



**Australian Government**  
**Department of Infrastructure  
and Regional Development**



# 2015 REVIEW OF THE NATIONAL TRANSPORT COMMISSION

Scoping Paper

© Commonwealth of Australia 2015  
ISBN 978-1-925216-35-6  
February 2015/INFRA2218

*Ownership of intellectual property rights in this publication*

Unless otherwise noted, copyright (and any other intellectual property rights, if any) in this publication is owned by the Commonwealth of Australia (referred to below as the Commonwealth).

*Disclaimer*

The material contained in this publication is made available on the understanding that the Commonwealth is not providing professional advice, and that users exercise their own skill and care with respect to its use, and seek independent advice if necessary.

The Commonwealth makes no representations or warranties as to the contents or accuracy of the information contained in this publication. To the extent permitted by law, the Commonwealth disclaims liability to any person or organisation in respect of anything done, or omitted to be done, in reliance upon information contained in this publication.

*Creative Commons licence*

With the exception of (a) the Coat of Arms; (b) the Department of Infrastructure and Regional Development's photos and graphics copyright in this publication is licensed under a Creative Commons Attribution 3.0 Australia Licence. Creative Commons Attribution 3.0 Australia Licence is a standard form licence agreement that allows you to copy, communicate and adapt this publication provided that you attribute the work to the Commonwealth and abide by the other licence terms.

A summary of the licence terms is available from <http://creativecommons.org/licenses/by/3.0/au/deed.en>.

The full licence terms are available from <http://creativecommons.org/licenses/by/3.0/au/legalcode>

This publication should be attributed in the following way: © Commonwealth of Australia 2015

*Use of the Coat of Arms*

The Department of the Prime Minister and Cabinet sets the terms under which the Coat of Arms is used. Please refer to the Department's Commonwealth Coat of Arms and Government Branding web page <http://www.dpmc.gov.au/guidelines/index.cfm#brand> and in particular, the Guidelines on the use of the Commonwealth Coat of Arms publication.

*Contact us*

This publication is available in PDF format. All other rights are reserved, including in relation to any Departmental logos or trademarks which may exist. For enquiries regarding the licence and any use of this publication, please contact:

2015 NTC Review Secretariat

Surface Transport Policy Division

Email: [ntc\\_review@infrastructure.gov.au](mailto:ntc_review@infrastructure.gov.au)

Website: [www.infrastructure.gov.au](http://www.infrastructure.gov.au)

This scoping paper supports the Terms of Reference for the 2015 *Review of the National Transport Commission* agreed by the Transport and Infrastructure Council on 7 November 2014.

*(Reproduction from this paper is permitted for the purposes of making a submission to the Review)*

# 2015 Review of the National Transport Commission

## Scoping Paper

### Introduction

The *National Transport Commission Act 2003* ('the Act') requires the Transport and Infrastructure Council (the Council) to review the National Transport Commission (NTC) every six years from its establishment.

The first such review was finalised in June 2009, with endorsement of the ministerial council's response by the Council of Australian Governments (COAG) on 7 December 2009.

In that review, the ministerial council recommended to COAG that a further review of the NTC and other relevant transport bodies be undertaken in 2012, in light of the impending implementation of national regulators for heavy vehicles, rail safety and maritime safety. The recommendations of the 2012 review were agreed by the Ministerial Council in 2012.

This paper provides background information and discussion questions for the second six-yearly legislative review to assist stakeholders to provide input.

### Terms of Reference for this review

Terms of Reference for this review were endorsed by the Council on 7 November 2014.

The 2015 review is the second six-yearly review under section 51 of the Act. The Review must report on the operations and the Act, its associated Intergovernmental Agreement, and make recommendations about whether the NTC should continue and/or the Act be repealed.

This review will be cognisant of the two previous reviews. In particular, the 2012 review recommendations resulted in changes to the governance structure and arrangements of the NTC.

The Terms of Reference for this review are located in Appendix 1.

Information about the NTC's reform work is contained in Appendix 2.

Further background on the NTC is contained in Appendix 3.

A summary of organisations, acronyms and websites is in Appendix 4.

## **Consultation**

The Expert Panel report will be prepared in a manner that will facilitate the Council meeting the requirements of section 51 of the Act.

An Expert Panel to conduct the review has been agreed by the Transport and Infrastructure Senior Officials' Committee (TISOC). Ms Mary-Ann O'Loughlin and Mr Norm McIlfattrick have been engaged to conduct the review. Secretariat support is to be provided by the Commonwealth Department of Infrastructure and Regional Development.

The Panel will consult with jurisdictions and industry in line with the Terms of Reference. The Expert Panel invites views on matters that could assist in the consideration of the review's Terms of Reference.

For this purpose, you may wish to consider some or all of the following broad questions.

### **Operational Effectiveness**

- 1) The NTC's functions are to provide advice to support regulatory and operational reform, implementation planning, monitoring and reporting, reform maintenance and review/evaluation.
  - a) Where do you believe the NTC has delivered greatest value to your organisation?
  - b) How effective is the NTC in performing all of its functions?
- 2) How could the NTC improve its effectiveness?
  - a) Can you identify any areas where NTC duplicates effort of others or is otherwise less effective?
  - b) Do you consider the NTC has adequate skills and capabilities, internal controls, project resourcing, Commission (board) supervision and management to undertake its functions?

### **Future role and relationships**

- 3) What are your views on the strategic drivers and challenges that should significantly influence the work of the NTC?
- 4) Is the NTC needed in future? If no, who would take on the NTC's existing functions?
- 5) If yes,
  - a) Are any changes needed to the roles and responsibilities for reform development, implementation and evaluation between the NTC, jurisdictions, the national regulators or other bodies?
  - b) Are any changes needed to the NTC's relationships with the Council, TISOC, individual jurisdictions, other transport bodies and industry?

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

- 6) Where do you think the NTC's priorities should be focused for the next 3 to 5 years? Longer term?
- 7) Do the Act, IGA, performance based framework or Statement of Expectations need amending?

Please provide further comments on any of the Terms of Reference ([Appendix 1](#)) as you wish.

Parties wishing to provide written input can do so until **28 April 2015** which may be made publicly available unless expressly provided in-confidence. Correspondence should be mailed electronically to:

[<ntc\\_review@infrastructure.gov.au>](mailto:ntc_review@infrastructure.gov.au).

## Supporting information

	Page
Appendix 1	2015 Review terms of reference ..... 4
Appendix 2	NTC's reform work ..... 6
Appendix 3	Background to the National Transport Commission ..... 8
Appendix 4	Summary of organisations, acronyms and websites ..... 18
Table 1: NTC role and statutory functions .....	9
Table 2: NTC Work Program 2014-15 .....	10
Table 3: 2012 Review outcomes for the NTC .....	12
Table 4: Re-appraisal of the 2009 NTC Review .....	15

## Appendix 1

### 2015 Review Terms of Reference

(under Section 51 of the *National Transport Commission Act 2003*)

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

The Review will assess the effectiveness of:

- the Commission in delivering regulatory and operational road, rail and intermodal transport reform in accordance with:
  - the *National Transport Commission Act 2003* ('the Act');
  - the Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport;
  - the Statement of Expectations (November 2013);
- the Commission's reform maintenance process that supports the delivery of regulatory and operational reform; and
- the Commission's governance arrangements in facilitating the delivery of tasks and whether any changes should be considered.

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

The Review will:

- make recommendations on whether the NTC should continue in operation;
- examine the relationship between the Commission, the National Heavy Vehicle Regulator and the Office of the National Rail Safety Regulator—including consideration of the clarity of regulatory, policy advising and operational roles; and
- consider the strategic drivers impacting on the future role of the NTC and the advice that will be required by jurisdictions noting the policy environment and challenges that governments will face in coming years.

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

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

- the NTC's future role and work priorities;
- the role of the Commission in relation to Commonwealth, state, territory and local governments and other government agencies;
- the appropriate level of resourcing for the future body; and
- any necessary amendments to the NTC Act and or the IGA to implement these changes.

#### **Conduct of the Review**

The Review will be undertaken by an Expert Panel with Secretariat support to be provided by the Commonwealth. The Expert Panel report will be prepared in a manner that will facilitate the Council meeting the requirements of section 51 of the Act.

The Expert Panel will provide an interim report to the Council (through TISOC) by 15 April 2015, to facilitate a discussion by the Council in May 2015. The final report will be lodged with the Council (through TISOC) by 1 August 2015.

The Panel will consult with jurisdictions and industry in line with this Terms of Reference.

*Agreed by the Council on 7 November 2014*

# National Transport Commission Act 2003

No. 81, 2003 as amended

## An Act to establish the National Transport Commission, and for related purposes

### 51 Review of operation of Act and Agreement

- (1) The Australian Transport Council must:
  - (a) no later than the sixth anniversary of the commencement of this Act; and
  - (b) no later than the end of each succeeding period of 6 years after that anniversary;review the operation of this Act and the Agreement, and on each occasion give a written report of the review to the Prime Minister, the Premier of each State, the Chief Minister for the Australian Capital Territory and the Chief Minister of the Northern Territory.
- (2) The report of each review must include:
  - (a) a recommendation as to whether the National Transport Commission should continue; and
  - (b) a recommendation as to whether this Act should be repealed or amended; and
  - (c) the reasons for the recommendations.

## Appendix 2

### NTC's reform work

Since 2008, the NTC's primary focus has been to support the implementation of the National Heavy Vehicle Regulator and national law and the National Rail Safety Regulator and national law, and heavy vehicle charging arrangements. These reforms are the Council of Australian Governments' national priority for improving Australia's transport productivity.

The balance of NTC's 'national laws' reform work to the pre-2008 work focus on 'model laws' has changed markedly, and since 2009 when the NTC was last reviewed under section 51, its ongoing nature has been scoped further by the establishment of the national regulators in 2012-13. The role, functions and governance for the NTC further developed in significant ways as a result of the 2012 Review.

#### Impact of national regulator reforms

The establishment of national laws supporting the National Heavy Vehicle Regulator and Office of the National Rail Safety Regulator refocused the NTC's law reform work away from drafting model laws to establishing single national laws in respect of the matters they cover. Twenty-four heavy vehicle model laws and eight rail safety model laws were integrated into two, single national laws – the Heavy Vehicle National Law, hosted by Queensland, and the Rail Safety National Law, hosted by South Australia.

Since the development of national laws, model law-making – agreed recommendatory laws for the jurisdictions to accommodate within their own legislative systems as they see fit – continues in respect of three reform areas that do not fall within the national laws: Australian Road Rules; Australian Vehicles Standards; and the Dangerous Goods Code. NTC also maintains a number of guidelines that fall outside the heavy vehicle / rail national laws, for example, driver medical standards and Defence Forces road use.

Further details about model-law making under the NTC Act are in Appendix 3.

The NTC's ongoing national law reform work occurs in partnership with the national regulators. Memoranda of understanding were proposed by the 2012 Review between the NTC and each of the National Heavy Vehicle Regulator and the Office of the National Rail Safety Regulator. Memoranda were finalised in 2013 and define NTC's responsibility for developing, monitoring and evaluating further reform proposals in respect of national laws to ensure they remain contemporary and consistent with their policy intent, while the regulators administer, monitor and review the maintenance and development needs from an operational perspective.

#### Impact of the 2012 Review

The 2012 Review considered how the powers and functions of the NTC and other bodies (Austroads; ARRB Group Limited; Transport Certification Australia (TCA); and the Rail Industry Safety and Standards Board (RISSB)) needed to be adjusted having regard to the impending establishment of the national heavy vehicle and rail safety regulators.

The 2012 Review made recommendations in relation to the NTC for: improved consensus and implementation of reforms; reform priorities, including for maintenance and evaluation; ongoing monitoring and evaluation functions; relationships with jurisdictions, industry and national regulators; and related adjustments to the NTC Act, IGA and budget. The Council agreed the report in May 2013.

The key propositions in the report in relation to the NTC's reform work were:

- National law voting arrangements – moving to unanimous voting arrangements in line with broader COAG council requirements (model laws used majority voting arrangements, which significantly weakened harmonisation and therefore productivity and regulatory outcomes).

- The relationship between the NTC and jurisdiction departments of state – no expansion of NTC’s current role, but a greater role for jurisdiction transport departments in determining the work program (with better defined outcomes and stronger prioritisation of activities).
- Strengthened monitoring and evaluation functions and implementation planning.
- Reform to the Commission’s composition, with TISOC representation.
- Post review consideration of NTC’s budget with possible introduction of an efficiency dividend arrangement.

Ministerial voting arrangements and the implementation of reform were also examined by the 2012 Review. The Council approved new voting arrangements to align with the needs of national laws (unanimous voting, in session wherever possible, with reasons for derogations clearly explained to the Council). The pre-existing IGA voting principles and the new arrangements were integrated into a stand-alone ‘voting protocol’ adopted by the Council in May 2013 to replace the voting arrangements set out in the IGA.

The Review considered the slow implementation of agreed reform, which the Review noted continued to be identified as a concern in submissions since the 2009 Review. The 2012 Review also proposed governance changes through a performance based framework to set and monitor the NTC’s work program. Under the framework adopted in 2013, the Council gave TISOC the new role of oversight for the NTC’s reform implementation planning and performance monitoring.

Governance of the NTC was examined by the 2012 Review. It sought to improve jurisdictional ownership of NTC’s reform agenda through Commissioner appointments. The Standing Council gave in-principle agreement to the recommendations, including that two of the five ordinary members of the NTC be filled by the Chair and one other member of TISOC, a third ordinary member be chosen on the basis of their industry knowledge and their ability to drive productivity reform in transport, and the Chair and Deputy Chair be chosen for their governance skills and their ability to drive organisational performance.

In November 2013, transport ministers issued a three-year Statement of Expectations for the NTC. The Statement fulfilled the outstanding 2009 Review recommendation for a Directors’ Charter. The Statement identifies the NTC as an expert adviser to Council on the reform cycle – reform development, implementation, and evaluation. It also states TISOC’s accountability to the Council for reform delivery, and the expectation that NTC will have the closest relationship in view of TISOC’s leadership role in policy development and implementation.

The roles and functions of the NTC were examined by the 2012 Review. It made a range of findings and recommendations in regard to the NTC: implementing new reforms; monitoring implementation and evaluating the impact of reforms; maintaining agreed reforms; and consulting with industry. Key recommendations included:

- Highest priority areas of work, including the forward work program on national heavy vehicle regulatory reform, heavy vehicle licensing and registration, and access improvements (Rec 5);
- Detailed implementation planning for each priority activity (Rec 7);
- Improved independent assessments in implementation reports, taking on a similar role to the COAG Reform Council for transport reforms in relation to implementation reporting (Rec 10); and
- Evaluations that should assess the extent to which further uniformity is required to achieve productivity and safety benefits, including the costs of doing so (Rec 11).

The NTC’s heavy vehicle charging reform work, including recommending annual adjustments, was not specifically affected by the findings and recommendations of the 2012 Review. Principles underlying the review, such as for Council voting arrangements and the importance of industry consultation might also inform the approach to NTC’s recommendatory charging work for heavy vehicles going forward.

## Appendix 3

### Background to the NTC

The NTC is a statutory body established in 2003 under the National Transport Commission Act 2003 (NTC Act) and is subject to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). Its predecessor was the National Road Transport Commission (NRTC) formed in 1991. The NTC is overseen by five part-time Commissioners, nominated by the Council and appointed by the Commonwealth Minister for Infrastructure and Regional Development. The Minister appoints the Chair and Deputy Chair, while the NTC's Chief Executive Officer is a sixth, ex-officio Commissioner appointed by the Chair.

The **NTC's responsibility** under the NTC Act is to develop, monitor and maintain uniform or nationally consistent regulatory operational reforms relating to road, rail and intermodal transport and to develop road user charging principles for heavy vehicles. The roles and functions of the NTC are defined in the Inter-Government Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport 2003 (NTC IGA). The objective of the NTC IGA is to improve transport productivity, efficiency, safety and environmental performance, and regulatory efficiency—with a focus on matters that warrant a uniform or nationally consistent regulatory or operational approach and on the development of road user charging principles and heavy vehicle road use charges based on the principles for heavy vehicles.

Table 1 sets out the NTC's role and functions under the NTC IGA.

The **NTC's governance** was strengthened as a result of the 2012 review. A Performance Based Framework is used by the ministerial council to monitor the operation of the NTC and as the basis for issuing a Statement of Expectations to the NTC. In 2013, the NTC became subject as an authority to the PGPA Act – replacing the *Commonwealth Authorities and Companies Act 1997* (CAC Act) that NTC was brought fully under in response to the 2009 Review. Under the PGPA Act, the NTC continues to annually prepare a rolling three-year Corporate Plan (previously a 'Strategic' Plan under the CAC Act) and an annual Work Program that is approved by the Council, plus a range of reform work reporting for Council.

Full details of the governance arrangements for the NTC are at:

<<http://www.infrastructure.gov.au/transport/australia/ntc/index.aspx>>

A summary of the NTC's current Work Program for 2014-15 is set out at Table 2. Full details of the NTC's Corporate Plan and workplan are at: <<http://www.ntc.gov.au/about-ntc/strategic-planwork-program/>>

The **NTC is wholly funded** by governments. The NTC IGA requires maintenance of the 2003 funding base in real terms and sets out jurisdiction funding shares. Changes to funding levels outside the annual indexation process may only be made by unanimous agreement of the Council. NTC's total income in 2013-14 was \$9.15 million (ex GST). There were 39 full time equivalent staff at October 2014.

The **NTC's model laws** have been largely made to-date as regulations under section 7 of the NTC Act. These regulations have no legal effect within the Commonwealth or any state or territory jurisdiction. Instead, jurisdictions wishing to adopt the model laws (in whole, part or in modified form) do so according to their own legislative requirements and processes, such as regulatory impact assessment.

The role of making regulations to publish the model laws for the future is under question. The Commonwealth Office of the Parliamentary Counsel proposed to its state and territory counterparts in July 2014 reducing the duplication of legislative processes by no longer making model laws as Commonwealth regulations. Model laws would instead be made available to jurisdictions directly by the NTC in an equivalent legal form. The making of further model laws as Commonwealth regulations is on hold pending consideration of this proposal by jurisdictions and the NTC.

**Table 1: NTC role and statutory functions**

Section 5 of the NTC IGA specifies the NTC's role and statutory functions.

*Section 5 - Responsibilities and functions of the National Transport Commission*

5.1 Having regard to the objectives of this Agreement, and matters contained in the NTC Act and elsewhere in this Agreement, the ongoing responsibilities and functions of the Commission will be to:

- a) develop uniform or nationally consistent regulatory and operational arrangements for road, rail and intermodal transport, including recommending to the Council Proposed Reforms and amendments to Agreed Reforms;
- b) without limiting (a), develop Proposed Reforms in relation to
  - (i) a framework to improve and strengthen the co-regulatory system for rail safety including the application of mutual recognition;
  - (ii) a national policy on key rail safety issues and procedures and standards to manage major rail safety risk factors;
- c) develop
  - (i) road use charging principles for Heavy Vehicles (until such time as the Council decides that another organisation should undertake this function);
  - (ii) Proposed Reforms in relation to Heavy Vehicle Road Use Charges based on charging principles agreed by the Council from time to time;
- d) recommend that special circumstances warrant a Proposed Reform being developed that allows for differing regulatory and operational requirements in various areas of Australia and, except for a Proposed Reform relating to Heavy Vehicle Road Use Charges, that only those Ministers representing the jurisdictions in which the differing requirements are to apply will be eligible to vote;
  - (i) this includes the Commission recommending whether or not the Commonwealth should be included with the jurisdictions eligible to vote in relation to a Proposed Reform;
- e) recommend other matters to the Council that will promote the objectives of this Agreement;
- f) monitor implementation of Agreed Reforms by the Parties and regularly report to the Council;
- g) maintain and review Agreed Reforms;
- h) monitor the effectiveness of the ongoing development and implementation of the Code of Practice for the Defined Interstate Rail Network;
- i) provide resources for secretariat support to the industry owner of the Code of Practice for the Defined Interstate Rail Network, until such time as the Council decides that this support should cease; and
- j) collate information on State and Territory expenditure on road construction and maintenance.

5.2 The Commission will also undertake any other responsibilities and functions that are determined by the Council.

5.3 Where a Party proposes to confer a function or power on the Commission under a law of a State or Territory, or another law of the Commonwealth, this may only occur if a simple majority of Ministers agree.

**Table 2: NTC Work Program 2014-15**

Work item	Tasks
Compliance and technology	<ul style="list-style-type: none"> <li>• Review of penalties within the Heavy Vehicle National Law</li> <li>• Legislative Chain of Responsibility issues</li> <li>• Cooperative Intelligent Transport Systems policy implementation</li> <li>• Voluntary use of heavy vehicle telematics for regulatory purposes</li> <li>• Electronic work diaries: advice and changes to the Heavy Vehicle National Law</li> <li>• Policy work to inform the Heavy Vehicle Registration Scheme (previously NHVR led)</li> <li>• Fatigue – consideration of annual risk management plans (previously NHVR led)</li> <li>• Exploring the costs, the benefits and the opportunities in using electronic regulatory documentation (e.g. dangerous goods documents) *</li> <li>• Identify opportunities to improve heavy vehicle speed management under the Heavy Vehicle National Law including penalties*</li> <li>• Heavy vehicle driver fatigue data*</li> </ul>
Heavy vehicle pricing	<ul style="list-style-type: none"> <li>• Heavy vehicle charges review and determination (including annual adjustment) and ongoing work on road infrastructure funding and charging arrangements</li> </ul>
Productivity, safety and environment	<ul style="list-style-type: none"> <li>• Heavy vehicle access and productivity improvement sub-program</li> <li>• Investigate the feasibility of allowing 6 and 7 axle truck and dogs at PBS mass limits without PBS</li> <li>• National consistency in the regulation of over-dimensional vehicles</li> <li>• Heavy vehicle roadworthiness (vehicle inspections) and NHVAS maintenance module review (joint program with the National Heavy Vehicle Regulator)</li> <li>• Review and update the load restraint guide*</li> <li>• Assess opportunities and, where appropriate, develop the business cases for increased freight productivity including: Enhancements to NHVAS mass module, steer axle mass review, improved mainstreaming of innovative vehicle designs, increasing allowed volume where mass is not the constraint, allowances for heavier and longer trains, application of bridge assessment processes, risk based approach for Heavy Vehicle Access to broader networks, develop consistent standards and operating arrangements for tri-axle dollies (previously an NHVR led project) *</li> </ul>
Routine maintenance	<ul style="list-style-type: none"> <li>• National law maintenance - Rail safety maintenance sub-program, Heavy Vehicle National Law maintenance sub-program</li> <li>• Model law maintenance - Australian Vehicle Standards Rules sub-program, Australian Dangerous Goods Code maintenance sub-program, Australian Road Rules maintenance sub-program, Medical Standards maintenance sub-program, Registration and Licensing Reform (with Austroads)</li> <li>• Other maintenance - Australian Defence Force Exemption Framework, Development of a single National Heavy Vehicle Licence</li> </ul>
Reform monitoring, evaluation and strategy	<ul style="list-style-type: none"> <li>• Strategic Planning</li> <li>• Reform monitoring and reporting</li> <li>• Review of the Intelligent Access Program</li> </ul>

\* these projects will have 'business cases' developed jointly with stakeholders for Ministerial consideration in November of the year prior to proposal commencement (to confirm continuing support). If endorsed by the Transport and Infrastructure Council project/s will continue as part of future work program.

## **Previous reviews of the NTC**

### **2012 Review of the *NTC Act 2003***

Transport Ministers agreed in November 2011 the terms of reference for the review of the National Transport Commission, Austroads, ARRB Group Limited, Transport Certification Australia and the Rail Industry Safety and Standards Board. The review examined the role and functions of these bodies going forward with the commencement of the new national transport regulatory systems in January 2013.

The 2012 review was formulated in response to the 2009 Review of the NTC. The ministerial council responded to the 2009 review by recommending to the Council of Australian Governments (COAG) that a further review of the NTC and other relevant transport bodies be undertaken in 2012, in light of the impending implementation of national regulators for heavy vehicles, rail safety and maritime safety, which was endorsed by COAG.

A further impetus for reconsidering the roles of these national organisations in the transport sector was the significant change to ministerial council arrangements under COAG, which commenced in mid-2011.

The Ministerial Council agreed all the review recommendations for the NTC, as summarised in Table 3.

### **2009 review of the *NTC Act 2003***

The NTC, the NTC Act and IGA were reviewed in 2009. The 2009 Review found that while the NTC had a strong record of generating regulatory reform concepts and model legislation, the NTC's reform processes had not delivered the anticipated national benefits and that the NTC needed to share some responsibility for this. The Review noted that the reform process often faltered at the implementation stage and that harmonisation outcomes had been inadequate and provided little confidence for meeting the challenges ahead.

The 2009 Review recommended that the NTC focus on core responsibilities; be given a more active role in facilitating implementation of reforms; improve governance, project prioritisation and reporting to inform and drive better reform results; and refocus its skill base on the NTC's core disciplines of road, rail and intermodal regulation, along with an annual funding justification process.

The Council made a response to the 2009 Review which is summarised in Table 4. Responses included the need for a further review of arrangements in light of the national regulators, in regard to policy/implementation roles (Recommendation 1 response) and levels of funding for the NTC (Recommendation 16 response).

### **Pre-2003 reviews of the *National Road Transport Commission Act 1991***

The review before 2009 was of the former body to the NTC, the NRTC, which was conducted in 2002 under the *National Road Transport Commission Act 1991*. The NRTC and its Act were previously reviewed in 1996, however no major changes were recommended. The 2002 review found that substantial benefits had been delivered by NRTC through the regulatory reform of road transport. The review recommended that the Council reaffirm its commitment to road transport reform, commit to accelerating reform of rail safety regulation and extend the national transport reform agenda to cover intermodal regulatory issues. As a consequence of the 2002 review, rail and intermodal regulation and operational reform were added to the NRTC's remit and the NRTC was replaced by the NTC.

**Table 3: 2012 Review outcomes for the NTC**

	<b>2012 Recommendation</b>	<b>Response (<i>Standing Council 2013</i>)</b>
<b>Voting Protocol</b>	<p>1. The voting arrangements for national laws should require consensus agreement for all model and national laws. In order to achieve consensus on model laws, the mechanism for voting for reforms covered by the NTC IGA should be in-session at Council meetings unless there are extreme and urgent circumstances.</p> <p>2. If a jurisdiction proposes not to support a model law reform, it should provide a statement of reasons for consideration by Council members.</p> <p>19. Voting arrangements for the former Australian Transport Council in the NTC IGA should be repealed through an addendum to the NTC IGA, which would include consensus voting arrangements for both model laws and national heavy vehicle and rail safety laws.</p>	<p>Agree. A decision making (voting) protocol was agreed by the Council in May 2013 and has been published on the Council website ('Publications').</p>
<b>Commissioner Appointments</b>	<p>3. Improve jurisdictional ownership of NTC's reform agenda through Commissioner appointments, by replacing one of the five ordinary members with the Chair of TISOC (ie the Commonwealth), another with a (rotating) jurisdiction member and the third ordinary member chosen on the basis of their industry knowledge and their ability to drive productivity reform in transport (plus the Chair and Deputy Chair chosen for their governance skills and their ability to drive organisational performance).</p>	<p>Agree. The approach to Commissioner appointments was given full effect by the Standing Council in May 2013 and subsequent appointments.</p>
<b>Performance Based Framework</b>	<p>4. Introduce a performance based framework to set and monitor the NTC's work program.</p>	<p>Agree. Framework agreed by the Council in May 2013.</p> <p>A Statement of Expectations was agreed by the Council in November 2013 as part of the performance based framework.</p>
<b>Priority Activities</b>	<p>5. In relation to road transport reforms, the NTC must place their highest priority and allocate significant resources in relation to the following areas agreed by COAG and/or the Council:</p> <p>(a) Support the work of the project directorate in finalising the heavy vehicle charging and investment reform process (in addition to the more urgent body of work to develop and gain support from industry and consensus agreement by jurisdictions to a new determination for heavy vehicle charging to apply in 2013-14);</p>	<p>Agree. Implemented through the performance based framework and the subsequent work plans agreed by the Council.</p>

	<p>(b) Develop (and gain consensus to) further options to improve heavy vehicle access to road networks to deal with the rapidly growing freight task;</p> <p>(c) Implement the Council's commitment to industry to deliver the forward work program for further national heavy vehicle regulatory reform, and conduct a review of penalties in the national heavy vehicle law in 2014;</p> <p>(d) Progress COAG commitments regarding national heavy vehicle licensing and registration and occupational licensing for passenger vehicle drivers and dangerous goods; and</p> <p>(e) Implement the tasks identified for the NTC in the Implementation Plan for the National Ports Strategy.</p>	
	6. In relation to rail regulatory reform, the key priority for the NTC should be to resolve any remaining issues relating to implementation of the national law and regulations, with two current issues relating to train communications and data loggers.	Agree. These priorities were reflected in the NTC's work program 2013-14 to 2015-16. Ministers approved this work program in May 2013. The NTC reports that it is currently progressing the train communications and data loggers issues#.
	8. As a further priority, the NTC should commence work with the regulators and others (including BITRE) to identify and collect the data and undertake analysis that will be needed to assist the Productivity Commission in the review of national transport regulation reforms in 2016.	Agree. The NTC reports that this work is commenced#.
	13. The NTC's work on supply chain reform and rail freight investment reform should be discontinued, unless the NTC is able to identify specific deliverables and timetables for Council consideration.	Agree. The NTC reports that this work is completed#.
	14. The NTC's 2012-13 direct program delivery (the business partnerships road safety program) should be progressed by the jurisdictions rather than by the NTC.	Agree. The NTC reports that this work is completed – the program was launched by the NTC in May 2014 and is now hosted by the ARRB Group#.
<b>Implementation plans</b>	7. The NTC should finalise detailed implementation plans for each of these priority activities (and where relevant, with project offices), for consideration and agreement by TISOC (given TISOC's role in implementing the reforms) and the Council.	Agree. The NTC reports that this work is completed – project plans are in place, which include implementation plans#.
	16. The NTC should improve its efforts to gain consensus and ensure implementation of reform.	Agree. The NTC reports that this work is completed – the co-design model utilised in the heavy Vehicle Charges Review and Determination project has been highly commended by industry and government stakeholders and will be replicated across projects of a similar nature#.

<b>Maintenance and Forward Work Program</b>	9. The NTC's national laws maintenance and forward work programs should be agreed by the Council and published, with timetables for implementation.	Agree. Implemented through the performance based framework.  The NTC reports that its national laws maintenance and forward work programs are in the NTC's work program, and that Council approved this work program in May 2013 and the work program was published#.
	12. Maintenance by the NTC of the exemption framework for the Australian Defence Force from certain state and territory transport laws should continue.	Agree. The NTC reports that this work is completed – maintenance of the exemption framework for the Australian Defence Force is being continued in the NTC Work Program endorsed by Council in May 2013#.
<b>Reform Implementation Report Card</b>	10. To improve accountability for implementation of reforms, the NTC should: (a) undertake improved independent assessments in implementation reports, including the reasons for delay, the barriers to implementation, what is required to bring a jurisdiction back on target, and an analysis as to whether variations were implemented that would reduce the benefits of the particular reform; and 36  (b) take on a similar role to the COAG Reform Council for transport reforms in relation to implementation reporting, with report cards to be considered by the Ministerial Council and published.	Agree. Implemented through the performance based framework.
<b>Reform Evaluations</b>	11. Evaluations of existing reforms should be finalised by the NTC, including the reviews of the Australian Road Rules and Australian Vehicles Standards Rules, and the evaluation of the Dangerous Goods rules (identified in the NTC 2012-13 work plan). As part of these evaluations, the NTC should assess the extent to which further uniformity is required to achieve productivity and safety benefits, including the costs and benefits of doing so.	Agree. The NTC reported on the evaluations to the Council in November 2013. The underlying principle for the conduct of evaluations was incorporated into the performance based framework.
<b>MOUs with Regulators</b>	15. The NTC should establish formal working arrangements with the national regulators as a priority in 2013.	Agree. The NTC agreed memoranda of understanding with the National Rail Safety Regulator and National Heavy Vehicle Regulator in August and November 2013 respectively.
	17. The NTC should continue a strong industry consultation arrangement, coordinated with the national regulators where applicable.	Agree.
<b>Act and IGA amendments</b>	18. The Commonwealth is to make minor amendments to the NTC Act to replace references to the Australian Transport Council at the earliest opportunity, and no later than July 2016.	Agree. The action is in progress by the Commonwealth.

	20. Any wholesale reconsideration of the content of the NTC IGA should only be undertaken following completion of implementation of the national regulators (2013) and the next 'section 51' review (2015) and the Productivity Commission review into the national transport regulation reforms (2016).	Agree.
<b>Budget</b>	21. An efficiency dividend consistent with that in place for Commonwealth agencies should be applied to the NTC's resourcing on an ongoing basis, through adjustments to the automatic indexation amount (CPI) from year to year, and the NTC should be asked to identify any further savings that would arise from the work program changes outlined in this report for further consideration by TISOC and the Council.	Agree. Not proceeded with for the 2013-14 and 2014-15 approved budgets for NTC. Instead the NTC adjusted its budget downwards to reflect the revised work programmes.

# Source of NTC reported actions is the NTC Annual Report 2013-14.

**Table 4: Re-appraisal of the 2009 NTC Review**

<b>2009 Recommendation</b>	<b>Response (ATC 2009)</b>	<b>Relevant 2012 findings and proposals</b>
1. The NTC should continue as an independent statutory authority.	Agree, noting that in light of implementation of the national regulators for heavy vehicles and rail safety, a further review will be required to determine an appropriate balance between regulatory policy reform development and implementation responsibilities.	Agree. Independent Commission retained but with improved ownership of NTC's reform agenda by jurisdictions and industry to keep pressure on, and across governments to continually reform and harmonise regulation. Recommendations made regarding increasing NTC's implementation responsibilities for Council reforms.
2. The NTC's primary objective should be to achieve seamless national regulation of road, rail and intermodal transport where national regulation drives improved transport safety, productivity, efficiency and environmental performance.	Agree. ATC directs the NTC to ensure its work program is focused on the priority regulatory reform agenda. In addition, the ATC may request the NTC to explore broad transport related issues and provide independent expert advice to policy makers.	Agree. Recommendations made to reprioritise NTC's workplan.
3. The NTC's mandate under the IGA should be explicitly expanded to include responsibility for working with jurisdictions to develop viable implementation plans to deliver desired reform outcomes.	Agree in principle, noting that this role will need to be considered further as the single national regulator work develops and that formal amendment of the IGA does not appear necessary to achieve this. ATC directs the NTC to work with jurisdictions to develop implementation plans.	IGA does not need to be expanded. Recommendation that NTC work with jurisdictions and regulators to develop implementation plans for assigned tasks.
4. The NTC should develop a post-implementation review process on key reforms to review practical	Agree. ATC directs the NTC to develop the proposed process, in consultation with jurisdictions, for	Completed, but more work needs to be done on evaluation and reporting.

outcomes of regulatory reform and update or modify reforms where needed.	consideration at the first ATC meeting in 2010.	
5. The NTC should continue to report to, and be held accountable by, the ATC for the achievement of seamless national regulation of road, rail and intermodal.	Agree. Regular reports on progress are to be brought to ATC after due consideration by transport agency chief executives.	Agree. Improvements are required to accountabilities of NTC for achieving consensus and ensuring implementation of reforms through a COAG Reform Council level of effort on monitoring and reporting of implementation by jurisdictions.
6. The ATC should set a short list of focused priority projects for the NTC, which remain consistent over time so that the NTC can drive reforms through to impact in a timely manner.	Agree. ATC will provide direction to the NTC on priority projects. For 2009-10 to 2011-12 ATC requires the highest priority to be NTC's contributions to developing national heavy vehicle laws and rail safety law to be administered by the national regulators under development and to heavy vehicle pricing reform work contributing to the COAG Road Reform Plan.	This review recommends a reprioritised work program for the NTC.
7. The NTC should regularly report to the ATC on progress of priority projects, including reform development, implementation and impact.	Agree. The NTC, in consultation with jurisdictions, will develop an activity and performance reporting system for approval by ATC in line with the review recommendation.	This review recommends further improvements to the activity reporting arrangements to make the parties more accountable for performance.
8. The NTC Commissioners should be appointed as a governing board under the Commonwealth Authorities and Companies Act 1997 (CAC Act).	Agree. Consistent with the IGA, amendments to the NTC Act will be developed by the Commonwealth in consultation with jurisdictions.	Completed.
9. A Director's Charter should outline the roles and responsibilities of the NTC Chair, Commissioners and CEO, and their performance should be reviewed on a regular basis.	Agree. ATC will develop a Director's Charter and direct the Commissioners to establish a regular review process.	Director's Charter not implemented. NTC advises that improvements have been made to the Commissioners handbook. Review recommended a performance based framework for NTC governance.
10. The ATC should establish a two-stage sign-off process for national regulatory reforms facilitated by the NTC. Stage one would comprise in-principle agreement to the draft reform (as per the current process) plus agreement on the desired outcomes of that reform and metrics to measure those outcomes. Stage two would comprise approval of a national implementation plan (made up of individual jurisdictional plans) and any modifications required to the original proposal as a result of the national implementation plan. Stage two sign-off would occur before implementation commences.	Agree. The NTC will develop a process for a two stage sign off that includes the development of implementation plans. The process will inform future regulatory reform development and implementation. Where feasible, these two stages could be combined into one comprehensive package inclusive of implementation plans.	Agree. Review recommended a performance based framework for NTC governance.

<p>11. The NTC should continue to build the effectiveness of its external consultation to ensure all stakeholders are heard and informed.</p>	<p>Agree. As part of the reform process, the NTC is to report on stakeholder feedback, its appropriateness and the extent to which reforms have been adjusted in light of the stakeholder feedback.</p>	<p>Recent reform work has included these elements (eg Heavy Vehicle National Law, Fatigue management RIS for National Rail Safety Law). NTC should continue a strong industry consultation arrangement, coordinated with the regulators where applicable.</p>
<p>12. The NTC Commissioners should be more active advocates for the implementation of priority projects.</p>	<p>Agree. This recommendation will be given effect through the Director's Charter to be developed by ATC.</p>	<p>Implementation priorities defined in the 2012 review.</p>
<p>13. The NTC CEO should be a formal member of the Standing Committee of Transport (SCOT).</p>	<p>Agree.</p>	<p>The NTC CEO is a member of TISOC (which replaced SCOT).</p>
<p>14. The NTC should evolve its mix of staff skills to become a centre of excellence for implementing national regulatory reform for road, rail and intermodal.</p>	<p>Agree. Staff skills that support and improve the NTC's technical capacity to fulfil its primary role should be given priority.</p>	<p>Agree.</p>
<p>15. The NTC should submit an annual resourcing plan to the ATC for approval, commensurate with the scope and timing of priority projects as determined by the ATC. The resourcing plan should be broken down at a project level over the lifetime of projects and also include overheads and administration costs.</p>	<p>Agree. The plan should be submitted to ATC through jurisdictions. It should also identify for the year ahead the specific products and reports on which the NTC will consult publicly or seek ministerial approval.</p>	<p>Recommend improvement to specifying outputs for 'future reform' work, including implementation plans.</p>
<p>16. The NTC's current level of funding should continue, at least until any changes occur in the work program as a result of the implementation of Recommendation 15.</p>	<p>Agree. ATC notes that the level of funding of the NTC will need to be reviewed further as the single national regulator work develops.</p>	<p>Transfers of functions and resourcing to the national heavy vehicle regulator will be required (\$0.25m a year).</p>

## Appendix 4

### Summary of organisations, acronyms and websites

ATC	<p>Australian Transport Council ATC was the COAG Transport Ministers' Council until replaced by SCOTI in 2011, and subsequently the Transport and Infrastructure Council in 2013.</p>
COAG	<p>Council of Australian Governments COAG is Australia's peak intergovernmental forum. <a href="http://www.coag.gov.au">www.coag.gov.au</a></p>
NHVR	<p>National Heavy Vehicle Regulator The NHVR regulates all heavy vehicles over 4.5 tonnes (Gross Vehicle Mass). <a href="http://www.nhvr.gov.au">www.nhvr.gov.au</a></p>
NRSR	<p>National Rail Safety Regulator The NRSR facilitates the safe operation of rail transport, is independent and promotes rail safety and safety improvement. <a href="http://www.onrsr.com.au">www.onrsr.com.au</a></p>
NTC	<p>National Transport Commission For details on the NTC's external governance see: <a href="http://www.infrastructure.gov.au/transport/australia/ntc/index.aspx">http://www.infrastructure.gov.au/transport/australia/ntc/index.aspx</a></p>
SCOTI	<p>Standing Council on Transport and Infrastructure SCOTI replaced the Australian Transport Council in 2011 under COAG's arrangements.</p>
Council	<p>The Transport and Infrastructure Council replaced SCOTI in 2013 under new Council of Australian Governments' arrangements. <a href="http://www.transportinfrastructurecouncil.gov.au">www.transportinfrastructurecouncil.gov.au</a></p>
TISOC	<p>Transport and Infrastructure Senior Officials' Committee TISOC comprises the senior transport, infrastructure and planning officials supporting the Council.</p>



