an enforceable national standard via the Australian National Committee **SF-054 – Safe Design of Livestock Ramps and Forcing Yards**. It is expected that an enforceable national ramp standard will be published in late 2021.

Frasers Livestock Transport has designed a custom-built, free-standing cross-loading module that incorporates a series of elevated platforms, over-trailer walkways and sliding gates/barriers. This new module has decreased the *risks* of falls, trips and contact with livestock and improved productivity through time efficiencies and enhanced livestock welfare.

The Livestock and Rural Transporters Association of Victoria (LRTAV) has worked with equipment suppliers to develop and promote safer supporting infrastructure such as the ProWay Stock Crate Pivot Access Landing (Crate P.A.L.) that swings in alongside a trailer to enable drivers to work at varying levels without the need to climb on the side or top of the crate.

A trial of a ‘user-pay’ Crate P.A.L. commenced at Kilcoy Global Foods on 2 September 2019. Funded through the NHVR’s Heavy Vehicle Safety Initiative, the trial is exploring the potential of a ‘user-pay’ system to facilitate more rapid uptake of safer unloading infrastructure at major livestock depots across Australia.

In addition to these major initiatives, ALRTA State Member Associations are actively progressing specific safety concerns raised by individual grassroots members with local feedlots, saleyards and processors – there are just too many to list.

While direct action from industry associations is important, prevailing workplace health and safety laws and heavy vehicle laws should be effective in requiring minimum safety standards in off-road loading and unloading equipment to be met. These laws should also require depots frequented by heavy vehicles to provide basic amenities such as toilets, showers and shade.

However, in our observation, current workplace health and safety laws, and heavy vehicle chain of responsibility laws are NOT effective in achieving these goals.

Most loading and unloading facilities remain resigned to doing the absolute bare minimum in line with the lowest-cost option – or simply will take no action at all. Because such facilities operate under a ‘traditional’ model and are located away from population centres, there is little risk that workplace health and safety officers will inspect the infrastructure, let alone understand the consequential risks that may arise in terms of heavy vehicle driver fatigue.

It is simply not acceptable that we continue the practice of putting this important sector in the ‘too hard basket’, thereby exposing our drivers and other road users to on-road safety risks that can, and should be, controlled by off-road parties in the chain.

Recommendation 13: That Australian Governments specifically regulate the provision of safe and productive off-road transport infrastructure under the chain of responsibility provisions of the Heavy Vehicle National Law.

8.0 Training and Career Pathways

Please refer to the Australian Trucking Association submission.

9.0 Social and Economic Cost of Road Related Trauma

Please refer to the Australian Trucking Association submission.

10.0 Efficient Cost Recovery Measures

10.1 Payment Terms and Low-Cost Dispute Resolution

ALRTA considers that there is generally an imbalance of ‘market power’ in the road transport sector. Fundamentally, this arises because there are many thousands of smaller independent contractors competing for work with relatively few larger hirers.

As outlined in section 5.0, mandating minimum rates is not the answer because the market will naturally react with a structural adjustment away from higher priced owner drivers towards larger companies with employee drivers. The only way to avoid this situation would be to set mandatory minimum freight rates applicable to all customers regardless of the type of carrier used.

In other industry sectors with similar imbalances of market power, these problems have been addressed through the establishment of mandatory or voluntary codes of conduct registered under the *Competition and Consumer Act 2010* overseen by the ACCC.

Such codes can be developed by industry, with supporting regulatory impact statements, prescription and enforcement activities conducted by Governments. Five mandatory codes have been established, for example: horticulture; franchising.

A code could cover issues of concern to the trucking sector such as:

- payment time frames (ideally 30 days for undisputed amounts);
- negotiating in good faith;
- a ban on unilateral deductions from payments; and
- dispute resolution and mediation.

The ALRTA considers that the establishment of an industry and government supported code for would be a far superior approach than that previously taken by the RSRT. A code that contained maximum payment timeframes applicable to all customers regardless of the type of carrier used could establish efficient cost recovery measures without distorting freight markets.

Some Australian States already provide assistance to owner drivers in this regard. For example the Victorian Owner Drivers and Forestry Contractors Act 2019 requires hirers to provide owner drivers with an information booklet that outlines rights and obligations including: payment of undisputed invoices within 30 days, dispute resolution mechanisms and the availability of published guide rates.

ALRTA recommends that more should be done at the state level to provide a similar level of protection that covers all transport operators without directly interfering with market freight rates.

Recommendation 14: That Australian Governments do more at the state-level to assist all transport operators by requiring payment of undisputed invoices within 30 days, providing low-cost dispute resolution mechanisms and publishing guide freight rates.

11.0 New Technologies, Advancement in Freight Distribution, Vehicle Design, Road Safety and Alternative Fuels

Please refer to the Australian Trucking Association submission.

12.0 Importance of Consultation

Ongoing formal consultation between the transport industry and all levels of government in Australia is vital. However, given the extremely complex and overlapping nature of regulation in the heavy vehicle sector, the best mechanism to achieve this outcome is unclear.

Many standing consultative mechanisms already exist, for example:

- Standing industry-government consultative arrangements at meetings of the Transport and Infrastructure Ministerial Council;
- Industry-Government Freight Industry Councils in most States;
- NHVR Industry Reference Group;
- NTC Industry Advisory Group;
- Austroads Freight Task Force.

There are hundreds, perhaps thousands, more sectoral-specific, issue-specific or geographic-specific transport related consultative groups.

Yet, despite all of these existing consultative mechanisms, there is no 'government-industry' visionary committee that is looking beyond budgets and election cycles. Fixing the more fundamental problems that inhibit improved safety and productivity in Australian road transport will require deep structural reform to the powers of government and a forward-looking link between industry taxation and infrastructure provision. We need a holistic approach to safer people, safer vehicles and safer roads.

Unfortunately, it is difficult for industry to trust governments in this regard. In 2014, rather than accept the objective recommendation of the NTC to reduce heavy vehicle charges, governments instead changed the rules and abandoned fair cost recovery principles.

Industry is sick and tired of excessive knee-jerk regulatory actions every time there is a high-profile safety incident involving a heavy vehicle. More often than not, industry is subject to regulatory blitz which just demonstrates that compliance is generally good.

Meanwhile, local authorities apply inconsistent access rules to heavy vehicles depending on local NIMBYs, disputes about development priorities or as leverage to attract increased road funding.

ALRTA would welcome the establishment of a 'top-level' industry-government consultative committee charged with establishing a clear vision for a safer and more productive road transport sector, including a road map for how to get there.

Recommendation 15: That Australian Governments establish a 'top-level' industry-government consultative committee charged with establishing a clear vision for a safer and more productive road transport sector, including a road map for how to get there.