

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates 2016 - 2017
Infrastructure and Regional Development

Question no.: 189

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Yamba Port dredging

Proof Hansard Page: 25 (17 October 2016)

Senator Williams, John asked:

Senator WILLIAMS: Can you take on notice: have there been any applications to any state authorities to dredge the Yamba Port? Is that something you would be able to do?

Mr Mrdak: Yes, Senator, we can make inquiries of the New South Wales EPA and also the Commonwealth environment department to see whether any proposals have been put forward.

Answer:

The New South Wales Environmental Protection Authority and the Commonwealth Department of Environment and Energy are unaware of any applications being proposed to dredge Yamba Port.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates 2016 - 2017
Infrastructure and Regional Development

Question no.: 190

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Funding allocated to the National Heavy Vehicle Regulator for heavy vehicle safety initiatives

Proof Hansard Page: 54-55 (17 October 2016)

Senator Sterle, Glenn asked:

Senator BACK: Finally: table 1.2 on page 18 of your portfolio budget statement shows \$4 million movement of funds marked against the Road Safety Remuneration Tribunal. Can you please tell us what the allocation fate of that \$4 million is?

Mr Mrdak: That is, essentially, to support further enforcement and compliance work by the National Heavy Vehicle Regulator. I will ask Ms Zielke to take you through a number of steps involved in that program.

Ms Zielke: The funding was provided through the closure of the Road Safety Remuneration Tribunal. That funding is being provided to the National Vehicle Heavy Vehicle Regulator, and is available over the next three years. The funding will be used for a range of activities, from improvements to the current camera network that is used to monitor trucks around the country—at the moment the particular focus is on the eastern seaboard—to other activities in relation to working more consistently across all of the states and territories in relation to their roadside activities in checking trucks.

Senator STERLE: I will put you on notice, Ms Zielke: can you tell us what these roadside activities will be?

Truckies can get filmed more often than they are now, I suppose, but you will be able to defend that. We will see how the truckies like that, shall we?

Answer:

This funding will provide additional camera sites nationally and progress connection of existing interstate heavy vehicle monitoring networks. This will assist jurisdictional agencies to improve their ability to detect risky behaviour and unsafe practice on the roads and better target compliance and enforcement efforts at the roadside, including fatigue and average speed checks.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates 2016 - 2017
Infrastructure and Regional Development

Question no.: 191

Program: 2.2 Surface Transport
Division/Agency: Surface Transport Policy
Topic: Tasmanian Freight Equalisation Scheme
Proof Hansard Page: 58 (17 October 2016)

Senator Whish-Wilson, Peter asked:

Senator WHISH-WILSON: More specifically then, around the policy implications of this: if the amount that has been paid out is significantly under what had been budgeted for—so there is a gap there and it has not been utilised, essentially—would that money be potentially available to be hypothecated to other funding for infrastructure in Tasmania?

Mr Mrdak: It traditionally has not. It is an on-demand program, so the expenditure follows the demand profile. Generally, where the actual has been under the estimates it has been returned to the budget, essentially.

Senator WHISH-WILSON: Has that been the case historically?

Mr Mrdak: Yes, it has.

Senator WHISH-WILSON: Could I get, on notice, how often or how significant that has been in the past—just over a short period of time; say, five years?

Mr Mrdak: Yes, the last five or ten years.

Answer:

The table below shows budgeted and actual Tasmanian Freight Equalisation Scheme expenditure from 2010-11 to 2015-16.

Tasmanian Freight Equalisation Scheme: Budgeted and actual expenditure: 2010-11 to 2015-16		
	Revised Budget (\$m)¹	Actual expenditure (\$m)²
2010-11	110.00	98.55
2011-12	100.00	93.23
2012-13	112.20	111.05
2013-14	114.30	101.70
2014-15	114.30	111.90
2015-16	141.95	129.80

¹**Source:** Revised budget figures obtained from Department of Infrastructure and Regional Development Portfolio Budget Statements for respective years since 2011-12. Includes figures obtained from Portfolio Budget Statements prepared under the Department's previous name prior to September 2013.

²**Source:** Department of Infrastructure and Regional Development Annual Reports. Also includes figures obtained from Annual Reports prepared under the Department's previous name prior to September 2013.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates 2016 - 2017
Infrastructure and Regional Development

Question no.: 192

Program: n/a

Division/Agency: Surface Transport Policy

Topic: National Heavy Vehicle Regulator - Codes of Practice

Proof Hansard Page: 75 (17 October 2016)

Senator Sterle, Glenn asked:

Ms Zielke: Those cameras will then enable linkages to be made with the cameras in New South Wales and Queensland so that there will be better coverage in relation to how trucks are actually travelling, not just from a perspective of pointing out when somebody is doing something wrong but also to improve the knowledge that the NHVR has in relation to where the trucks are travelling and how greater access to roads et cetera might benefit them. The next thing is fast-tracking the development and uptake of industry codes of practice. NHVR is out consulting at the moment with industry in relation to those sectors that would like to take an industry code of practice approach.

Senator STERLE: Can you tell us what those codes of practice will address? Is there any indication?

Ms Zielke: In particular, it is about practices that that sector would like to adopt on a voluntary basis that make sure that their actual group is working in a certain way. I am sorry, I do not have an example in my head at the moment. There is a consultation document that I could provide you with.

Answer:

Draft guidelines developed by the National Heavy Vehicle Regulator concerning the development of Industry Codes of Practice are attached ([Attachment A](#)).

Attachment:

[Attachment A](#) - National Heavy Vehicle Regulator – Guidelines for Developing and Registering Industry Codes of Practice.



National Heavy Vehicle Regulator

Guidelines for Developing and Registering Industry Codes of Practice

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Copyright

Information to be provided

Publication and revision history

Information to be provided

Acknowledgement

These guidelines draw on material contained in the Austroads publication:
Guidelines for the Content, Development, Approval and Use of Industry Codes of Practice, (AP-R282-06).

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1 About these guidelines

Under section 705 of the Heavy Vehicle National Law (HVNL) the National Heavy Vehicle Regulator (NHVR) has statutory power to issue guidelines for the production of codes of practice, and to register codes of practice in all states and territories where the HVNL is in effect.

The NHVR's *Guidelines for Developing and Registering Industry Codes of Practice* (the Guidelines) have been developed to help participants in the transport industry and supply chain to prepare industry codes of practice that address the provisions of the HVNL and Chain of Responsibility (CoR) requirements.

For an industry code of practice to be registered it must be developed in accordance with these Guidelines and incorporate systems to manage safety into its framework. This will ensure that adopters of the registered code of practice (RCP) are able to assess the risks of their own operations and establish and maintain safety systems adapted to their circumstances.

Adoption of an RCP is no substitute for understanding and meeting HVNL and CoR obligations, but it will be an important step toward doing so. It may serve as evidence that a person took all reasonable steps to meet their safety obligations under the HVNL.

These Guidelines will supersede the interim guidelines issued by NHVR in 2014, subject to transitional arrangements discussed in the next section.

2 Transitional Arrangements

Currently there are six industry codes of practice that were registered on 7 July 2014 in accordance with the *HVNL Interim Guidelines for Industry Codes of Practice* and include:

- National Logistics Safety Code (Vic)
- Retail Logistics Supply Chain Code of Practice (Vic)
- Refrigerated Warehouse & Transport Association of Australia Chain of Responsibility – Code of Practice (Vic)
- Trucksafe Operator Business Rules and Code of Conduct (Vic)
- Australian Steel Industry Logistics Safety Code (Vic)
- Heavy Vehicle Transport Off-Farm Grain Carriers' Code of Practice (SA)

NHVR published the *HVNL Interim Guidelines for Industry Codes of Practice (July 2014)* to accommodate the fact these codes had already been registered in Victoria and South Australia in accordance with legislation then current in those jurisdictions.

When the *Interim Guidelines* expire on (TBA), these six codes will remain as registered codes of practice for a further twelve months based on *Heavy Vehicle National Law - HVNL Interim Guidelines for Industry Codes of Practice (July 2014) Amendment Notice 2016 (No. 2)* published in the Commonwealth Gazette.

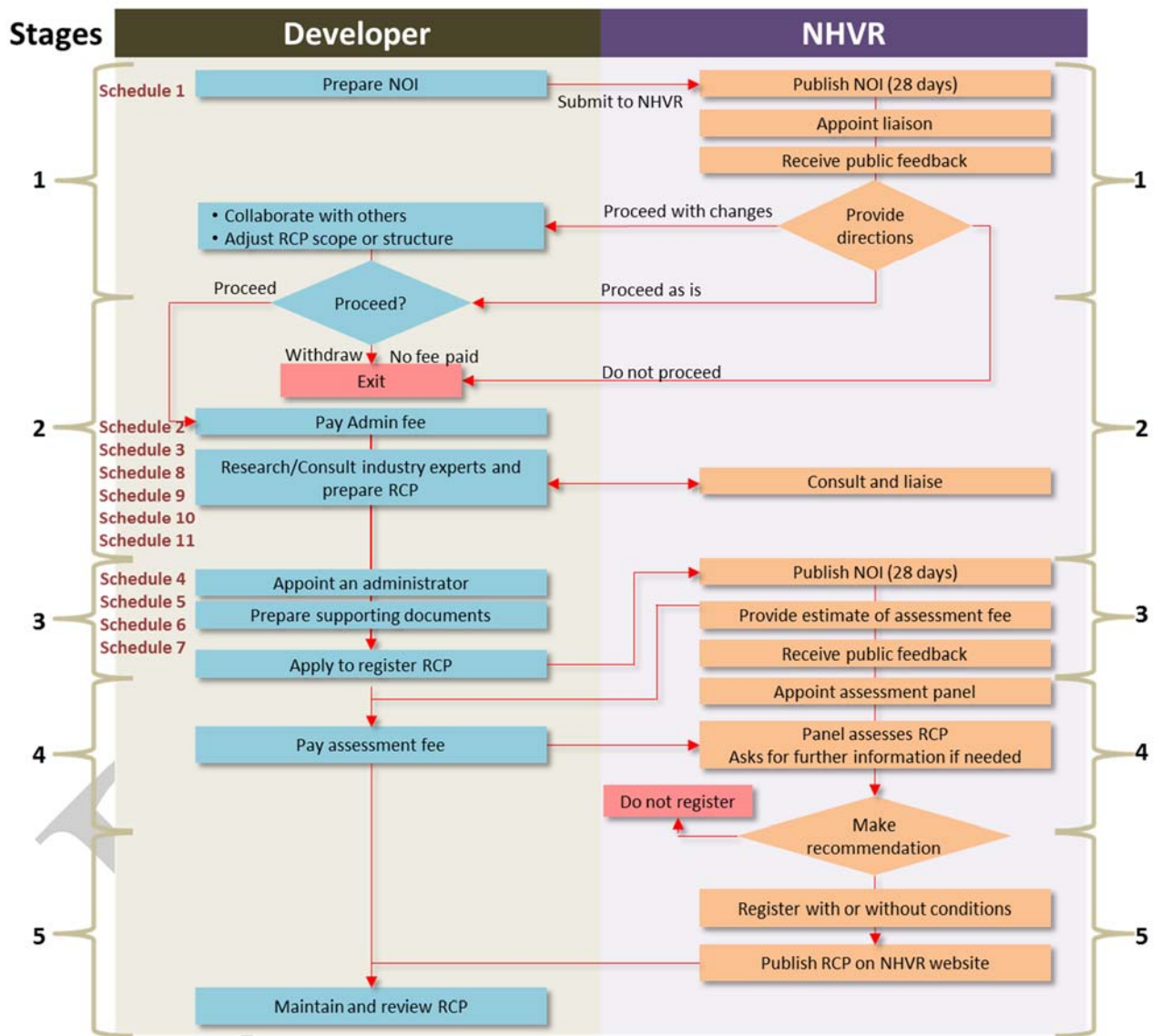
Registration of the interim codes is still subject to the same conditions imposed as when they were first registered. For example, each code was registered only in one jurisdiction, and may continue to be registered only in that jurisdiction.

The interim codes are still registered industry codes of practice for the purposes of section 625 HVNL although they do not comply with these Guidelines. This is a transitional arrangement, intended to provide continuity.

3 Overview of the registration process

Registering a code of practice with the NHVR involves the following stages:

- Stage 1 – Developer initiates registration process with NHVR
- Stage 2 – Developer prepares the code of practice
- Stage 3 – Developer submits the code of practice
- Stage 4 – NHVR assesses code of practice
- Stage 5 – NHVR makes recommendation



Stage 1 – Developer initiates registration process with NHVR

1 Prepare and submit a Notice of Intention

The code developer prepares a *Notice of Intention to register a code of practice* (see Schedule 1) and submits it to the NHVR.

2 NHVR publishes the Notice of Intention

The NHVR publishes this notice on its website for a period of twenty-eight days.

This informs interested parties of the subject matter and scope of the proposed code of practice, and the name of the developer or developers.

It will help initiate consultation with other industry parties, and prevent possible duplication if others are working on similar or overlapping information.

3 NHVR appoints a liaison officer

After twenty-eight days, the NHVR appoints a staff member to collate public feedback and to liaise and consult with the developer throughout the code development process.

The liaison officer raises issues identified internally, or by industry in response to the published notice and may request more information to resolve issues.

The amount of contact that is required will vary from code to code.

4 NHVR provides directions to developer:

Once public feedback is collated and assessed NHVR advises the developer either to:

- proceed with the code of practice outlined in the Notice of Intention
- proceed with the code of practice but in close collaboration with others or with adjustments to its scope or structure
- not proceed at all.

If the advice is to proceed, the NHVR invoices the developer an administrative fee and provides an estimate of the assessment fee.

Stage 2 – Developer prepares the code of practice

If the developer is advised to proceed, but decides that they no longer wish to, they can withdraw from the process and do not have to pay the administration fee.

If they wish to proceed then they must pay the fee to the NHVR. Fees and charges are based on cost recovery and are non-refundable.

Use plain English

An RCP must be accurate, easy to understand and free of ambiguity. Use plain English as the document will be used by many readers in government, industry and by the general public.

Define all acronyms, technical and industry terms and use them consistently throughout the document.

The following steps are *mandatory* when preparing an RCP:

1 Research and consult with industry

To add authority and validity to the code of practice, the developer must consult comprehensively with the industry sector and show that it has incorporated regulator, technical and operator advice and experience.

Use the Consultation Checklist (see Schedule 2) to guide this process and include it with other documents needed when submitting the code of practice to be registered.

2 Set out the purpose and scope of the code of practice

When preparing the code of practice, the developer must define its purpose and intended outcomes and identify clearly:

- the industries or industry sectors to be covered by the code
- the activities within that industry that are to be covered
- those responsible for the activities, and associated parties within the chain of responsibility such as contractors, subcontractors, bodies corporate and executive officers where appropriate
- the parts of the HVNL invoked by the code of practice.

3 Develop the content using a risk management process

Use a risk management process (RMP) to develop the key content of the code of practice. In accordance with *AS/NZS ISO 31000:2009 Risk management - Principles and guidelines*, the developer needs to:

- identify risks
- assess risks and
- describe the controls that could be applied to the identified risks.

4 Identify the risk types

Because an RCP covers an industry rather than a single business, it must:

- identify the risks unique to that industry
- identify types of risk, rather than specific instances of a risk
- identify and address each activity and responsibility within the industry that is covered by HVNL legislation.

The legislation is a useful starting point for identifying risks. Depending on the industry sector covered by the code, and the types of risk described, consider these in relation to the HVNL requirements for:

- Roadworthiness and suitability of vehicles and equipment for a task
- Mass, dimension and loading
- Driver fatigue and fitness for duty
- High risk behaviour - e.g. speeding

Mass, dimension and loading, for example, would involve risk types such as load shifting, collisions with bridges, damage to suspension, loading schedules affecting driving hours, impact on braking of excess mass etc. For each industry, these risk types may have a different profile, or may not be relevant.

There may be value in identifying types of risk that fall outside the ambit of the HVNL. Driver health, for example, is not specifically covered in the legislation, but may impact overall performance or how they are affected by fatigue.

Also consider the persons or things put at risk, such as:

- other road users
- drivers
- road infrastructure and the environment
- property, including vehicles, loads and private property adjacent to roads

Schedule 9 details the HVNL requirements and provides a key to the parties responsible in relation to each offence. Publications produced by the NHVR, National Transport Commission (NTC), standards organisations, technical bodies and educational institutions also provide technical or subject matter assistance in addressing risks specific to heavy vehicle legislation.

5 Assess the risks

Once each risk type is identified, assess it in terms of its likelihood, its consequence, and the control measures to eliminate or mitigate it.

Review and analyse information about the kinds of incidents that occur within the industry, their causes, frequency, and outcomes.

Prepare a risk assessment methodology report

Do not include details of the risk assessment methodology you used to prepare the code of practice. Describe this in a separate *risk assessment methodology report* (use the template provided in Schedule 11) and include this along with other required documents when you submit the code of practice to the NHVR for assessment.

When preparing this report you can draw in part on already published information about workplace safety or risk management methods.

6 Suggest measures to control risks

For each type of risk identified, determine appropriate control measures. Many of these may already be well-known, but through the consultation process you may be able to identify shortcomings or potential improvements.

Do not propose control methods so specific or prescriptive that they would not apply to all participants in an industry. Only include specific control measures or treatments as examples and make sure they are understood as such.

7 Provide guidance for a code adopter to develop their own RMP

An RCP can only identify risk types. It cannot anticipate every possible risk to which an enterprise is exposed, based on its specific location, weather conditions, load and equipment types, organisational structure and business environment. The only way to address this issue is to explain to code adopters how they can use the risk management process to identify, assess and treat risks within their own enterprise.

They must know how to:

- develop an RMP consistent with *AS/NZ ISO 31000:2009 Risk management – Principles and guidelines*
- implement control measures to eliminate or mitigate each risk within the business and within business compliance systems
- document the customised RMP in a format suitable for distribution and use by staff
- establish a system for monitoring, reporting and reviewing risks.

Document the customised RMP

Code adopters must document the customised RMP and make it available to staff for detailed advice and for use in staff inductions, training, and regular retraining. The RMP may also be referenced in an employment agreement.

There is no required format so long as the document is consistent with *AS/NZ ISO 31000:2009 Risk management – Principles and guidelines*.

Insist that code adopters update their RMP whenever changes are made to the system and that staff are re-trained accordingly.

Establish a system for monitoring, feedback and review

A good RMP is never complete. Ensure that code adopters know how to incorporate compliance monitoring, feedback mechanisms and periodic reviews into their customised RMP so that it remains responsive to change and is continually improved.

- Monitoring enables the code adopter to measure how well their system is implemented, and to record obstacles to compliance and the incidence of near misses.
- Analysing this information allows them to discover weaknesses or gaps in procedures, which can then be addressed.
- Providing feedback mechanisms to staff enables new circumstances or changed operating conditions to be reported and addressed as required.
- Reviewing the RMP at regular intervals ensures code adopters adapt to changes in legislation, new technical innovations or testing methods.

Encourage code adopters to seek and incorporate within their RMP new information that will help identify new risks or assess their gravity or likelihood. This could come from technical bodies, research organisations, industry reports, or even other businesses.

8 Ensure the RCP aids compliance with the HVNL

A key function of an RCP is to demonstrate how requirements of the HVNL can be satisfied. Overall it must address:

- the relevant parts of the HVNL that apply to each activity
- the transport activities performed by participants in the sector
- the types of risk that arise in relation to each activity
- the duties identified in the HVNL
- the controls and systems that are to be used to achieve compliance with the relevant parts of the HVNL

Clearly link each risk and control to specific provisions of the HVNL that it is intended to address. Schedules 8 and 9 may be used as guides, but the developer must acquire a detailed understanding of the scope of the HVNL and its application to understand the parts that are relevant to the code of practice.

Make clear, where appropriate, the specific roles and responsibilities of parties involved in the transport task, even if this may involve a degree of repetition or overlap. Use Schedule 9 of this guideline to help identify the different obligations of each party.

Stage 3 – Developer submits the code of practice

Once the developer is satisfied that the code of practice has addressed all the requirements listed in Stage 2, it can apply to register it with the NHVR.

1 Developer appoints an administrator

The developer must nominate an administrator to:

- ensure that the code of practice is updated following changes to best practice methods for the industry to which it relates [HVNL s706(2)(b)]
- be the point of contact for the NHVR once the code is registered
- manage review of the RCP after it is published (see Stage 5).

The same person does not need to be the administrator for the period of registration, but the role must always be filled by a suitable person.

When appointing a new administrator, complete and sign the undertaking provided in Schedule 6, and send it to the NHVR along with other supporting documents.

2 Developer prepares the supporting documents

In addition to the finalised code of practice the developer must submit other supporting documents to the NHVR for assessment and registration. Most of these are not for publication but are to satisfy registration requirements.

The application for registration package should include at least the following:

Application coversheet	Schedule 4	Completed and addressed to CEO, NHVR
Consultation checklist	Schedule 2	Completed
Drafting checklist	Schedule 3	Completed
Developer's Undertaking	Schedule 5	Completed and signed
Administrator's Undertaking	Schedule 6	Completed and signed
Intellectual Property Agreement	Schedule 7	Signed and witnessed
Draft of RCP	Finished draft of the RCP ready for publication on the NHVR website	
Risk assessment methodology report	Report on the risk assessment methodology used to identify and assess risks	
Confirmation of payment	Evidence of the administrative fee having been paid and an undertaking to pay the assessment fee	

3 Developer submits documents for registration

Developer must submit electronic copies of the documents to the NHVR in .pdf and Ms Word format and, if it wishes, also provide printed copies of the same set of documents.

4 NHVR publishes draft RCP

When the finished draft of the RCP is submitted for assessment, it is uploaded to the NHVR website and displayed there for a period of 28 days.

The NHVR collects and collates any public feedback that is received in relation to the draft.

5 NHVR provides estimate of assessment fee

Once the package is received the NHVR will provide an estimate of the assessment fee to the developer.

The estimate will vary according to the scope and complexity of the code, and the resources required. Fees and charges are based on cost recovery and are non-refundable.

6 Developer pays the assessment fee

The developer must pay the assessment fee in order to initiate the registration of the code.

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Stage 4 – NHVR assesses the code of practice

1 NHVR appoints an assessment panel

During the publication period the NHVR appoints a panel to assess the RCP.

This will consist of qualified and experienced persons. Members of the panel may be NHVR employees or independent consultants or experts from a relevant field.

2 NHVR assessment panel assesses the RCP

Once the publication period is over the panel convenes to determine if the RCP:

- meets the requirements of these Guidelines
- meets the requirements of Section 706(2) of the HVNL and
- provides current and authoritative guidance to the industry for which it is written.

The panel also takes into account public feedback provided during the review period.

If it believes further information is needed or some area of the RCP needs more work the panel will request the developer to provide it.

Stage 5 – NHVR makes recommendation

1 Assessment panel makes a recommendation

Once all information is available and considered the assessment panel makes a final decision as to whether to:

- register the code as is
- register the code, subject to conditions
- register part of the code, or
- refuse registration.

If registration is refused the assessment fee is non-refundable to the developer.

2 Assessment panel sets the registration period and conditions

If the code is to be registered, the panel decides on the registration period and other relevant conditions as required under sections 706(2) and 706(3) of the HVNL, namely that:

- the RCP must be reviewed after a stated period
- a person must be appointed to maintain the RCP and ensure it is updated following changes to best practice methods for the industry to which it relates
- the RCP must be updated following changes to the guidelines for preparation and content of the RCP in force under section 705
- it is mandatory for the RCP to contain contents as outlined in Stage 2 of these guidelines.

The normal period of registration is for three years. Unless cancelled earlier, or extended after review, an RCP expires at the end of its registration period.

If the assessment panel believes this period should be shorter, or if it refuses to register a code or part of a code, or requires changes prior to registration, it must draft a Statement of Reasons for its decision.

The assessment panel provides its report to the NHVR, along with the Statement of Reasons if one is prepared.

3 NHVR publishes RCP on NHVR website

Once the registration recommendation is accepted and processed administratively, the final draft of the RCP is uploaded to the NHVR website for adopters to use. It also indicates when the current version of the RCP is due to expire.

4 Developer maintains and reviews the RCP before expiry date

The RCP remains valid and available on the website for the full period of registration; however, for registration to continue it must be reviewed by the developer and re-assessed by the NHVR. This ensures that the code is still current and continues to comply with these Guidelines.

Developer reviews RCP

Well before expiry date, the NHVR publishes a notification on its website advising that the RCP is due for review and advises the expected date of its decision. The developer must submit the reviewed RCP to the NHVR no later than six months before that expiry date. It must do so even if it concludes that no changes are warranted.

Circumstances prompting earlier review

An earlier review of an RCP may be prompted by any one or combination of the following circumstances:

- changes to the HVNL legislation or to the Guidelines
- major technological innovations or changes
- emergence of previously unknown risks or
- failure of the developer or administrator to comply with their undertaking or
- other reasons determined by the NHVR.

If the NHVR becomes aware of any such circumstance, it notifies the RCP's administrator of the need to review.

If the administrator or developer is first aware of a circumstance, they must notify the NHVR immediately, and start the review of the RCP.

The reviewed and amended code must be submitted for re-assessment within three months of the date of notification of changed circumstances.

5 NHVR re-assesses reviewed RCP

The NHVR appoints an assessment panel to examine the RCP and determine if has been amended appropriately or requires no further changes. It will then decide either to:

- extend the registration, including the period of further registration, or
- cancel the registration.

In each case, the NHVR advises the developer of its decision and publishes a notification on the NHVR website stating the outcome and the status of the RCP.

Power to cancel registration

The registration of an RCP is conditional upon compliance with legislative requirements. Accordingly, under section 605(4) of the HVNL the NHVR has power to:

- amend the conditions of registration, including by adding new conditions, or
- cancel the registration if a condition of registration is breached.


4 Schedules summary

These Guidelines are published in conjunction with the following ten Schedules. Schedules 1-7 must be completed and submitted to the NHVR to process registration of the code of practice. Schedules 8-10 are for information purposes only. A template copy of each schedule is available on the NHVR website.

Schedule	Function	Stage
1	Notification of Intention to Register a Code of Practice Complete and submit this form to the NHVR to initiate the registration process.	1
2	Consultation Checklist Complete this checklist to identify the persons or organisations with whom you will be consulting and submit this in the application for registration package	2 + 3
3	Drafting Checklist Complete this checklist to track whether you have included all mandatory components within the RCP and submit this in the application for registration package	2 + 3
4	Application for Registration Complete and submit this form to the NHVR to initiate the registration process. The form is addressed to the CEO, NHVR.	3
5	Developer's Undertaking Developer completes and signs this form to indicate that they are fully responsible for preparing the RCP and for maintaining it during its period of its registration. The form acknowledges the developer's obligations and responsibilities as provided in the HNVL and in these guidelines.	3
6	Administrator's Undertaking Administrator completes and signs this form to confirm their role and seniority within the organisation and acknowledge their obligations and responsibilities as provided in the HNVL and in these Guidelines.	3
7	Intellectual Property Agreement Developer signs agreement to licence the NHVR to publish the RCP, and to affirm the terms and conditions that apply to adopters of the RCP.	3
8	Key terminology A list of key terms that may be used in preparing the RCP. This schedule is for information purposes only.	2
9	Summary of key parts of the HNVL with key to parties Lists HNVL requirements and provides a key to the parties responsible in relation to each offence. This schedule is for information purposes only.	2
10	Examples of types of risk and controls – Load Restraint An example of how risks can be linked to controls within documentation. This schedule is for information purposes only.	2
11	Risk Assessment Methodology Report - Template A template for detailing the risk assessment methodology you used to prepare the code of practice.	2

Schedule 1: Notice of Intention to register a code of practice

Complete and submit this form to the NHVR to initiate the registration process in Stage 1.



NHVR
National Heavy Vehicle Regulator

National Heavy Vehicle Regulator

Schedule 1:
Notice of Intention to register a code of practice

Re:	Intention to register a code of practice.
Attn:	CEO NHVR
By email to:	(To be advised)
Date:	
Proposed title:	
Organisation name:	
Contact details:*	[insert name of contact person, with phone and email address]
Administrator name:*	
Contact details:*	
Proposed Commencement Date:	
Proposed Scope:	
Types Of Risks:	
Consultation Plan:	
Related Codes Of Practice/ Standards:	


*These details will be redacted prior to publication of the Notice on the Regulator's website.

National Heavy Vehicle Regulator
Guidelines for Developing and Registering Industry Codes of Practice, Published: xx November 2016, Revision 1.0

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Schedule 2: Consultation Checklist

Complete this checklist to identify the persons or organisations with whom you will be consulting and submit this in the application for registration package in Stage 3.



National Heavy Vehicle Regulator

Schedule 2:
Consultation Checklist


<p>List all of the persons or organisations with whom you consulted. Provide names and contact details.</p>	<input type="checkbox"/>
<p>Why did you consult these persons or organisations? How did you identify them as being appropriate parties for consultation?</p>	<input type="checkbox"/>
<p>Are there any persons or organisations that you intended to consult but did not have opportunity to do so? Provide details of the person or organisation</p>	<input type="checkbox"/>
<p>What methods did you use to conduct the consultation? Provide a detailed description of each method.</p>	<input type="checkbox"/>
<p>When did you consult with each of the persons or organisations listed? Provide the dates on which this occurred.</p>	<input type="checkbox"/>

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Schedule 3: Drafting Checklist

Complete this checklist to track whether you have included all mandatory components within the RCP and submit this in the application for registration package in Stage 3.



National Heavy Vehicle Regulator

**Schedule 3:
Drafting Checklist**


No.	Requirement	Stage	Complete?	Section of RCP
1)	Has the purpose of the RCP been considered and documented?	2.2	<input type="checkbox"/>	
2)	Has the scope of the RCP been considered and documented?	2.2		
3)	Have relevant stakeholders been identified and consulted? Has this consultation process been documented in the RCP?	2.1		
4)	Have the relevant duties under the HVNL been identified and recorded?	2.2		
5)	Have all relevant HVNL related health and safety risks been identified?	2.4		
6)	Have each of the identified risks been assessed?	2.5		
7)	Have appropriate control methods been suggested?	2.6		
8)	Is the risk management process (RMP) that was used to assess high level risks consistent with AS/NZS ISO 31000:2009?	2.3		
9)	Is a report on that process included for submission with the RCP?	2.5		
10)	Is guidance provided to an adopter to perform a customized risk management process (RMP) of their own operation?	2.7		
11)	Is the adopter required to identify, assess and control risks?	2.7		
12)	Is the adopter required to document their RMP?	2.7		
13)	Is the adopter required to monitor compliance with their RMP and use feedback to review and update it?	2.7		
14)	Are the links between relevant parts of the HVNL, risks, and controls clearly explained?	2.8		
15)	Is the RCP expressed as simply and clearly as possible?	2		
16)	Are technical terms and acronyms explained in a glossary or list of definitions?	2		

National Heavy Vehicle Regulator
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Schedule 4: Application for Registration

Complete and include this form in the application for registration package submitted to the NHVR in Stage 3.



National Heavy Vehicle Regulator

Schedule 4: Application for Registration

Application details

RE:	Application for a Registered Code of Practice
ATTN:	CEO NHVR
By email to:	(To be advised)
Date:	[insert]
Proposed Title:	[insert]
Organisation Name:	[insert]
Address:	[insert]
Contact Details:	[insert name of contact person, with phone and email address]
Name of administrator:	
Administrator Contact Details:	
Proposed Commencement Date:	[insert]
Proposed Period of Registration:	[insert]
Name of Attached RCP:	[insert]

Attachments


Complete copy of RCP (including all relevant supporting documents)		<input type="checkbox"/>
Completed Consultation checklist	Schedule 2	<input type="checkbox"/>
Detailed report on how the risk assessment was carried out, and its conclusions		<input type="checkbox"/>
Completed drafting checklist	Schedule 4	<input type="checkbox"/>
Developer's undertaking	Schedule 5	<input type="checkbox"/>
Administrator's undertaking	Schedule 6	<input type="checkbox"/>
Executed Licence Agreement	Schedule 7	<input type="checkbox"/>

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Schedule 5: Developer's Undertaking

Developer completes and signs this form to indicate that they are fully responsible for preparing the RCP and for maintaining it during its period of its registration. The form acknowledges the developer's obligations and responsibilities as provided in the HNVL and in these guidelines. Include this form in the application for registration package submitted to the NHVR in Stage 3.



NHVR
National Heavy Vehicle Regulator

National Heavy Vehicle Regulator

Schedule 5:
Developer's undertaking to register an industry code of practice

Background

Pursuant to section 705 of the *Heavy Vehicle National Law* (HVNL), the National Heavy Vehicle Regulator (the Regulator) may make and publish Guidelines about the preparation and content of industry codes of practice.

Pursuant to section 706 of the HVNL, the Regulator may register an industry code of practice that has been prepared in accordance with the Guidelines.

The conditions of registration in section 706(2) of the HVNL include the following requirements:

- the code of practice must be reviewed after a stated period
- that a stated person, or a person of a stated class must be appointed to maintain the code
- that the code of practice must be updated following changes to the Guidelines for codes of practice
- The Regulator may also impose other conditions upon registration.

Before registering an industry code of practice, the Regulator must be satisfied that the party who registers it understands their obligations and responsibilities and is willing and able to carry them out.

Developer's details


Title of proposed code of practice:	
Name of Organisation/Corporation:	
Name of person exercising authority:	
Basis of authority and evidence of it	
Business address:	
Contact number:	
Email address:	

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Schedule 6: Administrator's Undertaking

Administrator completes and signs this form to confirm their role and seniority within the organisation and acknowledge their obligations and responsibilities as provided in the HVNL and in these Guidelines. Include this form in the application for registration package submitted to the NHVR in Stage 3.



National Heavy Vehicle Regulator

Schedule 6: Administrator's undertaking to register an industry code of practice

Background

Pursuant to section 705 of the *Heavy Vehicle National Law* (HVNL), the National Heavy Vehicle Regulator (the Regulator) may make and publish Guidelines about the preparation and content of industry codes of practice.

Pursuant to section 706 of the HVNL, the Regulator may register an industry code of practice that has been prepared in accordance with the Guidelines.

The conditions of registration in section 706(2) of the HVNL include the following requirements:

- the code of practice must be reviewed after a stated period;
- that a stated person, or a person of a stated class must be appointed to maintain the code;
- that the code of practice must be updated following changes to the Guidelines for codes of practice;
- The Regulator may also impose other conditions upon registration.

Before registering an industry code of practice, the Regulator must be satisfied that the party who registers it understands their obligations and responsibilities and is willing and able to carry them out.

Administrator's details

Title of proposed code of practice:	
Name of Organisation/Corporation:	
Administrator's name:	
Role or title within the organisation and evidence of it: [*]	
Business address:	
Contact number:	
Email address:	


^{*}For example, contract of employment, position description, statement in annual report etc.

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Schedule 7: Intellectual Property Agreement

Developer signs agreement to licence the NHVR to publish the RCP, and to affirm the terms and conditions that apply to adopters of the RCP. Include this form in the application for registration package submitted to the NHVR in Stage 3.



NHVR
National Heavy Vehicle Regulator

National Heavy Vehicle Regulator

**Schedule 7:
Intellectual Property Agreement**


Intellectual Property Licence
Deed of Agreement
[Insert name of Developer]
[Insert ACN if required]
National Heavy Vehicle Regulator
ABN 48 557 596 718

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Schedule 8: Key Terminology

A list of key terms that may be used in preparing the RCP. This schedule is to assist you in preparing the RCP in Stage 2.



National Heavy Vehicle Regulator

Schedule 8: Key Terminology


Chain of responsibility	<p>The chain of responsibility describes parties within the supply chain which have responsibility under the HVNL. These parties will include the employers of a driver, prime contractors, operators, schedulers, loading managers, consignors, consignees, packers, loaders and unloaders.</p> <p>A driver is not a party of the chain of responsibility, but does play a critical role in the safety of road transport activity and has their own specific legal obligations under the HVNL.</p> <p>A person or business may fall in the chain of responsibility in more than 1 capacity. For example a person may be simultaneously the driver's employer and a consignor of goods.</p>
Code of practice	<p>A code of practice is a general term usually used to describe a set of requirements issued by a regulator in relation to a particular industry or activity. Codes of practice exist under many different types of law, and in particular health and safety related law.</p> <p>A code of practice that does not satisfy the definition under section 706 of the HVNL is not an RCP. For example, the National Code of Practice for Heavy Vehicle Modifications is not an RCP, however industry could use the National Code of Practice for Heavy Vehicle Modifications to develop the content of an RCP. Another example is a code of practice concerning fatigue in relation to Work Health and Safety laws. This cannot be used as a guide to compliance with the fatigue requirements under the HVNL.</p>
Consignee	<p>A <i>consignee of goods</i> means a person who has consented to being, and is, named or otherwise identified as the intended consignee of the goods in the transport documentation relating to the road transport of the goods; or actually receives the goods after completion of their road transport; but does not include a person who merely unloads the goods.</p>

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Schedule 9: Summary of key parts of the HVNL

Lists key parts of the HVNL requirements that may be relevant to developing an RCP and provides a key to the parties responsible in relation to each offence. Note that this summary is not comprehensive and does not include offences by TCA, IASP, and IARE. This schedule is to assist you in preparing the RCP in Stage 2.



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Schedule 09: Summary of key parts of the HVNL

Note: this summary does not include offences by TCA, IASP, and IARE.
*EOL: Executive Officer Liability

Section	Definition	Liable Party	Extended Liability	EOL*	Defence
CHAPTER 3: Vehicle Standards and Safety					
60(1)(a)	Compliance with heavy vehicle standards (other than speed limiter) – A person must not use, or permit to be used, on a road a heavy vehicle that contravenes a heavy vehicle standard applying to the vehicle.	Person, Operator		Yes	
60(1)(b)	Compliance with heavy vehicle standards (relating to a speed limiter) – A person must not use, or permit to be used, on a road a heavy vehicle that contravenes a heavy vehicle standard applying to the vehicle.	Person, Operator		Yes	
79 (2)	Return of permit – The person must comply with the notice within 7 days after the notice is given to the person or, if a longer period is stated in the notice, within the longer period.	Person		Yes	
80 (1)	Replacement of defaced permit – If a person's permit for a vehicle standards exemption (permit) is defaced, destroyed, lost or stolen, the person must, as soon as reasonably practicable after becoming aware of the matter, apply to the Regulator for a replacement permit.	Person			
81 (1)	Contravening condition of vehicle standards exemption – A person must not contravene a condition of a vehicle standards exemption.	Person		Yes	
81(2)	Contravening condition of vehicle standards exemption – A person must not use, or permit to be used, on a road a heavy vehicle that contravenes a condition of a vehicle standards exemption applying to the vehicle.	Person		Yes	
81(3)	Contravening condition of vehicle standards – A person must not use a heavy vehicle, or permit a heavy vehicle to be used, on a road in a way that contravenes a condition of a vehicle standards exemption.	Person		Yes	
82(2)	Keeping relevant document while driving under vehicle standards exemption (notice) – A driver of a heavy vehicle who is driving the vehicle under the vehicle standards exemption (notice) must comply with the condition.	Person Driver,			
82(3)	Keeping relevant document while driving under vehicle standards exemption (notice) – If the driver of a heavy vehicle commits an offence against subsection (2), each relevant party for the driver is taken to have committed an offence against this subsection.	Employer, Contractor, Operator			Reasonable Steps
83 (1)	Keeping copy of permit while driving under vehicle standards exemption (permit) – The driver of a heavy vehicle who is driving the vehicle under a vehicle standards exemption (permit) must keep a copy of the permit for the exemption in the driver's possession.	Driver			
83 (2)	Keeping copy of permit while driving under vehicle standards exemption (permit) – If the driver of a heavy vehicle is driving the vehicle under a vehicle standards exemption (permit) granted to a relevant party for the driver and the relevant party has given the driver a copy of a permit for the purpose of subsection (1), the driver must, as soon as reasonably practicable, return the copy to the relevant party if the driver stops working for the relevant party.	Driver			
83 (3)	Keeping copy of permit while driving under vehicle standards exemption (permit) – If the driver of a heavy vehicle commits an offence against subsection (1), each relevant party for the driver is taken to have committed an offence against this subsection.	Employer, Contractor, Operator			Reasonable Steps
85 (1)	Modifying heavy vehicle requires approval – A person must not modify a heavy vehicle unless the modification has been approved by— (a) an approved vehicle examiner under section 86; or (b) the Regulator under section 87.	Person		Yes	
85 (2)	Modifying heavy vehicle requires approval – A person must not use, or permit to be used, on a road a heavy vehicle that has been modified unless the modification has been approved by— (a) an approved vehicle examiner under section 86; or (b) the Regulator under section 87.	Person		Yes	

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Schedule 9:
Summary of key parts of the HVNL


Section	Definition	Liable Party	Extended Liability	EOL*	Defence
86 (2)	Approval of modifications by approved vehicle examiners – If an approved vehicle examiner approves a modification of a heavy vehicle, the examiner must— (a) give a certificate approving the modification, in the approved form, to (i) the registered operator of the vehicle; or (ii) if there is no registered operator of the vehicle— an owner of the vehicle; and (b) ensure a plate or label that complies with subsection (3) is fitted or affixed to a conspicuous part of the vehicle.	Person, AVE			
87A (1)	Person must not tamper with plate or label – A person must not tamper with a plate or label fitted or affixed to a heavy vehicle under section 86(2) or 87(3). 86(2) or 87(3).	Person			
89 (1)	Safety requirement – A person must not use, or permit to be used, on a road a heavy vehicle that is unsafe.	Person		Yes	
90 (1)	Requirement about properly operating emission control system – A person must not use, or permit to be used, on a road a heavy vehicle that is not fitted with an emission control system for each relevant emission if and as required by an applicable heavy vehicle standard.	Person			
90 (2)	Requirement about properly operating emission control system – A person must not use, or permit to be used, on a road a heavy vehicle fitted with an emission control system that is not operating in accordance with the manufacturer's design.	Person			
90 (3)	Requirement about properly operating emission control system – A person must not use, or permit to be used, on a road a heavy vehicle fitted with an emission control system if the operation of the system results in a failure to comply with an applicable heavy vehicle standard (whether in relation to the vehicle or in relation to the system).	Person			
91 (1)	Person must not tamper with emission control system fitted to heavy vehicle – A person must not tamper with an emission control system fitted to a heavy vehicle.	Person			Reasonable Steps
91 (2)	Person must not tamper with emission control system fitted to heavy vehicle – An operator of a heavy vehicle must not use or permit the vehicle to be used on a road if the vehicle is fitted with an emission control system that the operator knows or ought reasonably to know has been tampered with.	Person, Operator			
92 (2)	Display of warning signs on heavy vehicles if not required by heavy vehicle standards – A person must not use, or permit to be used, on a road a heavy vehicle that has the warning sign displayed on it unless the vehicle is of the particular type, size or configuration.	Person			
93 (1)	Person must not tamper with speed limiter fitted to heavy vehicle – A person must not tamper with a speed limiter that is required under an Australian road law or by order of an Australian court to be, and is, fitted to a heavy vehicle.	Person		Yes	
93 (2)	Person must not tamper with speed limiter fitted to heavy vehicle – A person must not fit, or direct the fitting of, a speed limiter to a heavy vehicle in circumstances where the person knows or ought reasonably to know that the speed limiter has been tampered with in such a way that, had it been fitted to the vehicle at the time of the tampering, an offence would have been committed against subsection (1).	Person			
93 (3)	Person must not tamper with speed limiter fitted to heavy vehicle – An operator of a heavy vehicle must not use or permit the vehicle to be used on a road if the operator knows, or ought reasonably to know, that a speed limiter fitted to the vehicle, as required under an Australian road law or by order of an Australian court, has been tampered with in contravention of subsection (1) or fitted to the vehicle in contravention of subsection (2).	Person, Operator			
Chapter 4: Vehicle operations – Mass, dimension and loading					
96 (1)	Compliance with mass requirements – A person must not drive on a road a heavy vehicle that (together with its load) does not, or whose components do not, comply with the mass requirements applying to the vehicle.	Person	Employer, Prime Contractor, Operator, Consignor, Packer, Loading Manager, Loader		Reasonable Steps

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Schedule 10: Examples of Risks and Controls – Load Restraint

This schedule provides an example of how risks can be linked to controls within documentation. This may assist you in preparing the RCP in Stage 2.


National Heavy Vehicle Regulator



Schedule 10: Examples of Risks and Controls – Load Restraint

Broad Risk Category	Types of Risk	Broad Controls	Examples of Controls
Loading Restraint			
	Load Shifting	<ul style="list-style-type: none"> System for safely securing loads 	<ul style="list-style-type: none"> Engineer reviewed systems to securely restrain the goods on a heavy vehicle. Policy of purchasing restraint equipment of a particular quality. System of reviewing wear and tear of restraint equipment. On board equipment for securing loads. Preference for use of depots with appropriate loading equipment. System to assure that loading methods are appropriate in all weather conditions.
Sector Risk		Sector Specific Controls	Examples of Sector Controls
Steel transport	Load Shifting	<ul style="list-style-type: none"> System for safely securing steel 	<ul style="list-style-type: none"> Strapping material adapted to lower co-efficient of friction, and sharp edges of steel.
Timber/forestry transport	Load Shifting	<ul style="list-style-type: none"> System for safely securing timber 	<ul style="list-style-type: none"> Dunnage suitable for cylindrical loads.
Livestock transport	Pollution	<ul style="list-style-type: none"> System for preventing spillage 	<ul style="list-style-type: none"> System for dealing with effluent.

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Schedule 11: Risk Assessment Methodology Report - Template

This report template is for detailing the risk assessment methodology used in Stage 2 to prepare the code of practice. The template offers a proposed report structure, which you can change or adapt as you require.



National Heavy Vehicle Regulator

**Schedule 11:
Risk Assessment Methodology Report - Template**

For information only

This document still has to be developed.

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Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates 2016 - 2017
Infrastructure and Regional Development

Question no.: 193

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Funding allocated to the National Heavy Vehicle Regulator for heavy vehicle safety initiatives 2

Proof Hansard Page: 77 (17 October 2016)

Senator Sterle, Glenn asked:

Senator STERLE: That would be good. Thanks, Mr Mrdak. I will now go back to the \$15-odd million that has been transferred to the NHRV. So far we have heard about cameras. How did we spend the \$15 million? What is a camera worth?

Mr Mrdak: Again, I do not have the details with me; I am sorry. Perhaps when we come back in surface transport I will be able to give you a more detailed answer.

Answer:

The Australian Government is providing \$15.59 million to National Heavy Vehicle Regulator (NHVR) over 4 years from 2016-17. In August 2016, the Transport and Infrastructure Council endorsed the 2016-17 work plan for the NHVR to expand the current heavy vehicle monitoring network, accelerate development of industry codes of practice, and boost chain of responsibility awareness. Future work plans will be considered by the Transport and Infrastructure Council in future years.

A 'camera site' costs approximately between \$250,000 and \$500,000 depending on pre-existing infrastructure, power, communications and security availability.

Rural & Regional Affairs and Transport Legislation Committee
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Infrastructure and Regional Development

Question no.: 194

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Coastal Trading Compliance

Proof Hansard Page: 126 (17 October 2016)

Senator Sterle, Glenn asked:

Senator STERLE: Of the approximately 7,500 voyages the department has authorised under temporary licences issued since 1 July 2012, when the Coastal Trading (Revitalising Australian Shipping) Act commenced—undertaken by an estimated 2,000-plus ships—how many on-board inspections have departmental officers undertaken to ensure that a temporary licence is displayed on those ships in accordance with section 40(b) of the Coastal Trading (Revitalising Australian Shipping) Act?

Mr Kinley: That is probably a question for the department.

Mr Mrdak: I will have to take that on notice. I have recently written to the MUA in relation to the handling of such matters. I will take it on notice and come back to you on our arrangements for regulatory oversight.

Answer:

The Department of Infrastructure and Regional Development (the Department) does not conduct on-board inspections.

The Department's coastal trading compliance and enforcement strategy is available on our website at: www.infrastructure.gov.au.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates 2016 - 2017
Infrastructure and Regional Development

Question no.: 195

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Coastal Trading Temporary Licence Compliance

Proof Hansard Page: 126 (17 October 2016)

Senator Sterle, Glenn asked:

Senator STERLE: Can you tell us how many different foreign ships have undertaken voyages authorised under TLs in each year since 2012?

Ms Zielke: I cannot answer that specific question. We can tell you how many temporary licences have been issued.

Senator STERLE: From 2012?

Ms Zielke: From the commencement of the legislation, yes. There have been 271 applications for temporary licences since the commencement of the act in 2012. Of those, 235 have been granted, and they are across 69 organisations. Vessels are not actually licensed; operators are licensed. So they may have access to more than one vessel.

Senator STERLE: Why would the other ones not have been granted? Is there a reason? Obviously there is a reason, but could you shine a light on that for us?

Ms Zielke: A variety of reasons: they might not have been eligible at the time they actually applied, or they might not have had the number of voyages required—for example, you have to have a minimum of five voyages to actually be able to apply under the act—or there may have been some other grounds on which they were not considered to be appropriate for some reason. I could come back with possible examples for you.

Senator STERLE: If you could, please, that would be good. And can you tell us what the rate of compliance or noncompliance is, given those ship numbers in each year?

Ms Zielke: No, I am sorry, I do not have any compliance figures with me at the moment.

Senator STERLE: Please take that on notice, if you could? And could the department explain what actions it has taken to ensure compliance?

Ms Zielke: We can come back to you with some process explanations in relation to that.

Answer:

As at 3 November 2016, there have been 1362 different vessels used to undertake coastal trading voyages under a temporary licence since 2012.

Since 2012 there have been three licences refused for the following reasons:

1. Two Notices in Responses were received in regards to an application. Under section 32 of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (the Act), the applicant must negotiate with the holder of a general licence who gave a Notice in Response within 2 business days of receiving a copy of the Notice in Response. The operator of the ship declined to negotiate, therefore, the application was refused;
2. A Notice in Response was received in regards to an application. The parties were not able to reach an agreement through negotiations under section 32 of the Act. The Delegate had regard to information under subsections 34(2) and 34(3) of the Act when deciding to refuse the application; and
3. All of the voyages in one application were within the same state and to and from the same port. This does not satisfy the definition of a voyage in Section 6 of the Act, therefore, the licence was refused on this basis.

The Department's coastal trading compliance and enforcement strategy is available on our website at: www.infrastructure.gov.au.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Infrastructure and Regional Development

Question no.: 196

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Coastal Trading Compliance 2

Proof Hansard Page: 126 (17 October 2016)

Senator Sterle, Glenn asked:

Senator STERLE: How many instances of non-display has the department found from its compliance activity in each year since 2012?

Mr Mrdak: Again, I do not think we have that level of detail with us here tonight. I will check with my colleagues, but I think it is best if I give you an answer on notice.

Answer:

Two.

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Infrastructure and Regional Development

Question no.: 197

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Funding allocated to the National Heavy Vehicle Regulator for heavy vehicle safety initiatives 3

Proof Hansard Page: 131 (17 October 2016)

Senator Sterle, Glenn asked:

Senator STERLE: How do I find out how all those geniuses at NHVR have worked out where they are going to spend this money? I am from WA and I am not agreeing to the NHVR and I do not care what anyone says, because we aren't being sucked into your crappy fatigue management project. What you think about that? I think I have said that about six or seven times!

Mr James: I cannot give an opinion on that.

Senator STERLE: You can't, but I can! Who has all the keys to the ideas box?

Ms Zielke: We can ask NHVR for that information and come back to you.

Senator STERLE: Can they appear here?

Ms Zielke: They are not actually a Commonwealth company. So I do not believe they are actually covered by the arrangements. But I am sure if we were to ask NHVR for this information they will consider that request. We are happy to take on notice for you.

Answer:

Information concerning the National Heavy Vehicle Regulator's heavy vehicle safety work plan for 2016-17 and 2017-18 is contained in "Setting the Agenda" at: www.nhvr.gov.au/news/2016/08/18/nhvrs-blueprint-for-heavy-vehicle-reform.

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

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Infrastructure and Regional Development

Question no.: 198

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Coastal Trading Stakeholder Consultations

Proof Hansard Page: 132 (17 October 2016)

Senator Sterle, Glenn asked:

Senator McCARTHY: To what extent is the extensive stakeholder engagement work undertaken by Maritime Industry Australia Ltd being seriously considered?

Ms Werner: We maintain close contact with Maritime Industry Australia Ltd. I have met their CEO a number of times since the government has been re-elected. I understand that they are preparing a paper which reflects a number of consensus options that have been formulated in a number of different sectors in the shipping industry. We are awaiting a copy of that paper. We have had two conversations, I think, with the CEO of MIAL where she ran us through what she believes will be in the paper, but we are awaiting the final paper.

Ms Zielke: It might be helpful to explain that prior to the bill that was previously put forward in relation to amending the current legislation, which occurred late last calendar year, we undertook a process of about 18 months of stakeholder consultation in relation to reviewing the current piece of legislation and working through options in regard to how those various concerns from industry could be addressed. As a result of that, we provided advice to government and government took a decision on a certain approach which was subsequently the subject of a bill that was put forward but was not successful in being passed.

Senator McCARTHY: Just on those 18 stakeholder organisations, where did they largely come from?

Ms Zielke: Sorry, Senator. It was over an 18-month period.

Senator McCARTHY: It was over an 18-month period with stakeholders?

Ms Zielke: Yes. I am very happy to give you a full list of all of the organisations that we consulted with as part of that process.

Answer:

1. Alcoa of Australia
2. ANL
3. APT Group
4. Arrium Mining and Materials
5. Asiaworld
6. Austral Asia Line
7. Australian Aluminium Council
8. Australian Industry Group
9. Australian Institute of Marine and Power Engineers
10. Australian Institute of Petroleum Limited
11. Australian Mines and Metals Association
12. Australian Peak Shippers Association
13. Australian Shipowners Association
14. BHP Billiton
15. Bluescope Steel
16. Bonney Group
17. Boral
18. BP Australia
19. Braemar Seascope
20. Braemar Shipping Services
21. Business Council of Australia
22. Caltex

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23. Carnival Australia
24. Cement Industry Federation
25. Chartered Institute of Logistics and Transports
26. Coastalbridge Australia
27. Comcare
28. Coogee Energy
29. Coral Princess
30. Cristal Mining
31. Cruise Lines International Association
32. CSL
33. CSR Limited
34. Department of Infrastructure, Energy and Resources (Tasmania)
35. Department of Tourism (Queensland)
36. Department of Transport and Main Roads (Queensland)
37. Exxon Mobil
38. Freight and Logistics Council WA
39. Fremantle Ports
40. Gypsum Resources Australia
41. Hartmann Projects Lines
42. Iluka
43. Impact Fertilisers
44. Inchcape Shipping Services
45. Incitec Pivot Limited
46. Inco Ships
47. Interacid
48. K Line
49. K&L Gates
50. Maersk Line
51. Marine Diesel Traders
52. Maritime Union of Australia
53. Mediterranean Shipping Company (Australia)
54. Mercer Marine
55. Minerals Council of Australia
56. Mitsui OSK Lines
57. Morgan Marine
58. National Farmers Federation
59. Norske Skog
60. North Star Cruises
61. Norton Rose Fulbright
62. NSS
63. NYK Line
64. Nyrstar
65. Odfjell Australia
66. Oldendorff Carriers
67. OOCL (Australia)
68. Origin Energy
69. P&O Maritime
70. Pacific Aluminium
71. Pacific Asia Express
72. Pacific Basin Shipping
73. Port of Brisbane
74. Port of Melbourne
75. Ports Australia
76. Qcoast

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77. Qube Ports
78. Rio Tinto Marine
79. RS Platou Shipbrokers (Australia)
80. Sea Swift
81. Sea Transport Corporation
82. Seacare Authority
83. SeaRoad Holdings
84. SeaSwift
85. Seaway Agencies
86. Shell Australia
87. Ship Agency Services
88. Shipping Australia
89. Strategic Marine Group
90. Supply Chain STO
91. Svitzer Australia
92. Swire Pacific Offshore
93. Tasmanian Farmers & Graziers Association
94. Teekay Shipping
95. Thompson Clarke Shipping
96. Toll Group
97. Toll Domestic Forwarding
98. Tourism and Transport Forum
99. Tourism NT/Cruise Down Under
100. Tourism Tasmania
101. Tourism Victoria
102. Tycho Buningh & Associates
103. Viva Energy
104. Wagners
105. Wallenius Wilhelmsen Logistics
106. Wilmar Bioethanol
107. Wilmar Sugar
108. Mr Peter Wilson
109. Maersk Line Australia
110. Australian Peak Shippers Association Inc
111. North Queensland Bulk Ports Corporation
112. North Star Cruises
113. K&L Gates
114. Australian Maritime College
115. Seacare Authority
116. South Australian Tourism Commission
117. Coral Princess Cruises
118. Australian Expedition Cruise Shipping Association
119. Teekay Shipping
120. Launceston Chamber of Commerce
121. Australian Shipping Consultants Pty Ltd
122. Fremantle Ports
123. Cristal Mining Australia Limited
124. National Public Lobby
125. Institute of Public Affairs
126. Freight Logistics Council of Western Australia
127. Koppers Carbon Materials and Chemicals
128. Bell Bay Aluminium
129. CSL Australia
130. Australian Competition and Consumer Commission

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131.South Australian Freight Council
132.Cruise Down Under
133.Asciano
134.Oceania Economic Development Corporation
135.Gearbulk Australasia
136.CSR
137.BlueScope
138.MMG Limited
139.University of Queensland
140.Caltex
141.National Farmers Federation
142.Australian Institute of Marine and Power Engineers
143.Inco Ships Pty Ltd
144.Rio Tinto Alcan
145.Bunbury Wellington Economic Alliance
146.Gypsum Resources Australia
147.Australian Industry Group
148.Chamber of Minerals and Energy of WA
149.Ashurst
150.International Marine Contractors Association
151.Maritime Engineers Pty Ltd
152.APT
153.Braemar Seascope
154.Port of Townsville
155.Australian Maritime Officers Union
156.Australian Coastal Shipping
157.Minerals Council of Australia
158.Sea Swift
159.Tasmanian Farmers & Graziers Association
160.Alcoa of Australia
161.Australia Aluminium Council
162.Arrium
163.Port of Brisbane
164.Incitech Pivot
165.Australian Shipowners Association
166.Business Council of Australia
167.Ports Australia
168.Woodside
169.Tourism and Transport Forum
170.Shipping Australia Limited
171.Cement Industry Federation
172.Compagnie Du Ponant
173.Australian Institute of Petroleum Ltd
174.Cruise Lines International Association Australasia
175.Silversea
176.SeaRoad
177.Australian Railway Association
178.Australian Mines & Metals Association (AMMA)
179.Maritime Union of Australia
180.ANL
181.Carnival Australia
182.Shell Australia
183.BP Australia
184.Hartmann Project Lines

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185.Origin
186.Tasmanian Government
187.Northern Territory Government
188.Manufacturing Australia
189.Wilmar Sugar
190.Australian Food and Grocery Council
191.Grain Trade Australia
192.SuperYacht Australia
193.Mediterranean Shipping Company
194.Sealand International

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Question no.: 199

Program: Income Tax Exemption Scheme under the *Shipping Reform (Tax Incentives) Act 2012*.

Division/Agency: Surface Transport Policy

Topic: Companies and ships issued with a Notice under the *Shipping Reform (Tax Incentives) Act 2012* (the Act)

Proof Hansard Page: Written (27 October 2016)

Senator Sterle, Glenn asked:

What are the names of the 4 companies and the relevant ships for which a Notice was issued for the Income Tax Exemption during 2015?

- a) What is the name of the company and the relevant ship for which a Notice was issued for the Refundable Tax Offset during 2015?
- b) What are the names of the 2 companies and the relevant ship for which a Notice was issued for Accelerated Depreciation during 2015?
- c) Can the Department explain why there is such a large discrepancy between the number of Certificates issued and the number of Notices issued? For example, in 2015, 13 Certificates were issued for the Income Tax Exemption, but only 4 Notices were issued (Notices presumably being a proxy for actual receipt of the exemption)?
- d) In total, what was the value of the forgone revenue to the Commonwealth as a result of companies accessing these tax incentives over 2015, in relation to each of the 3 incentives mentioned?
- e) Does the Department consider that the lack of provision for deemed franking credits in respect of dividends to resident shareholders and the lack of a dividend withholding tax exemption in respect of dividends to non-resident shareholders is a factor in the take up of the Income Tax Exemption?

Answer:

The following four companies were issued Income Tax Exemptions (ITE) Notices during the 2015 calendar year:

Company	Ship	Date issued
TT-Line Company Pty Ltd	Spirit of Tasmania I	2 June 2015
TT-Line Company Pty Ltd	Spirit of Tasmania II	2 June 2015
Sea Swift Pty Ltd	Malu Titan	23 July 2015
North Star Cruises Australia Pty Ltd	True North	19 June 2015

- a) The following company was issued a Refundable Tax Offset Notice.

Company	Ship	Date issued
Shell Tankers Australia Pty Ltd	North West Sanderling	30 November 2015
Shell Tankers Australia Pty Ltd	North West Sandpiper	30 November 2015
Shell Tankers Australia Pty Ltd	North West Snipe	30 November 2015
Shell Tankers Australia Pty Ltd	North West Stormpetrel	30 November 2015

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- b) The following two companies were issued Notices for Accelerated Depreciation during the 2015 calendar year:

Company	Ship	Date issued
CSL Australia Pty Ltd	Thevenard	16 September 2015
CSL Australia Pty Ltd	Iron Chieftan	16 September 2015

- c) Applicants apply for a Notice initially in the first year they are seeking to qualify for an Income Tax Exemption. A company that has obtained a Notice from the Department in the first year need not reapply for a Notice in subsequent years. It needs to only apply for a Certificate from the Department every year after the first year. A company may also apply for a Certificate without holding a Notice however the qualifying period for Income Tax exemption is reduced to three months. Applying for a notice allows a new applicant to receive the full benefit of the incentives in the first year of application. It is not needed for subsequent years.

- d) The Department's role under the *Shipping Reform (Tax Incentives) Act 2012* is to assess whether an application meets the eligibility requirements set out in the Act. The Department is unable to determine the total value of the forgone revenue to the Commonwealth as these tax incentives are provided through the Australian Taxation Office.

- e) This question is a matter for the Treasury.

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Question no.: 218

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Automated Vehicles

Proof Hansard Page: 14-15 (22 November 2016)

Senator Rice, Janet asked:

Ms Zielke: Yes. In that they have accepted the work plan but will progress the issues. Obviously, at this stage, we are not in a position whereby automated vehicles can be put on our roads. We do not have infrastructure in place. We do not have a number of regulatory requirements in place, so therefore the discussion paper that NTC prepared was largely focused on: so how can we move forward and what are the positions that we need to be considering—and that is what NTC laid out in that.

Senator RICE: I am interested as to why NTC came up with that position and it was subsequently accepted. You say how it aligns with the position of the US federal Department of Transportation—their position is that the entity responsible for the automated driving system should be legally responsible rather than the driver for complying with road rules. So why the difference between what is being proposed for Australia with what is being proposed for the US?

Ms Zielke: My general understanding in that regard is in relation to the regulatory arrangements that the US has in place as opposed to our system here in Australia where they have taken decisions to allow certain arrangements to occur in some areas of the US, not across the whole of the US. In Australia, we have taken an arrangement whereby we would agree to that across the country where we can before moving forward. At this stage, we do not have a basis on which to proceed with a rule other than that. It does not mean that testing or trialling cannot be undertaken—and we have a number occurring around the country; particularly, various states are showing a great deal of leadership in relation to how to move forward; and also technology—so we have companies that are heavily involved in various forms of technology to work on how we move to automated vehicles. They were other issues that were raised in that same paper.

Senator RICE: Obviously, it is a rapidly developing field where progress is being made quicker than what people thought was going to be made. Could you take on notice why the analysis as to why it is—

Ms Zielke: A further explanation in relation to—

Senator RICE: appropriate for us having the driver responsible compared with the US position, because I would have thought the technology is going to be global—there is no doubt about that. It is already here, and we have got to US taking one position and we seem to be taking another.

Ms Zielke: I do not know about taking different approaches but, most certainly, I will come back to you with that detail.

Answer:

In the short-term, Transport Ministers have agreed to an interim position stating that the human driver should have control of a vehicle that is conditionally-automated (Level 3) – that is, in a vehicle where the driving task is undertaken by the Automated Driving System (ADS), but the human driver remains the fallback and must be receptive to any system errors. This interim position relates to enforcement of road rules and other laws only. It does not diminish in any way the manufacturer's civil liability or responsibilities under Australian Consumer Law to provide safe and effective products to market.

It should also be noted that Level 3 vehicles are not yet commercially available in Australia for on-road use, and that the intention of this policy position is to provide certainty for early deployments of these vehicles, which the NTC expects to occur before 2020.

The NTC is currently considering new regulatory frameworks required in the long term to support the safe large-scale commercial deployment of highly or fully automated vehicles (Levels 4 and 5), where the automated driving system is controlling the vehicle most or all of the time. In time, this will necessitate moving from a

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system where the driver is legally responsible, to the automated driving system entity having legal responsibility for vehicle-related compliance with road traffic laws. COAG's Transport and Infrastructure Council has tasked the NTC to undertake further research on the potential legislative solutions, in step with international developments and maturity of the technology.

In relation to the approach in the United States, the Federal Department of Transportation has released a Model State Policy, which suggests that where the ADS is able to conduct the driving task and monitor the driving environment (Levels 3-5), state-level authorities "may wish to deem the system to be the driver of the vehicle". The Federal Department of Transportation is consulting further on the contents of this policy. While Australia's current interim approach for Level 3 vehicles is conservative, it may be that approaches in Australia and the United States converge over time and with further policy development more testing and real-world deployment experience.

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Question no.: 219

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Automated Vehicles

Proof Hansard Page: 15 (22 November 2016)

Senator Rice, Janet asked:

Senator RICE: It is a pretty fundamental difference in terms of legal liability as to whether it is the driver who is responsible or the manufacturer of the vehicle that is responsible.

Ms Zielke: The NTC paper does actually talk about the range of options going forward but it restates what our current position is, and so it actually opens the conversation in relation to all of the other arrangements. I will take on board the difference between the two and come back.

Answer:

Please refer to 218.

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Question no.: 220

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Automated Vehicles

Proof Hansard Page: 15 (22 November 2016)

Senator Rice, Janet asked:

Senator RICE: If the driver is sitting back and not paying attention, it does seem to be strange that our system would say that they are still legally liable, particularly given the US have decided that, no, it is a fully automated vehicle and it is the manufacturer that is liable for the decision-making of that vehicle.

Ms Zielke: I agree, and the paper does suggest that that actually be the case at that time. What has been stated is the current case, not what would be the case for automated vehicles. It is probably best if I come back to you with that in detail.

Answer:

Please refer to 218.

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Question no.: 221

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Automated Vehicles

Proof Hansard Page: 16 (22 November 2016)

Senator Sterle, Glenn asked:

Senator STERLE: I came in after Senator Rice started asking questions, so I am going to clarify this. Was it about, in terms of legal liabilities, who is responsible should there be an accident? Is that what you were answering?

Ms Zielke: Yes, if it was an accident or anything where insurance might be applied et cetera.

Senator STERLE: I read in Tuesday's Australian—I know I'm sick; I need a life, because I had to read The Australian newspaper, but I did. I was stuck on plane on Tuesday and I read that the Insurance Council or someone has agreed that, by 2020, it would have proposals to take to government. Is that right? Are you aware of that?

Ms Zielke: I am sorry; I am not familiar with that. I know that the Insurance Council has been engaged in a number of the conversations in relation to it, as part of both the NTC paper that we were just talking about and more broadly. Obviously that is a conversation that is being had by a lot of industry associations as well as a lot of stakeholders at this stage.

Senator STERLE: Has NTC had any input into those conversations—that by 2020 there will be a resolution to put to governments?

Ms Zielke: I do not believe so, but I am happy to take that on notice.

Answer:

In the National Transport Commission (NTC) recommendations approved by the Transport and Infrastructure Council on 4 November 2016, it was agreed that states and territory governments will undertake a review of compulsory third-party and national injury insurance schemes to identify any eligibility barriers to access these schemes by occupants of an automated vehicle, or those involved in a crash with an automated vehicle. Legislative amendments to state and territory compulsory third-party and national injury insurance schemes will be completed by 2018. The timing for the finalisation of regulatory reforms is based on industry information that commercial deployment of vehicles with conditional automation (Level 3) is expected by 2020, and commercial deployment of highly automated vehicles (Level 4) is expected after 2020.

The NTC has had discussions with the Insurance Council of Australia regarding the regulation of automated vehicles. The Insurance Council of Australia made a submission to the NTC discussion paper on regulatory options for automated vehicles, as did other individual insurers. In their submission, the Insurance Council of Australia supported the timing of reforms set out in the NTC discussion paper. The submission can be accessed on the NTC website at <[http://www.ntc.gov.au/Media/Reports/\(C79837A1-445B-4D8C-B45A-E37AA054C9CF\).pdf](http://www.ntc.gov.au/Media/Reports/(C79837A1-445B-4D8C-B45A-E37AA054C9CF).pdf)>.

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Question no.: 222

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Automated Heavy Vehicles

Proof Hansard Page: 16 (22 November 2016)

Senator Sterle, Glenn asked:

Senator STERLE: If you could please. While you are at it, has the NTC had any follow-up or involvement in the Coors brewery driverless truck trial in San Francisco about four or five weeks ago?

Ms Zielke: I am sorry; I would have to take that one on notice

Answer:

No.

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Question no.: 223

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Automated Vehicles

Proof Hansard Page: 19 (22 November 2016)

Senator Farrell, Don asked:

Ms Zielke: I think there is so much interest in this that, yes, the pace of research being undertaken particularly by companies is increasing tremendously. Google, Apple and all of those players, for example, obviously see this as an opportunity for the future.

Senator FARRELL: Are any of them doing research on it in Australia or is it all being done in the United States?

Ms Zielke: I think there is some work being done here, but I would need to take that on notice to confirm it for you.

Answer:

Research activity in Australia on automated driving systems is relatively limited compared to international markets. In October 2016, the Victorian Government announced an investment of \$1.2 million in the development of a highly automated vehicle by Bosch at their Victorian Headquarters. Some Australian firms also have significant expertise in developing key components of automated vehicles, such as wireless communications devices.

However, a number of state and territory governments are undertaking or planning trials of automated vehicles, with a focus on understanding interactions with the current road network (as opposed to developing the automated driving technology). A list of current trials is available at <<http://www.austroads.com.au/drivers-vehicles/connected-and-automated-vehicles/trials>>.

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Question no.: 224

Program: n/a

Division/Agency: Surface Transport Policy

Topic: Coastal Shipping Volumes

Proof Hansard Page: 29-30 (22 November 2016)

Senator Farrell, Don asked:

Senator FARRELL: Can you tell us whether coastal shipping volumes increased in 2013-14 over 2012-13 and, if so, by how much?

Ms Zielke: Basically the goods being moved by ships around the coast have not been increasing in volume if they are considered as part of the total freight volume that Australia is responsible for. Road transport has been increasing, for example; however, the maritime sector is not increasing or is not showing an uptake in relation to the goods that it is moving in comparison. But overall, yes, there has been an increase.

Senator FARRELL: Can you tell us by how much?

Ms Zielke: I think it is probably best if we take that on notice for you.

Answer:

This question was answered page 30 of Hansard.