A presentation for the Chartered Institute of Logistics and Transport in Australia, ACT and Southern NSW section, 25 October 2018 - Richard Calver, NatRoad

Introduction

This presentation focuses on several issues that the National Road Transport Association (NatRoad) supports as a means to reduce the road toll and to increase the safety of members and the public on Australia’s roads. We also outline why we don’t support the idea of re-introducing what is misleadingly called a ‘safe rates’ system. We emphasise that the NatRoad vision is for the road toll to be zero. NatRoad has a deep commitment to improving road safety. Reducing heavy vehicle fatalities and serious injuries is one of NatRoad’s core objectives. The paper doesn’t discount the need for the road freight transport industry to improve its health and safety performance off-road, but the focus of this discussion is about on road issues. There is a detailed exploration of three measures that we would prioritise in moving towards a zero road toll.

NatRoad is Australia’s largest nationally representative road transport operators’ association. NatRoad represents road freight operators, from owner-drivers to large fleet operators moving general freight, road trains, livestock, fuel and refrigerated goods and vehicles. NatRoad members also include heavy vehicle recovery specialists, bus lines, tippers, car carriers and transport-affiliated businesses.

The Current Regulatory Framework: Reform

The great majority of NatRoad’s members are heavy vehicle operators. The Heavy Vehicle National Law (HVNL), which has been adopted in all Australian jurisdictions except for Western Australia and the Northern Territory, defines a heavy vehicle as such “if it has a GVM or ATM of more than 4.5t.” Currently, there is finalisation of terms of reference for a comprehensive review of the HVNL, described by the National Transport Commission (NTC) as “a back-to-basics review which is expected to result in an entirely new performance-based law that is fit for purpose.”

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2 For more on the work NatRoad undertakes see: [https://www.natroad.com.au/](https://www.natroad.com.au/)
3 The HVNL is the schedule to the Heavy Vehicle National Law Act 2012 (Qld).
4 Each State and Territory has passed legislation that in some way modifies the HVNL in the Queensland model legislation: see https://www.nhvr.gov.au/law-policies/heavy-vehicle-national-law-and-regulations#application-laws for a table setting out the legislation
5 Section 5 definition HVNL: GVM (gross vehicle mass), of a vehicle, means the maximum loaded mass of the vehicle—(a)if the registration authority has specified the vehicle’s maximum loaded mass—specified by the registration authority; or (b)otherwise—stated by the vehicle’s manufacturer.
6 Section 5 definition HVNL: ATM (aggregate trailer mass), of a heavy trailer, means the total maximum mass of the trailer, as stated by the manufacturer, together with its load and the mass imposed on the towing vehicle by the trailer when the towing vehicle and trailer are on a horizontal surface.
7 Section 6 HVNL: https://www.legislation.qld.gov.au/view/html/inforce/current/act-2012-hvnq#sec.6  This contrasts with the European Union definition which is a vehicle with a total weight above 3.5t (vehicle + load). After consideration the origin of this difference was not able to be ascertained.  [https://ec.europa.eu/transport/road_safety/specialist/knowledge/vehicle/safety_design_needs/heavy_goods_vehicles_en](https://ec.europa.eu/transport/road_safety/specialist/knowledge/vehicle/safety_design_needs/heavy_goods_vehicles_en)
8 The NTC is a government corporate body established as a national transport reform agency by the National Transport Commission Act 2003 (Cth).
Frankly, as reflected in that NTC statement, the current law is not fit for purpose and a review of its terms can’t come soon enough. The HVNL is unduly complex and largely based on applying prescriptive rules that often involves the application of fines for trivial or administrative matters. It is by no means national regulation, not only because WA and the NT are outside of its ambit but because the law has not been consistently enacted in the HVNL jurisdictions. As the NTC also said:

**The 2012 HVNL consolidated 13 model laws and brought six of the eight state and territory laws into a single national law. However, it is fair to say that while the HVNL was better than what preceded it, it was subject to a fair amount of compromise.**

In this vein, the Productivity Commission noted:

**The introduction of the HVNL and the creation of a national regulator were important first steps towards removing unnecessary restrictions and variations in heavy vehicle regulations. But the NHVR is still a work in progress — the objective of seamless national regulation of heavy vehicles is still some way off, and state and territory governments have an important role in ensuring that this is achieved.**

The extent to which a change to a more performance-based and less prescriptive system will enhance safety in the industry is not a matter that can be nicely calculated. However, NatRoad supports changes to the law that reinforce the adoption of safety management systems and which bring more robust measures to bear against all parties in the chain of responsibility. We agree with the view expressed by Hopkins and summarised by Mooren et al that whilst “rules compliance enforcement is necessary, taking steps to move beyond this to improving organisation design conducive to safety climate is needed to move organisations to the highest levels of safety performance possible.”

A further problem associated with reliance on overly prescriptive regulation is also described by Hopkins thus:

**(P)**rescription can give rise to a compliance mentality on the part of employers, which, paradoxically, may be detrimental to safety. The point is that some employers may seek to comply with the letter of the law without any real sensitivity to the risks that these rules are designed to control. Such employers are not motivated to find more effective or efficient ways of controlling risk. In short, prescriptive rules can discourage innovation in risk management.
NatRoad supports a move away from the approach of mere compliance with specific rules; the newly framed HVNL should be concerned with the management of risk. This is especially the case with the fatigue management provisions of the HVNL which contain a vast array of highly prescriptive elements, but which do not lead to the identification and control of impairment based on being fatigued. The current reliance on prescriptive work and rest hours and on-road enforcement using work diaries is not the most effective way to manage fatigue. The current law can lead to a perverse outcome of being compliant but not always safe.

A restructured HVNL should focus on controlling those risks that lead to on-road incidents. There should be a move away from an insistence on compliance with rules that are not directly related to risk. If these two matters are part of the rewriting of the HVNL, the heavy vehicle safety record is likely to improve.

What that record looks like now and the likelihood of further improvement is next examined.

The Current Safety Record

The heavy vehicle industry is expanding in line with the expansion of Australia’s freight task. Road transport is the primary mode of transport for non-bulk freight in Australia. Yet despite this expansion, data from the Bureau of Infrastructure, Transport and Regional Economics (BITRE) shows that, over the decade to 2016, national rates of fatal crashes involving heavy vehicles per registration fell substantially. For articulated truck fatal crashes, the reduction was 50 per cent, for heavy rigid truck fatal crashes the reduction was 11.9 per cent (Table 1 below). The issue of the difference in the improvement record of articulated trucks and heavy rigids is of major concern and is an area of the industry’s safety record that is subject to inadequate study.

National rates per vehicle-kilometre-travelled show similar reductions over the decade. However, there are significant differences between the jurisdictions and between truck types (Table 2).

### Table 1: Fatal crash rates involving heavy vehicles per 10,000 heavy vehicle registrations

<table>
<thead>
<tr>
<th>Year</th>
<th>Articulated trucks</th>
<th>Heavy rigid trucks</th>
<th>Any heavy truck</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>19.6</td>
<td>2.7</td>
<td>6.0</td>
</tr>
<tr>
<td>2008</td>
<td>16.3</td>
<td>2.8</td>
<td>5.5</td>
</tr>
<tr>
<td>2009</td>
<td>14.9</td>
<td>2.3</td>
<td>4.7</td>
</tr>
<tr>
<td>2010</td>
<td>14.9</td>
<td>2.2</td>
<td>4.6</td>
</tr>
<tr>
<td>2011</td>
<td>14.4</td>
<td>1.9</td>
<td>4.5</td>
</tr>
<tr>
<td>2012</td>
<td>14.1</td>
<td>2.6</td>
<td>5.0</td>
</tr>
<tr>
<td>2013</td>
<td>9.9</td>
<td>2.0</td>
<td>3.6</td>
</tr>
</tbody>
</table>

17 But note the Cooperative Research Centre for Alertness, Safety and Productivity (Alertness CRC), in partnership with the National Transport Commission (NTC), is conducting field research to analyse the impacts of the Heavy Vehicle National Law (HVNL) on work and rest hours on heavy vehicle driver fatigue: [https://www.ntc.gov.au/Media/Reports/(6F28129B-4CF2-14EB-78E6-BB981C0BD38A).pdf](https://www.ntc.gov.au/Media/Reports/(6F28129B-4CF2-14EB-78E6-BB981C0BD38A).pdf).
19 IBIS World Road Freight Transport in Australia April 2018 p 5
20 Bureau of Infrastructure, Transport and Regional Economics (BITRE), 2017, Road trauma involving heavy vehicles 2016 crash statistical summary, BITRE, Canberra ACT.
### Table 2: Fatal crash rates involving heavy vehicles per billion vehicle kilometres travelled (VKT) by state

<table>
<thead>
<tr>
<th>Articulated Trucks</th>
<th>NSW</th>
<th>Vic</th>
<th>Qld</th>
<th>SA</th>
<th>WA</th>
<th>Tas</th>
<th>NT</th>
<th>ACT</th>
<th>Australia</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>23.8</td>
<td>18.5</td>
<td>26.7</td>
<td>10.3</td>
<td>20.5</td>
<td>27.5</td>
<td>27.5</td>
<td>0.0</td>
<td>21.7</td>
</tr>
<tr>
<td>2008</td>
<td>20.6</td>
<td>13.6</td>
<td>23.8</td>
<td>15.1</td>
<td>9.8</td>
<td>40.4</td>
<td>41.9</td>
<td>0.0</td>
<td>18.7</td>
</tr>
<tr>
<td>2009</td>
<td>14.6</td>
<td>10.7</td>
<td>26.2</td>
<td>15.2</td>
<td>14.0</td>
<td>67.8</td>
<td>28.2</td>
<td>127.6</td>
<td>17.7</td>
</tr>
<tr>
<td>2010</td>
<td>18.0</td>
<td>19.2</td>
<td>17.0</td>
<td>11.7</td>
<td>18.8</td>
<td>20.2</td>
<td>13.9</td>
<td>63.2</td>
<td>17.7</td>
</tr>
<tr>
<td>2011</td>
<td>18.3</td>
<td>12.6</td>
<td>20.9</td>
<td>19.2</td>
<td>13.8</td>
<td>13.2</td>
<td>41.4</td>
<td>0.0</td>
<td>17.2</td>
</tr>
<tr>
<td>2012</td>
<td>16.3</td>
<td>16.9</td>
<td>21.7</td>
<td>13.9</td>
<td>8.2</td>
<td>20.0</td>
<td>27.1</td>
<td>0.0</td>
<td>16.6</td>
</tr>
<tr>
<td>2013</td>
<td>12.3</td>
<td>7.5</td>
<td>15.4</td>
<td>12.2</td>
<td>8.9</td>
<td>13.5</td>
<td>39.5</td>
<td>0.0</td>
<td>11.8</td>
</tr>
<tr>
<td>2014</td>
<td>11.3</td>
<td>14.1</td>
<td>14.9</td>
<td>15.1</td>
<td>6.4</td>
<td>27.0</td>
<td>0.0</td>
<td>116.1</td>
<td>12.9</td>
</tr>
<tr>
<td>2015</td>
<td>12.2</td>
<td>11.5</td>
<td>12.7</td>
<td>17.7</td>
<td>11.2</td>
<td>13.6</td>
<td>0.0</td>
<td>57.4</td>
<td>12.5</td>
</tr>
<tr>
<td>2016</td>
<td>8.9</td>
<td>11.1</td>
<td>12.2</td>
<td>14.5</td>
<td>8.8</td>
<td>20.4</td>
<td>47.7</td>
<td>56.6</td>
<td>11.3</td>
</tr>
<tr>
<td>Avg. trend change p.a. (%)</td>
<td>-8.7</td>
<td>-4.1</td>
<td>-8.4</td>
<td>2.4</td>
<td>-7.8</td>
<td>-9.1</td>
<td>-</td>
<td>-</td>
<td>-6.8</td>
</tr>
</tbody>
</table>
More recent data reveals a growing schism between the improved performance for articulated trucks and for heavy rigid trucks, albeit as reported by Raftery, Grigo and Woolley in 2011:

Statistics ...indicate that articulated HVs are more often involved in crashes than rigid HVs.

They speculated that:

This is likely due to differences in the transportation tasks for which these vehicles are used. Articulated HVs are used for long-haul interstate transportation involving long working hours and greater travel distances in rural areas, whereas rigid HVs are commonly used for short haul purposes in urban locations.

The vehicle use described has remained in place, as has the fact that articulated vehicles are involved with more crashes. The latest data from the Bureau of Infrastructure, Transport and Regional Economics shows that during the 12 months to the end of June 2018, 169 people died from 155 fatal crashes involving heavy trucks. These included 94 deaths from 87 crashes involving articulated trucks, 85 deaths from 77 crashes involving heavy rigid trucks and 10 deaths from 9 crashes involving both a heavy rigid truck and an articulated truck. These figures represented a reduction in overall fatal heavy vehicle crashes: fatal crashes involving heavy trucks decreased by 7.7 per cent compared with the corresponding period one year earlier (from 168 to 155 crashes) and decreased by an average of 2.0 per cent per year over the three years to June 2018.

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22 Centre for Automotive Safety Research Heavy Vehicle Road Safety: Research scan (July 2011)
23 Id at p81
24 Ibid
One industry publication remarked about these results:

_Credit for the reduction can be laid mostly at the heavy articulated truck sector, where fatal crashes were down 16.1 per cent, from 112 to 94, another recent record low, while the average change over the last three years is -3.6 per cent. While New South Wales was the center of a truck-related deaths furore at the start of the year, fatal heavy-articulated crashes between June 2017 and last June fell 14.3 per cent in that state from 42 to 36, though over the past three years to June there was a rise of 11.5 per cent._

We believe that the differences in the involvement of articulated and rigid truck rate of improvement cannot be explained by the differences in transportation tasks. The assumption of longer working hours for long-haul drivers doesn’t necessarily follow given that they are likely to be driving a fatigue-regulated heavy vehicle, defined inter alia as a motor vehicle with a GVM of more than 12 tonnes. Further, the requirements related to exposure to risk from time on task should be the same but that is detail which should be the subject of greater research.

NatRoad notes that a finding of a 2016 NTC report was:

_There was agreement across road agencies, police and industry that knowledge about the fatigue impact of local work could be improved. The NHVR noted that it is aware of commercial data suggesting that there has been an increase in the crash rates for local work but is not clear about what is causing this increase. The NHVR has received reports from industry ‘that operators who work only local area work, are more likely to disregard the work and rest limits in the HVNL and the general duty to not drive while impaired by fatigue’. The NHVR therefore supports further research into the work and rest patterns of local area drivers, their fatigue management practices and safety performance._

In NatRoad’s understanding, this specific research has not been done. There appears to be a research gap around why the rate of improvement for the two sub-sectors is different. There is also inadequate research about the differences in jurisdictional outcomes, a matter that NatRoad emphasised in submissions to the New South Wales Parliamentary Committee that examined the late 2017/early 2018 spike in heavy vehicle fatalities in that State. The need for greater research and how to increase relevant understanding of the factors that affect individual crashes is taken up below.

Obviously, the analysis of the industry’s safety record must encompass more than the fatality crash data. This is underlined having regard to a recently published report which found that in the 12 years to 2015, vehicle crashes accounted for less than 17 per cent of injury and disease relating to truck drivers. Having said that, it was the following finding that excited commentary:

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26 Section 7 HVNL
28 Id at p37
Between 2004 and 2015, truck drivers recorded an incidence of compensated work-related fatality claims of 34.3 per 100,000 workers. This rate is almost 13 times higher than that observed for all other workers (2.7 per 100,000 workers).\(^{32}\)

Despite that finding, the safety record of the road transport industry is improving. Safe Work Australia data shows substantial reductions in the numbers and rates of injuries and fatalities in the industry over the last 15 years.\(^{33}\) Even with these improvements, the road transport industry remains a high-risk industry with claim and fatality rates substantially higher than the all-industry average, as revealed in the statistics just quoted. Safe Work Australia notes that this high-risk status arises because the road transport industry accounts for 2 per cent of the Australian workforce but accounted for 17 per cent of work-related fatalities in 2015 and 4 per cent of serious workers’ compensation claims in 2014-15.\(^{34}\)

Part of the reason for the higher statistical significance of the fatality rate in the road transport industry in the workforce data is that the rate of improvement in other sectors is greater. Safe Work Australia reports that over the 13 years from 2003 to 2015 there was a 34 per cent decrease in the rate of fatalities in the road transport industry compared with a 41 per cent decrease across all industries.\(^{35}\)

**TOWARDS ZERO**

What is required is an obvious focus on reducing the industry’s fatality and other injury rates and to increase the rate of improvement in fatality statistics, against the background of a puzzling slowing to only a 2% per annum reduction in the three years to 2018 as noted above.\(^{36}\)

The Safe Work Australia data shows that in 77% of work-related fatalities the cause of death was a vehicle collision.\(^{37}\) In turn, the likelihood that a fatality will occur when there is a heavy vehicle involved in a collision is greater than with other vehicles simply because of their higher mass.\(^{38}\) NatRoad, therefore, believes that a focus on measures which will reduce vehicle collisions is the means to increase the rate of reduction in fatalities and serious injuries in the industry. During 2018, NatRoad has emphasised that a reduction in road fatalities to zero must be the target.\(^{39}\)

This target was recently given substance in an independent report presented to the Commonwealth Government on the National Road Safety Strategy 2011-2020 (independent report).\(^{40}\) One of the recommendations of the independent report is for there to be a target for zero road deaths by 2050 with suitable interim targets of a 50% reduction by 2030 and a 75% reduction by 2040 using 2020 as the baseline.
date.\textsuperscript{41} This vision is not a question of naiveté. The report indicates that the path to this goal is paved by evidence-based research:

Setting an ambitious long-term vision for zero road trauma over a realistic timeframe provides the impetus for action and cultural change amongst those responsible for the system. Resources can be progressively allocated to evidence-based solutions targeting key safety problem areas with clear intermediate goals in sight.\textsuperscript{42}

In addition, the recently released NSW Government’s Road Safety Plan 2021,\textsuperscript{43} sets out similar goals. The target is for a reduction in road fatalities and serious injuries of 30 per cent by 2021 (compared to average annual fatalities over 2008–2010) and has a vision of achieving zero trauma in the transport system by 2056.

\textbf{IMPROVEMENTS}

As well as containing the general approach to moving towards the zero road death target, the independent report contains some recommendations that emulate the policies which NatRoad has been promoting for some time. The report contains 12 key recommendations involving areas highlighted for potential improvements such as road safety leadership, resourcing, performance monitoring and innovative technology.

We next highlight three recommendations that reflect current NatRoad policy, how they accord with NatRoad policy and suggested mechanisms for accelerating their implementation. These recommendations occur against the failure of the current National Road Safety Strategy.\textsuperscript{44} As NatRoad indicated in a submission to the Government inquiry into the Strategy, statistics from the National Crash Database show that by the end of 2016 only 9.1\% of the 30\% target to reduce deaths had been achieved 6 years into the National Road Safety Strategy timeframe.\textsuperscript{45} The independent report indicates that the label of the current strategy being a “failure” is not harsh:

\textit{The lack of progress in relation to recommendations of the last review and the strategy overall are quite obvious – the headline conclusion is that there has been a failure to implement in a meaningful way.}

Contemporaneously, the Transport and Infrastructure Council\textsuperscript{46} has issued a National Road Safety Action Plan 2018-2020 (National Plan)\textsuperscript{47} to support the implementation of the Strategy. This will occur “by ensuring that national efforts in the final three years of the NRSS are focused on strategically important initiatives.”\textsuperscript{48} The three recommendations that we highlight have consonance with some of the areas of priority set out in the National Plan.

\textsuperscript{41} Id at p43
\textsuperscript{42} Ibid
\textsuperscript{44} Available here http://roadsafety.gov.au/
\textsuperscript{46} The Council brings together Commonwealth, State, Territory and New Zealand Ministers with responsibility for transport and infrastructure issues, as well as the Australian Local Government Association.
\textsuperscript{48} Id at iii
RESEARCH AND DATA

I earlier mentioned that there is a need for much better research on the underlying causes of crashes (beyond speed and fatigue) and the key factors involved with identifying trends and patterns, inclusive of the spike in heavy vehicle incidents that occurred in late 2017 and early 2018 in NSW. The independent inquiry had as its first term of reference:

“Identify the key factors involved in road crash death and serious injury trends including recent increase in 2015 and 2016.”

But the independent inquiry found that in respect of this term of reference, there was inadequate data to adequately answer this requirement, saying:

The first term of reference for this inquiry could not be adequately addressed because of insufficient data on the full extent of influences on the road transport system. While exposure data exists, it is predominantly associated with motorised vehicles. Intermediate measures are also poor and sporadic, and something as simple as regular speed measurement across the network is often difficult to obtain across all jurisdictions. Enforcement data is also often limited in scope and difficult to interpret. The absence of this base data makes it extremely difficult to understand variations in overall patterns of crashes and injury and the underlying causes to observed changes.

NatRoad agrees that there is inadequate data to understand variations “in overall patterns of crashes and injury.” This is especially the case when seeking to attribute fault. There appears to be a conflict in the way in which heavy vehicles are “blamed” for fatal crashes. In the recently released NSW Government Freight and Ports Plan 2018-2023 the following is said:

While crash data does not include any conclusions as to fault, it does record the ‘key vehicle’ whose movement appears to have largely contributed to the crash occurring. Heavy trucks were the ‘key vehicle’ in 39 per cent of fatal crashes in 2015 to 2017 and 59 per cent of serious injury crashes from 2014/15 to 2016/17.

Yet the idea that “fault” on the part of heavy vehicles is at the level set out in this extract is not substantiated by data where fault has been investigated. For example, work by the National Truck Action Research Centre published in 2017 that analysed major crash incidents in 2015 found that in losses with third parties not involving fatal injury the heavy vehicle was liable in 60% of the cases. But in collisions involving fatalities, the truck was not at fault on 93% of occasions. A similar statistic was isolated by PricewaterhouseCoopers (PwC) in its final report on the Road Safety Remuneration System, mentioned below, where PwC found that “in 2013, the driver was only at fault (due to speed, fatigue etc.) in 18 per cent of heavy vehicle fatalities.”
There needs to be an improvement in the base data, as recommended by the independent inquiry, which noted that “If you can’t measure it, you can’t manage it.”\textsuperscript{57} That data should enable benchmarks to be prepared that in turn enables measurement of actual performance against appropriate targets. But NatRoad believes also that further qualitative analysis of crashes is needed. It is NatRoad policy\textsuperscript{58} that a dedicated authority such as the Australian Transport Safety Bureau (ATSB) be given power to promptly and fully investigate serious truck accidents and to share the results and recommendations publicly so that all industry participants can take the appropriate action to reduce the road toll. That role should also encompass better research on trends and causal factors, such as the earlier mentioned schism between the record of articulated trucks when compared with heavy rigid.

**SAFETY TECHNOLOGY**

It is axiomatic that relying on behavioural change is not as effective in controlling risk as controls applied through engineering solutions or isolation.\textsuperscript{59} One of the recommendations of the independent inquiry is that there be rapid deployment and accelerated uptake of proven vehicle safety technologies and innovation.\textsuperscript{60} It highlighted the delay in mandating electronic stability control (ESC) in trucks and buses and roll stability control (RSC) in heavy trailers as a failure of the current system to embrace technology that makes a real difference in on-road safety. NatRoad supports mandating ESC and RSC.\textsuperscript{61}

The National Plan also recognises the importance of the application of technology, with an action that is to: “increase the market uptake of safer new and used vehicles and emerging vehicle technologies with high safety benefits.”\textsuperscript{62} It is noted that ensuring fleet operators purchase the safest vehicles is “one of the quickest ways to improve the safety of the Australian fleet overall.”\textsuperscript{63}

But for heavy vehicles, there are some structural impediments. The Truck Industry Council (TIC) reports that the average age of the truck fleet was 14.9 years in 2017.\textsuperscript{64} TIC also found that ‘vehicle safety features’ ranks sixth in a list of factors influencing a decision to purchase a new truck. Whole of life costs, including repair and maintenance, and fuel consumption benefits were cited as more important factors. The National Plan recognises that some of the additional costs for heavy vehicles in Australia is from the regulatory regime. An action in the National Plan is, therefore, to investigate the introduction of safer, cleaner heavy freight vehicles by minimising regulatory barriers. NatRoad agrees: we believe these issues must be ventilated during the review of the HVNL, discussed earlier.

The National Plan shows how unnecessary costs are added to Australian vehicles because of regulatory requirements via this example:

\textsuperscript{57} Above note 38 at p48
\textsuperscript{58} Made public here \url{https://www.natroad.com.au/news/premise-operation-thunder-flawed-says-natroad-ceo}
\textsuperscript{60} Above note 38 at p 52
\textsuperscript{62} Above note 47 at p 10
\textsuperscript{63} Ibid
\textsuperscript{64} \url{https://www.fullyloaded.com.au/industry-news/1801/younger-fleet-crucial-for-truck-safety-says-tic} Note that the ABS indicates estimates from the 2018 Motor Vehicle Census Cat 9309.0 that the average age of an articulated truck in 2018 was 11.9 years and a heavy rigid truck 15.7 years
To meet current Australian regulations, heavy freight vehicles must be 50 to 100mm (2–4%) less in width than vehicles in other major markets. This costs manufacturers $15–30 million per year to redesign their vehicles, and in some cases reduces the availability of safer, cleaner models.65

The National Plan says that current regulatory requirements, as well as network capacity for vehicles of different size and mass, where the roadway can safely accommodate such vehicles and minimise crashes, will be examined. Subject to this assessment, the Commonwealth will release a discussion paper, ahead of a regulatory package for any agreed changes to heavy freight vehicle width and any other dimensions, and axle transitional mass, in the Australian Design Rules (ADR). No timing is attached to this process. Given the proximity of the HVNL review, however, and the criticism of the delays associated with ADR changes, we believe these issues should be covered in the HVNL review and Governments should contemporaneously investigate incentives for operators to purchase more modern vehicles.

INFRASTRUCTURE

The independent inquiry recommends that there be an investment in road safety focused infrastructure and mobility partnerships with state, territory and local government that accelerate the elimination of high-risk roads.66 This recommendation fits nicely with the NatRoad policy that expanding infrastructure investment programs to improve road access for high productivity and oversize/overmass vehicles to reduce truck movements should be a priority.67 NatRoad welcomed the announcement of infrastructure investment of $5 billion in the NSW Government Freight and Ports Plan 2018-2023.

It is a national commitment of this kind directed at improving many rural and regional roads in particular that will assist to reduce the road toll. In Australia and other countries with remote or rural populations, fatal motor vehicle crashes are a higher proportion of total crashes in regional and remote areas. This phenomenon was the subject of a recent study by the Bureau of Infrastructure, Transport and Regional Economics (BITRE).68 The objective of this study was to investigate the causes of this difference by considering the impact of location-specific risk factors in motor vehicle accidents.

Whilst the study is helpful, its deficiencies bring us back to the point made earlier about data inadequacies, a deficiency that if met would also assist with better allocation of infrastructure investment:

*In order to better understand why people survive, more and more complete data is required for survivors, including those who do not suffer any injury in a crash. This is an area in which current data collection falls short. Extending the data to include all motor vehicle crashes and efforts to reduce the level of missing information would provide much greater insight into why crashes occur and why the consequences vary. This would be of great benefit to policymakers in improving road safety and better-directing infrastructure spending.*69

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65 Above note 47 at p 13
66 Above note 38 at p62
69 Id at p12
SO-CALLED SAFE RATES

It is important in identifying the three main areas of focus for NatRoad policy that we also outline the staunch opposition that we hold against the so-called safe rates “solution.” The Transport Workers Union (TWU) promotes safe rates as the principal way to lower deaths and serious injuries in the heavy vehicle industry.\(^\text{70}\) We do not support a link between fixing of prices for owner-operators in the industry and improvements in safety. The TWU wants to bring back the Road Safety Remuneration Tribunal (RSRT) to set freight rates for owner drivers. That policy is opposed.

The model on which the RSRT was based was not appropriate to improve road safety. At best, the evidence was indirect and based on correlation rather than cause. Indeed, the foundational National Transport Commission report\(^\text{71}\) on the issue indicated [emphasis added]:

\textit{While it cannot be shown that low rates of pay and methods of payments directly cause truck crashes}, a point argued by several submissions, it can be shown that low rates of pay and performance-based payment systems do create an incentive for, or encourage, other on-road behaviours which lead to poor safety outcomes.\(^\text{72}\)

The latter part of the statement in this quote is rejected. The “incentive-based” argument is rejected as a cause of road trauma. It was not and remains an inadequate rationale for the creation of the RSRT (or any similar body) which not only did not improve road safety but was a drag on the community’s resources and led to a range of adverse outcomes for owner-drivers, including suicide and loss of opportunity and loss of business.

The RSRT’s Orders could not by their nature affect road safety. The Contractor Driver Minimum Payments Road Safety Remuneration Order 2016 (the \textit{Payments Order}) was issued by the RSRT on 18 December 2015 and was initially due to commence on 4 April 2016. It set minimum rates of pay on a per kilometre and per hour basis for contractor drivers undertaking routes either in supermarket distribution or long distance operations. The Payments Order contained schedules setting out minimum rates hirers were required to pay contractors depending on factors such as the driver’s transport worker grade (based on the type of vehicle being driven) and the class of vehicle.

It is plain from the PWC report mentioned earlier that the Payments Order could not materially affect road safety as indicated by the following extract [emphasis added]:

\textit{According to our analysis, the costs of the Road Transport Order outnumber the benefits,} by $3 in cost to every $1 of benefits. Our best case scenario analysis shows the Road Transport Order \textit{would have to decrease the impact of road accidents in the economy by over 20 per cent for the benefits to outweigh the costs.} In 2013, the driver was only at fault (due to speed, fatigue etc.) in 18 per cent of heavy vehicle fatalities. Since the Road Transport Order operates to control fatigue and speed, but cannot impact the behaviour of small vehicle drivers, pedestrians, road conditions and other factors, it is highly unlikely a 20 per cent reduction can be realised, if these factors where the driver is at fault only amounted to 18 per cent of fatal crashes in 2013. Furthermore,


\(^{71}\) National Transport Commission Safe Payments: Addressing the Underlying Causes of Unsafe Practices in the Road Transport Industry 2008

\(^{72}\) Id at p19 our emphasis
we have used conservative estimates in our analysis leading to the likely conclusion that an appropriately enforced Order would impose far greater costs on industry than safety benefits.\textsuperscript{23}

The thrust of the PWC report is quite clear: remuneration of owner drivers cannot be expected to in any way affect the behaviour of other motorists who share the road and the link between regulating freight rates and increasing road safety is, in any event, far from proven. That is why NatRoad gives priority to considerations that will categorically have a direct effect on safety.

CONCLUSION

NatRoad has a deep commitment to improving road safety. Reaching a target of zero harm from road trauma should be a goal which the community embraces. Measures which will help the community achieve that goal must be introduced and they must be introduced with a realistic target date of 2050.