

27 April 2015



SOUTH AUSTRALIAN FREIGHT COUNCIL



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

296 ST VINCENT STREET  
PORT ADELAIDE SOUTH AUSTRALIA 5015  
P +61 8 8447 0688 F +61 8 8447 0606  
[WWW.SAFREIGHTCOUNCIL.COM.AU](http://WWW.SAFREIGHTCOUNCIL.COM.AU)

Dear Sir / Madam

**RE: 2015 Review of the National Transport Commission (NTC)**

On behalf of the South Australian Freight Council's (SAFC) Membership I thank you for the opportunity to comment on the 2015 Review of the National Transport Commission (NTC) and provide the following input in response.

SAFC is the State's peak, multi-modal freight and logistics industry group that advises both the Federal and State governments on industry related issues, and is funded by both governments and industry. SAFC represents road, rail, sea and air freight modes and operations, freight services users and assists the industry on issues relating to freight logistics across all modes.

Under the Constitution of Australia the Federal Government does not have any specific responsibilities for transport, except for "railway construction and extension in any State with the consent of that State" (Section 51 Part 34). Nonetheless, as Australia is a Federation of States a seamless and consistent cross border transport system and network is an essential component in ensuring that the nation's business sector can get their products to market in an efficient manner and enable them to compete on a level playing field.

SAFC supports the continued operation of the NTC and contends that it plays a key role in assessing transport policy and regulation as it is applied, and varied, across the States and between the modes (road, rail and intermodal policies in particular). Consequently SAFC contends that the NTC represents a key component in ensuring that a level playing field is developed and/or remains in place for the benefit of industry and the community.

SAFC's response to the specific questions asked in the 2015 NTC Review Scoping paper is outlined in the Attachment.

Should you wish to discuss any aspect of this submission, or require clarification of any matter raised, feel free to contact me by telephone on (08) 8447 0688 or Email: [murphy.neil@safreightcouncil.com.au](mailto:murphy.neil@safreightcouncil.com.au).

Yours faithfully



**Neil Murphy**  
Chief Executive Officer  
SA Freight Council Inc

**SAFC's response to the specific questions asked in the  
2015 NTC Review Scoping paper**

1) *The NTC's functions are to provide advice to support regulatory and operational reform, implementation planning, monitoring and reporting, reform maintenances and review/evaluation.*

a) *Where do you believe the NTC has delivered greatest value to your organisation?*

SAFC is a cross modal industry association with a membership base covering all 4 modes, as well as services to freight, and customers of the industry. Consequently, NTC delivers little to no direct benefits to SAFC as an organisation but does deliver some benefits to our membership and the broader Transport and Logistics industry stakeholder groups.

These benefits generally include activities that have led to improved productivity for the road transport sector in particular, including improved access for High Productivity Freight Vehicles and progress towards the establishment of the National Heavy Vehicle Regulator, and the National Rail Safety Regulator and their mission to harmonise regulatory regimes across the nation.

Despite these positive benefits, it is obvious that much more needs to be done to improve the efficiency of the transport and logistics industry and SAFC believes that the NTC is well placed to continue to deliver in this regard.

b) *How effective is the NTC in performing all of its functions?*

SAFC believes that the NTC is most effective in delivering on its function to "provide advice to support regulatory and operational reform", and to a lesser extent to performing the "review evaluation" function. Whilst SAFC believes that these 2 functions should be afforded a priority, SAFC contends that the NTC is less effective and less active in performing its other functions aimed at "implementation planning", "monitoring and reporting" and "reform maintenance".

The mixed experiences throughout the establishment phase for the national regulators demonstrates SAFC's position on the above points.

2) *How could the NTC improve its effectiveness?*

SAFC contends that the NTC's vital functions could be performed to a better standard, and in particular SAFC urges the NTC to provide a stronger evidence base for some of the reforms it progresses.

The Annual Heavy Vehicle Charges Determinations are a case in point. A poor evidence base has produced an over-recovery from the Heavy Vehicle industry that ultimately artificially inflates freight rates and has a negative impact upon the sector, its customers and the community in general. Whilst this has now been acknowledged, Governments now seem reticent to adjust the formulas to account for this over-recovery and investigate the potential to adjust the formulas for this past over-recovery. SAFC believes that the NTC should make some recommendations in this regard.

SAFC also believes that the NTC should better promote the individual and collective benefits of reform so as to maintain broad support for its work program and activities. This promotion should be aimed at Governments, industry and the broader community.

- a) *Can you identify any areas where NTC duplicates efforts of others or is otherwise less effective?*

SAFC is not aware of specific instances where NTC directly duplicates the work of others but believes that better coordination of efforts with organisations such as the Productivity Commission, the ACCC and the national regulators would produce consistent outcomes.

The Performance Based Standards (PBS) systems and processes established have been ineffectual and in the case of South Australia are currently being used to deny legitimate heavy vehicle access to some elements of the network. The PBS initiative promised significant benefits for industry but to date it seems to have failed in that regard.

SAFC contends that the progression of the PBS system as a whole should be the subject of further review and development of new recommendations aimed at delivering consistency amongst the States, as well as its originally stated objectives of improved heavy vehicle access.

It is also evident that the establishment of national regulators has not proceeded as smoothly as was originally anticipated and has not been as broadly encompassing as first expected.

Nonetheless, it is unclear as to the principal reasons why the regulator's coverage has been diminished and it would be disingenuous to allocate any significant responsibility for this outcome at the feet of the NTC.

It is SAFC's view that the process of negotiation within and between States has led to the "watered down" version of the regulators with a less than national coverage that is operating today. Whilst this minimalist approach is a better outcome than "no regulator at all" there seems to be a case for further review by the NTC of the implementation of the national harmonisation initiatives and SAFC believes that this review should be undertaken in a no fear, warts and all manner.

- b) *Do you consider the NTC has adequate skills and capabilities, internal controls, project resourcing, Commission (board) supervision and management to undertake its functions?*

SAFC would prefer to see additional industry practitioners and independent Board Members and Staff be appointed to the NTC Board whenever possible and appropriate. SAFC notes that the current NTC Board is comparatively small (just 5 members) and believes that expanding total Board numbers would go some way towards ensuring that NTC investigations are guided in an appropriate and applicable direction and recommendations have some basis in how the industry operates, thereby improving productivity outcomes.

SAFC also believes that a longer tenure (between NTC reviews) will encourage the NTC to produce work that has a stronger "independent" basis developed without consideration of fear or favour nor ongoing funding considerations.

- 3) *What are your views on the Strategic Drivers and challenges that should significantly influence the work of the NTC?*

The strategic drivers as identified in the 2012 review remain (ie: ageing population, the emerging fiscal constraint, increasing congestion and the like), but a greater focus upon productivity across supply chains and the Australian economy as a whole, including in the transport and logistics sector, should now take priority.

Moreover, ongoing changes to the nation's economic profile, away from traditional manufacturing such as automotive, towards new and emerging sectors such as agriculture and food, as well as service industries will lead to a new set of transport and logistics challenges that should be assessed and the implications addressed where necessary.

To this end, it may be appropriate for the NTC to produce a bi-annual review of the changing trends that are impacting upon the network today and should be considered when undertaking transport planning for the future. This review would need to be undertaken in close consultation with industry, as well as producers of the necessary data sets such as ABS and BITRE. Whilst these organisations produce the data, they rarely deliver any great insight into the implications of the trends that the data is highlighting as being underway. These trends can materialise quickly and can have significant implications for communities, industry sectors and ultimately the transport and logistics industry itself.

SAFC believes that there is a role for NTC in assessing the implications and identifying alternative options, and then working with industry and the National Regulators to ensure that a workable system is put in place to ensure that the transport and logistics industry prepares for changes and future opportunities.

Finally, SAFC contends that any drive to improve productivity for existing and emerging industry sectors should lead to an increased focus upon improving Heavy Vehicle access and train operations. Improving links to and from ports, intermodal terminals and key freight related facilities (transport depots and customer facilities) should come to the forefront and can deliver significant benefits to individual companies, industries, economies and the community as a whole.

#### *4) Is the NTC needed in future? If no, who would take on the NTC's existing functions?*

SAFC believes that the national approach and continued efforts provided by the NTC are required on an ongoing basis so as to reduce poor and inconsistent regulatory approaches across Australia.

This remains a challenge for Australia's transport system and network, as well as the industry itself and consequently SAFC supports the ongoing operation of the NTC.

Moreover, SAFC believes that over the coming years the NTC could perform a useful role in the following areas:

- Review of the implementation of the national regulators. What has worked, what hasn't? What remains to be done / progressed? Establish a future work program / further areas for coordination by the national regulators.
- What factors are influencing efficient infrastructure usage decisions (why does industry transport product (what are the drivers) and why do they choose a particular mode or supply chain). Can/should these factors be addressed to produce a 'more desirable' outcome (eg: is Local Government restricting access for heavy vehicles and, if Yes, how can this be overcome)?
- Review the competitive neutrality claims in the current regime. Is the market distorted or not? What changes could / should be implemented? Has the current and past regulatory regime resulted in an artificial market including the transport of some products on inappropriate modes (eg: Is the increased use of rail a desirable objective and if yes – how has/is the regulatory regime hampering the increased use of rail now and in the past. Are there opportunities to facilitate a modal shift if a more level playing field between the modes is established? Where does the shipping industry (coastal shipping) sit in this debate.

- Heavy Vehicle charging regimes (current and future). Should road be paying more or less? What are the trade-offs involved with various charging regimes?
- Intermodal issues (Are they hampering the use of other modes? If Yes, can we smooth out interactions)?
- Prepare an Annual Review of data and trends impacting upon the network and transport and logistics operations and discussing the implications for governments, the community and industry operations and transport planning and regulation into the future

In the unlikely event that it is determined that an alternative to NTC could undertake the functions that it currently performs, and given that it seems inappropriate that any organisation controlling a function should review same (eg: the national regulators should not review their own activities and performance), SAFC believes that it would seem appropriate that as a minimum, some functions could and should be outsourced to the private sector.

- 5) *If yes,*
- Are any changes needed to the roles and responsibilities for reform development, implementation and evaluation between the NTC, jurisdictions and national regulators or other bodies?*
  - Are any changes needed to the NTC's relationships with the Council, TISOC, individual jurisdictions, other transport bodies and industry?*

As previously outlined, it is SAFC's view that the process of negotiation within and between States has led to the "watering down" of some regulatory change proposals and the national regulators themselves, with the outcome being the less than national coverage that we have today. SAFC contends that there seems to be a case for further review by the NTC of the implementation of the national harmonisation initiatives and SAFC believes that this review should be undertaken in a no fear, warts-and-all manner, from a stronger "independent" basis, with positions developed without consideration of fear or favour nor ongoing funding considerations.

The 'Yes – but we are different mantra' that perseveres today is not a sufficient justification for refusing to implement necessary changes that have the support of a majority of jurisdictions.

Consequently, SAFC contends that all jurisdictions should be required to publicly explain how and why they are different, why they are not accepting the recommendations of the NTC.

- 6) *Where do you think the NTC's priorities should be focussed for the next 3 to 5 years? Longer term?*

SAFC believes that the NTC could consider a greater emphasis on some or all of the following work areas:

- the impacts on industry from the laws that have not been properly harmonised, commencing with those elements that have been picked up unevenly between states such as Chain of Responsibility, fatigue laws, and some of the new rail regulations
- national licensing schemes
- national registration schemes
- an objective assessment of the revenue and expenditure accruing through the transport and logistics sector. Gaining a definitive and independent understanding of who pays for what may add clarity to the infrastructure policy debate and the modal neutrality debate.

- What factors are hampering enhanced Heavy Vehicle Access
- What is restricting the uptake of PBS by industry and why aren't innovative vehicles such as B-Triples and AB-Doubles gaining more widespread access to key freight generating precincts and facilities and the broader strategic freight network  
Should PBS and IAP be discarded altogether? Is one or both schemes hampering access to the network and the movement of freight between States?
- Establishment of an authoritative dataset measuring the trends impacting upon the network and transport and logistics operations and discussing the implications (now and into the future) for governments, the community and industry operations.

7) *Do the Act, IGA, performance based framework or Statement of Expectations need amending?*

SAFC believes that the NTC IGA as it currently stands can be carried forward but should be revisited to determine what elements have been satisfactorily progressed and what elements required renewed efforts.

Section 5.1 (c) in particular, covering heavy vehicle charging regimes requires closer scrutiny.

Similarly, Section 5.1 (d) covering the ability to develop and vote on differing regulatory and operational requirements should also be reviewed and in the interests of ensuring greater regulatory harmony across Australia, all jurisdictions should be able to vote on the acceptability of these 'local productivity initiatives'.