



Australian Government

Australian Government response to the
Rural and Regional Affairs and Transport References
Committee Final and Interim Reports on:
Aspects of road safety in Australia

June 2020

Introduction

This is the Australian Government Response to the Rural and Regional Affairs and Transport References Committee's (the committee) Inquiry into *Aspects of Road Safety in Australia* Interim and Final Reports.

The Interim Report was published on 3 May 2016 and the Final Report was published on 26 October 2017.

Since the release of the committee's reports there have been a number of road safety initiatives progressed by the Australian Government with the state and territory governments.

In May 2018, the Council of Australian Governments (COAG) Transport and Infrastructure Council (Council) endorsed the National Road Safety Action Plan for the final three years of the National Road Safety Strategy 2011-2020 (NRSS), which includes a number of actions that focus on targeting infrastructure funding towards initiatives to reduce trauma on our roads.

On 12 September 2018, the Australian Government received the report of the independent Inquiry into the NRSS, which provided advice on how governments can work together to take stronger and more effective actions to reduce road trauma. The Inquiry report made recommendations covering a wide range of areas such as road safety leadership, resourcing, performance monitoring and innovative technology. The report included recommendations for action by the Australian Government as well as a number of recommendations requiring coordinated efforts across all levels of government.

In November 2018 the Council agreed to develop a response to those recommendations for which all governments are responsible. The final response and implementation arrangements for the Inquiry recommendations will be published by December 2019.

The Australian Government has undertaken a Review of National Road Safety Governance, as recommended in the NRSS Inquiry report, in consultation with the states and territories. The review was endorsed by the Council in August 2019 and published on the NRSS website: www.roadsafety.gov.au. An Office of Road Safety has been established in the Department of Infrastructure, Transport, Regional Development and Communications (the Department).

This Australian Government Response addresses the committee's recommendations in both the Interim and Final Reports.

RESPONSES TO THE COMMITTEE'S RECOMMENDATIONS

Interim Report

Recommendation 1

The committee recommends that the Commonwealth Government commit \$150,000 for three years from 2016-17 to fund the continued operation of the Australian Trauma Registry.

The Australian Government supports this recommendation.

The Australian Government has committed \$300,000 to fund the Australian Trauma Registry until 2021-22. The Registry is an important source of data on people who are severely injured as the result of road crashes, among other causes.

Recommendation 2

The committee recommends that the National Transport Commission amend the model Australian Road Rules to mandate a safe passing distance for drivers overtaking cyclists of one metre where the speed limit is 60 kilometres per hour or lower and 1.5 metres where the speed limit is higher.

The Australian Government supports this recommendation in principle.

The adoption and application of road rules is a matter for the state and territory governments. Safe passing distance rules have been adopted in all states and territories, with the exception of Victoria.

The National Transport Commission (NTC) is responsible for reviewing and updating the Australian Road Rules (ARR) as part of its maintenance of legislative reforms. The NTC convenes an ARR Maintenance Group (ARRMG) which consists of representatives of the state and territory police and road traffic authorities. This group provides advice and makes recommendations to the NTC on changes to the ARR. The Commonwealth participates in the ARRMG through the Department of Infrastructure, Transport, Regional Development and Communications. The ARRMG has considered the proposal to amend the ARR to prescribe a minimum passing distance when overtaking bicycles. However, no consensus proposal has been agreed by the states and territories at this stage.

Recommendation 3

The committee recommends that the National Transport Commission re-establish a national consultative committee on motorcycle safety.

The Australian Government does not support this recommendation, but supports effective communication with motorcycle groups and other road user groups.

Current stakeholder consultation arrangements are flexible and efficient and allow the Government to engage with motorcycling groups and other stakeholders on specific issues as they arise.

For example:

- The Department consulted extensively with motorcycle groups before releasing a discussion paper and Regulation Impact Statement (RIS) to consider the case for mandating Antilock Brake Systems (ABS) on motorcycles.

- Motorcycle groups have the opportunity to inform and comment on NTC-led reforms that impact motorcyclists through public consultation processes and relevant NTC advisory groups.
- The Australian Motorcycle Council attended the first in a series of road safety stakeholder roundtables in September 2019, held by the Office of Road Safety. Peak motorcycle groups will be invited to participate in consultative activities supporting the shaping of road safety policy.

Recommendation 4

The committee recommends that the National Transport Commission develop and implement a national strategy for motorcycle safety.

The Australian Government does not support this recommendation.

The NRSS is an overarching framework which complements the strategic road safety plans of state, territory and local governments and the work of other stakeholders. Under the Safe System approach, separate national road safety strategies for different road user groups are not necessary, as the interventions are expected to benefit multiple groups.

The Action Plan contains a number of specific actions, as well as some broader ones, that will benefit this group of vulnerable road users. Specific actions include introduction of a rating scheme for motorcycle protective clothing and strengthening of Graduated Licensing Systems (GLS) for motorcycle riders. Benefits to riders are also expected through broader actions such as targeting infrastructure funding and speed reduction measures to reduce trauma on regional roads and at urban intersections; the development of network-wide safety plans; and the implementation of safer speeds and improved enforcement.

In developing the next national road safety strategy and action plan through the Council, governments will consider what action is required to further support safer outcomes for motorcyclists.

Recommendation 5

The committee recommends that the Commonwealth Government commit increased financial support to Australasian New Car Assessment Program (ANCAP) over the forward estimates.

The Australian Government supports this recommendation.

The Australian Government has committed an additional \$6.64 million in funding for the Australasian New Car Assessment Program (ANCAP) from 2018-19, bringing the total to \$8.84 million from 2016-17 to 2022-23.

Recommendation 6

The committee recommends that the Commonwealth Government work with state and territory governments to ensure that display of Australasian New Car Assessment Program (ANCAP) safety ratings becomes mandatory at point of sale.

The Australian Government notes this recommendation.

ANCAP is a consumer information program that is not subject to stringent regulatory processes. This flexibility allows ANCAP to respond quickly to market innovation and to progressively raise the requirements for its rating levels. Mandatory ANCAP safety ratings at point of sale would require all makes and models of vehicles to be subjected to ANCAP rating tests, imposing a substantial cost to business and creating a unique Australian requirement that would be out of step with the global market. It may also effectively change ANCAP into a regulated scheme that would then be subject to RIS processes, undermining the complementary benefit of a flexible scheme.

Recommendation 7

The committee recommends that the Commonwealth Government continues to fund Monash University Accident Research Centre to produce the Used Car Safety Ratings.

The Australian Government supports this recommendation.

The Australian Government has been providing funding to the Monash University Accident Research Centre (MUARC) to produce the Used Car Safety Ratings (UCSR) annually for over 20 years. The Department of Infrastructure, Transport, Regional Development and Communications is discussing funding for the UCSR from 2019-20 onwards with ANCAP, which is taking overall responsibility for the UCSR and will engage MUARC to continue this work.

Recommendation 8

The committee recommends that the Australian Design Rules be immediately amended to require all new light vehicles sold in Australia from 1 June 2017 be fitted with automatic emergency braking technology.

The Australian Government supports this recommendation in principle.

The Australian Government supports increased uptake of Autonomous Emergency Braking (AEB) systems, including through its support of ANCAP. From 2018, ANCAP aligned protocols for its safety ratings to those used by Euro NCAP, with AEB becoming a mandatory requirement towards achieving a five star rating. ANCAP has advised that 54 per cent of new cars and light commercial vehicles sold in Australia now offer AEB as a standard feature. AEB is available on a range of makes, models and vehicle types including on lower cost models such as the Kia Picanto (\$17,290) and Mazda 2 (\$18,540).

AEB for both light and heavy vehicles is a priority in the Action Plan for 2018-2020, and a Regulation Impact Statement (RIS) for heavy vehicle AEB was released for consultation in August 2019. The Department is preparing a RIS for AEB for light vehicles, in parallel with the finalisation of an international standard through the United Nations World Forum for the Harmonization of Vehicle Regulations. The Department expects to release the RIS in early 2020.

Recommendation 9

The committee recommends that Commonwealth Government increase funding to the Black Spot Programme and increase the percentage allocated to regional and remote areas.

The Australian Government supports this recommendation.

The Australian Government has already committed \$100 billion for infrastructure investment over the next ten years. This includes an additional \$2.2 billion from 2019-20 for the Local and State Government Road Safety Package, which will provide:

- an additional \$1.1 billion for the Roads to Recovery Program, which supports investment in road maintenance and safety;
- an additional \$550 million for the Black Spot Program, which targets known high-risk locations and reduces on average serious crashes by 30 per cent;
- an additional \$275 million for the Heavy Vehicle Safety and Productivity Program to improve the safety and efficiency of heavy vehicle operations; and
- an additional \$275 million for the Bridges Renewal Program to fund the replacement of bridges to make roads safer by reducing travel times.

The Black Spot Program Notes on Administration (NoA) state that funds will be allocated on a 50:50 basis between rural and urban areas, where nominations allow.

The Government is able to approve a greater proportion of funding for regional and remote areas should such funding levels be recommended by the Black Spot Consultative Panels established in each jurisdiction to review project proposals.

Recommendation 10

The committee recommends that the definition of 'black spot' be revised to account for the dispersed nature of accidents in regional and remote areas.

The Australian Government notes this recommendation and considers there is sufficient flexibility in the Program to fund these types of projects.

The Australian Government notes that the Black Spot Program is already able to fund projects that treat lengths of road and that up to 30 per cent of program funds can be used for projects where there is an assessed risk that serious crashes are likely.

Eligible network-wide projects in a specific area are also able to be nominated. For example, several projects for bicycle safety treatments at various roundabouts in Cairns have been funded under the Program.

Recommendation 11

The committee recommends that Commonwealth, state and territory governments work with police agencies to increase the number of point-to-point speed cameras in regional and remote areas.

The Australian Government supports this recommendation in principle, noting that responsibility for speed cameras lies with the states and territories.

In Australia's federal system, the state and territory governments have direct responsibility for traffic regulation and enforcement, including decisions about the use of speed cameras. The Action Plan includes specific action for state and territory governments to increase the deployment of point-to-point speed cameras on Australian roads (action 7). Most jurisdictions have now implemented at least some point-to-point speed cameras or have plans to do so.

Recommendation 12

The committee recommends that the Australian Curriculum includes road awareness training for both primary and secondary school students.

The Australian Government notes this recommendation.

The Australian Curriculum identifies the knowledge, understanding, skills and capabilities that will enable learners to live and work successfully in the 21st century.

Developed by the Australian Curriculum, Assessment and Reporting Authority (ACARA) and endorsed by all levels of Australian governments, the nationally agreed Foundation to Year 10 Australian Curriculum (the Curriculum), sets the expectations for what all Australian students should be taught, regardless of where they live or their background.

While the Australian Government works collaboratively with all states and territories, individual education authorities and schools are responsible for and have the flexibility to adapt the curriculum to ensure education programs can be tailored to meet the needs of their teachers and students. This provides flexibility to cater for emerging issues and local context. Further information about the Curriculum is available at www.australiancurriculum.edu.au.

As schools and school systems throughout the country implement the Australian Curriculum in ways that best meet the needs of their students, the flexible and comprehensive nature of the Curriculum provides strong support for initiatives such as road safety. This flexibility enables state and territory education authorities and individual schools to identify and make decisions on training and programs used such as road safety, to support implementation of the Australian Curriculum.

The Australian Curriculum includes content on safety that it is expected all students at appropriate intervals across the continuum of learning from Foundation to Year 10 will learn about. Topics include safety at school, safe practices at home, and in road or transport environments. Schools and teachers teach young learners to navigate a range of health-related sources, services and organisations, particularly in relation to becoming actively engaged in their own and others' wellbeing, using health, safety and physical activity resources for the benefit of themselves and their communities. A range of resources including for road safety have been developed by ACARA to support implementation of the Australian Curriculum.

The Australian Curriculum addresses and balances a wide range of competing demands for content. The Australian Curriculum was reviewed and enhancements endorsed by all Education ministers in September 2015. ACARA is scheduled to provide advice to education ministers on the potential scope for refinements of the Australian Curriculum in 2019-20. The endorsement of all education ministers is required before changes to the Australian Curriculum can be made.

Recommendation 13

The committee recommends that the Commonwealth Government in the 2018–2020 National Road Safety Strategy Action Plan commit to the introduction of accredited post-licence driver education programs.

The Australian Government notes this recommendation.

Driver licensing and education is primarily the responsibility of state and territory governments. The Australian Government contributed funding, with the Victorian and New South Wales governments and other partners, to the P Drivers Project. The P Drivers project was a large-scale trial of a post-licence driver education program for young P-plate drivers aged 18 to 22 years. The project—the first of its kind undertaken anywhere in the world—aimed to implement and assess a new approach to driver education seeking to raise awareness about risk factors, improve decision making and provide novice drivers with insight into their skill limitations, through experiential learning. The aim of the trial was to test whether the program reduced the number of crashes and fatalities involving young, inexperienced drivers and promoted safe driving behaviour. A report detailing the results of the P Drivers Project is expected in late 2019 or early 2020.

Recommendation 14

The committee recommends that Austroads work with state and territory driver licensing authorities to introduce compulsory first aid training as a condition of receiving a learner's permit or renewing a driver's licence.

The Australian Government notes this recommendation.

The Department of Infrastructure, Transport, Regional Development and Communications brought this recommendation to the attention of the state and territory road agencies through the Austroads Registration and Licensing Task Force. Most jurisdictions have given consideration to the inclusion of first aid training requirements at some stage but none has done so to date. The prevailing view is that they did not favour placing an additional requirement on learners, which would increase the cost of licensing and not directly relate to learning to drive safely. They also noted the lack of evidence that basic first aid training would reduce the number of deaths and serious injuries.

Recommendation 15

The committee recommends that Australian Skills Quality Authority conduct an audit of all heavy vehicle driver training facilities (registered training organisations) in Australia.

The Australian Government notes this recommendation.

The Government is committed to reducing regulatory burden and red tape.

In the context of regulation of the vocational education and training (VET) sector, the Government has implemented a risk-based approach to regulation under the *National Vocational Education and Training Regulator Act 2011* (NVETR Act).

As the national VET regulator, the Australian Skills Quality Authority (ASQA) conducts regular scans across the VET sector, allowing for consistent or emerging issues of a systemic nature to be identified and addressed appropriately.

ASQA's approach to regulation seeks to make an efficient use of resources to effectively identify and target the most serious risks and patterns of systemic non-compliance, while minimising costs on regulated entities. In doing so, ASQA focuses regulatory action on providers that are considered higher risk. The Risk Assessment Framework under section 190 of the *NVETR Act* sets out:

- a suggested process for ASQA to monitor, and where necessary respond to, risks of non-compliance with the VET Quality Framework;

- processes that can be used to determine arrangements for assessing registration applications;
- how registered training organisations (RTOs) may be individually measured for risk exposure; and
- an approach where RTOs that either present a low risk of non-compliance or consistently deliver high-quality training and assessment services will receive minimal regulatory scrutiny. RTOs that are assessed as higher risk in terms of the likelihood of adverse impacts on quality outcomes receive more regular monitoring.

Recommendation 16

The committee recommends that all visa holders undergo driver skill tests before their heavy vehicle driving licences are recognised in Australia.

The Australian Government supports this recommendation in principle, noting that responsibility for heavy vehicle driver licensing lies with the states and territories.

The Australian Government supports improving Australia's driver competency frameworks, to ensure they are fit-for-purpose, and provide our communities with assurance that those tasked with transporting freight or passengers by road are appropriately skilled to do so.

Austrroads released its Review of the National Heavy Vehicle Driver Competency Framework in May 2018. The Review noted weaknesses in the arrangements for national accreditation standards, particularly around compliance and enforcement. In response to the findings and recommendations of the May 2018 report, and taking into account feedback received, Austrroads continues its investigation and program of work in pursuit of improvements to heavy vehicle licensing and safety.

Recommendation 17

The committee recommends that the Western Australian and Northern Territory governments continue to work with the National Heavy Vehicle Regulator towards their adoption of the National Heavy Vehicle Law.

The Australian Government supports this recommendation in principle, noting that responsibility for adopting the Heavy Vehicle National Law (HVNL) lies with the Western Australian and Northern Territory governments.

The Australian Government is continuing to work collaboratively with the state and territory governments on the harmonisation of the heavy vehicle regulatory framework in Australia. The NTC is currently undertaking a review of the HVNL. Cooperative work with the National Heavy Vehicle Regulator (NHVR), Western Australian and Northern Territory governments is ongoing, with a long term objective to these jurisdictions participating in national heavy vehicle regulatory arrangements in the future. The Western Australian and Northern Territory governments collaborated in the process of developing the HVNL, and continue to work with the NHVR to harmonise cross-border inconsistencies.

ADDITIONAL RECOMMENDATIONS FROM THE AUSTRALIAN GREENS

Recommendation 1

We recommend that the Australian Government through the Department of Infrastructure and Regional Development should allocate dedicated funding to the improvement of cycling and pedestrian infrastructure

The Australian Government notes this recommendation.

The Australian Government is committed to upgrading roads to ensure they are safe and less congested through the \$100 billion investment pipeline. For relevant infrastructure projects, this can include the addition or refurbishment of cycle and pedestrian paths and other upgrades to promote active travel.

The Australian Government will continue to work with state, territory and local governments to encourage active transport, and participates as an observer on the Cycling and Walking Australia and New Zealand group.

Recommendation 2

We recommend that the Australian Government actively encourage state and territory governments to reduce speed limits to 30 kilometres per hour on local roads and roads with a high volume of pedestrians and cyclists.

The Australian Government notes this recommendation, recognising that the setting of speed limits is the responsibility of the states and territories.

The Action Plan for 2018-2020 includes an action (action 6) calling for jurisdictions to reduce speed limits to 40km/h or lower in areas with high pedestrian and cyclist usage, with 30km/h limits to be considered for high-risk pedestrian and cycling areas. Most states and territories have implemented speed limits of 40 km/h or lower in areas with high levels of pedestrian and/or cyclist usage.

Recommendation 3

We recommend that the Australian Government review the implementation of measures to improve the safety of pedestrians proposed by the *National Road Safety Strategy 2011-2020*, informed by current statistics on road death and injury by pedestrians.

The Australian Government supports this recommendation in principle.

Comprehensive Implementation Status Reports on the progress of the NRSS and supporting Action Plans are prepared for Transport Ministers. The most recent Implementation Status Report was published on the National Road Safety Strategy website at www.roadsafety.gov.au in November 2017. No Implementation Status Report was prepared in 2018 as a new Action Plan was endorsed in May 2018. The Office of Road Safety is currently preparing the next Implementation Status Report, expected to be provided to the Transport and Infrastructure Council in early 2020.

Recommendation 4

We recommend that the Australian Government allocate funding to the collection of meaningful national data to enable evidence-based decision making on measures to improve safety and participation rates for walking and cycling.

The Australian Government supports this recommendation in principle.

At the national level, the Australian Government is supporting and funding the collection of meaningful data through the following projects.

The Australian Government's Smart Cities and Suburbs program is already supporting trials of new technologies to better capture information about walking and cycling patterns to improve safety and increase participation. For example, \$118,235 was committed to Bendigo's Smart Active Transport project to develop a platform using satellite surface temperature data to enable pedestrians and cyclists to map low temperature routes on hot days. This project will benefit the community by facilitating active travel despite temperature variables and will benefit the council by providing information on frequently used routes to better target investment in urban greening efforts.

The Bureau of Infrastructure, Transport and Regional Economics (BITRE) compiles a national collection of crash data from states and territories and produces reports on national road fatality statistics, including fatalities of pedestrians and cyclists. These are available from www.bitre.gov.au.

Unlike the national road fatality data series, there is not yet a national crash-based serious injury series that would allow national reporting of serious injuries, including pedestrian and cyclist serious injuries. An Austroads project (A National Approach to Measuring Non-Fatal Crash Outcomes) managed by BITRE, is developing a national linked data series.

Stage 1 of this project, which aimed to prove feasibility and produce one year of linked data, has been completed and a report was published by Austroads in March 2019. Stage 2 has now commenced. The objective of stage 2 is to obtain the necessary permissions and perform linkage for jurisdictions that could not be included in the pilot; and develop a linked serious injury series from 2008 to the most recent year of available data.

RESPONSES TO THE COMMITTEE'S RECOMMENDATIONS

Final Report

Recommendation 1

The committee recommends that the Minister for Infrastructure and Transport initiate discussion on road trauma funding at the Council of Australian Governments Transport and Infrastructure Council (TIC) with a view to encouraging effective investment in road trauma funding across the nation.

The Australian Government supports this recommendation in principle.

On 2 August 2019, the Transport and Infrastructure Council agreed to make road safety a standing item for all of its meetings and in relation to funding agreed:

- to require the application of Safe System principles and safety treatments to all investments in road infrastructure planning, design and construction;
- to improve the existing road network through the prioritisation of mass action programs to deliver proven treatments; and
- to work with local governments to improve engagement and resourcing for road safety.

To date the Council has discussed a range of issues including the approach to the next national road safety strategy, drug driving, driver distraction as well as opportunities to better utilise funding to reduce road trauma. The Communique from each meeting can be found at: www.transportinfrastructurecouncil.gov.au.

Recommendation 2

The committee recommends that the Australian Government commit to a robust set of national minimum safety standards for all vehicles, including second hand vehicles and the government fleet, as part of its proposed reform of the *Motor Vehicle Standards Act 1989*.

The Australian Government supports this recommendation.

On 27 November 2018 the *Road Vehicle Standards Act 2018* and accompanying Acts were passed by the Parliament.

The new *Road Vehicle Standards Act 2018* will replace the existing *Motor Vehicle Standards Act 1989* with a modern and flexible regulatory framework that will improve community safety, reduce compliance costs to business and expand consumer choice.

The new legislation will continue to ensure that road vehicles and road vehicle components provided in Australia meet national minimum safety standards, as well as anti-theft and environmental standards, so consumers are provided with a choice of road vehicles that meet the safety and environmental expectations of the community.

The legislation achieves this by regulating the first provision of road vehicles in Australia - including allowing limited second-hand vehicle importation that meets objective criteria. It is also well prepared for future developments in international road vehicle standards to address technologies expected to improve road safety, such as autonomous vehicle technology and intelligent transport systems.

The legislation package includes several new elements that will improve community assurance of vehicle safety through compliance with the required standards. They include:

- A modern suite of compliance monitoring and enforcement tools to deter and detect non-compliant behaviour;
- The establishment of a network of independent Authorised Vehicle Verifiers who will inspect every new or second hand road vehicle that enters Australia through the Registered Automotive Workshop (concessional standards) pathway before it is provided to the market; and
- The introduction of road vehicle recall powers for the minister responsible for vehicle standards. The new legislation extends the current recall provisions contained in the Australian Consumer Law to allow for the recall of road vehicles and road vehicle components that are not consumer goods and for non-compliance with any national vehicle standard.

The new legislation will substantively commence on a date to be fixed by Proclamation, but no later than 1 July 2021. The associated *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* includes a further 12-month transitional period to allow businesses to adapt to the new arrangements. The Acts are available from the Federal Register of Legislation: www.legislation.gov.au.

Recommendation 3

The committee recommends that the Australian Government explore methods to introduce Australian Design Rules (ADRs) in a timely manner to ensure that Australia benefits from, and keeps pace with, international developments in vehicle safety technology.

The Australian Government supports this recommendation.

The Department of Infrastructure, Transport, Regional Development and Communications is exploring options to streamline the process for legislative and regulatory changes to vehicle safety standards to improve the uptake of new safety technology in the Australian new vehicle fleet, and will endeavour to align Australian regulations with the proposed European regulatory package to commence within a similar timeframe.

The Australian Government initially encourages through consumer programs, then mandates if justified, the latest developments in vehicle safety technology. It considers the ADRs to be in broad alignment with those of other developed nations, although there are some issues that can add time to the process of developing vehicle standards. These include Australia having a mixed vehicle fleet with vehicles originating from a range of markets, and the need to ensure that any standards adopted are suited to the operating conditions for vehicles in Australia.

The Government will continue to harmonise the ADRs with international regulations and remove unique local content where possible. To facilitate this, there is an ongoing program to adopt individual UN regulations under the UN 1958 Agreement, particularly those related to international whole vehicle type approval. This ensures that regulatory barriers to the latest technology are reduced and costs are minimised for the consumer. This program allows the Australian Government to focus on mandating the most critical technologies.

Recommendation 4

The committee recommends that, if not adequately addressed through the recommendations of the Migrant Workers' Taskforce, the Department of Immigration and Border Protection comprehensively review visa arrangements to address systematic or organised abuse in the transport industry.

The Australian Government notes this recommendation.

Australia's temporary visa program is designed to deliver long-term benefits to Australia. Australia has a range of temporary visas available which are purposely designed to allow the entry of people to Australia to visit, study or work for economic, social or cultural purposes.

Migrant Worker Taskforce

The Migrant Workers' Taskforce (the Taskforce) was established by the then Minister for Employment, Senator the Hon Michaelia Cash, in October 2016. The Taskforce was initially envisaged to last for 16 months, but this was extended by six months. The Taskforce held its last meeting on 25 September 2018.

The Taskforce was established to investigate how the Australian Government might better protect migrant workers. Membership of the Taskforce included a range of Commonwealth regulatory and policy agencies, including the Department of Home Affairs and the Australian Border Force, to ensure a whole-of-government focus.

The Taskforce made 22 recommendations in its final report (Report), which the Government accepted in-principle. The Migrant Workers' Interagency Group (Interagency Group) has been established in response to recommendation 1 of the Taskforce Report, which was for Government to establish a whole of government mechanism to further the work of the Taskforce following its completion. The Interagency Group met for the first time on 30 October 2019.

Addressing exploitation concerns

Temporary visa holders may work in any capacity permitted by the law and in accordance with any work conditions on their visa. Under the *Migration Act 1958* (the Act), Australian employers have a responsibility to only employ workers who can legally work in Australia and to check whether a visa has work restrictions, including limitations to the number of work hours. Employers are also responsible for ensuring all other legislation, including licensing requirements, is complied with.

The Department of Home Affairs is committed to educating employers of their legal obligation to check any foreign national working for them, has a valid visa that provides appropriate permission to work. To help employers check if a foreign national has work rights, the Department of Home Affairs provides a free service that gives information regarding the work entitlements of the prospective employee. The Visa Entitlement Verification Online (VEVO) service also provides information to visa holders about their current immigration status and associated work conditions.

The Department of Home Affairs actively encourages self-compliance by providing and promoting information via different mediums such as social media platforms including Facebook and Twitter, “push messaging” via e-mail, targeted factsheets and specialised sections for businesses on the Department of Home Affairs website including the Employer Hub and the Industry Hub. The Australian Border Force undertakes targeted compliance activities in respect of visa holders or employers systematically and deliberately engaged in illegal activity. A range of sanctions can be applied depending on the situation and in proportion to the significance and extent of the breach. These include administrative warnings, infringements and civil penalties, as well as criminal offences which carry significant fines.

All temporary visa holders with work rights who are employed in Australia have the same protections under employment law as any other worker in Australia. The Department of Home Affairs provides temporary visa holders who are permitted to work on their visa, with information from the Fair Work Ombudsman (FWO) about their workplace rights, in visa grant letters. The FWO website also has information on workplace rights available in 27 languages.

Employer sanctions and Government reforms to employer sponsored skilled migration visas

The Department of Home Affairs administers sanction frameworks under the Act to deter illegal work hire practices and sanction employers and labour suppliers who persist in non-compliant behavior. Each of these frameworks has graduated tiers of sanctions to encourage employers and other entities to comply with migration legislation. These requirements uphold the integrity of Australia’s migration system and protect Australian workers and employers who employ and pay their workers in accordance with their obligations under the *Fair Work Act 2009*.

On 18 April 2017, the Government announced that the Temporary Work (Skilled) visa (subclass 457 visa) would be abolished and replaced with the completely new Temporary Skill Shortage (TSS) visa in March 2018.

- The TSS visa program will consist of a Short-Term stream of up to two years and a Medium-Term stream of up to four years, and will support businesses in addressing genuine skill shortages in their workforce. It will also contain a number of safeguards which prioritise Australian workers. Further information can be found at: www.homeaffairs.gov.au/Trav/Work/457-abolition-replacement.

This new visa is part of the Government’s reform package to strengthen the integrity and quality of Australia’s temporary and permanent employer sponsored skilled migration programs.

Student visa program

All student visa applicants must demonstrate that they are seeking to enter Australia for the purpose of study and that they will abide by the conditions of their student visa, including limitations on work rights.

All student visa applicants must agree to respect Australian values during their stay in Australia and obey the laws of Australia, if granted a visa.

Student visa applicants must also declare or provide evidence that they have sufficient funds to pay for their course fees, travel and living costs for themselves and family members while in Australia. The financial requirements are designed to reduce the risk of international students experiencing financial hardship while in Australia.

In addition, the *Genuine Temporary Entrant requirement* was introduced in 2011 as an integrity measure to ensure the student visa program is used as intended, and not as a way for international students to maintain ongoing residence in Australia. Further information can be found at www.homeaffairs.gov.au/Trav/Stud/More/Genuine-Temporary-Entrant.

Visa cancellation

Under the Act, the Australian Government manages the entry and stay of non-citizens in Australia and in this context reserves the right to cancel visas upon a range of grounds.

Among other reasons, a visa may be cancelled as a result of a non-citizen providing incorrect information in order to enter Australia, failing to abide by visa conditions, presenting a risk to the community or engaging in criminal conduct, or being convicted of a criminal offence while holding a temporary visa.

- In all of these provisions, any criminal conduct relating to breaches of state and territory road safety laws may be taken into account.
- The current cancellation provisions contained within the Act adequately supports visa cancellation and refusal decisions where a foreign national has committed serious offences, including traffic offences.

Recommendation 5

The committee recommends that all visa holders with heavy vehicle driving licences undergo driver skill tests before their heavy vehicle driving licences are recognised in Australia.

The Australian Government supports this recommendation in principle, noting that responsibility for heavy vehicle driver licensing lies with the states and territories.

The Australian Government supports improving Australia's driver competency frameworks, to ensure they are fit-for-purpose, and provide our communities with assurance that those tasked with transporting freight or passengers by road are appropriately skilled to do so.

Austroads released its Review of the National Heavy Vehicle Driver Competency Framework in May 2018. The review noted weaknesses in the arrangements for national accreditation standards, particularly around compliance and enforcement. In response to the findings and recommendations of the May 2018 report, and taking into account feedback received, Austroads continues its investigation and program of work in pursuit of improvements to heavy vehicle licensing and safety.

Recommendation 6

The committee recommends that legislation in South Australia, Western Australia and Northern Territory be amended (consistent with other state and territory jurisdictions) to ensure that overseas drivers who fail a driving test are no longer allowed to use their overseas licence to drive in Australia.

The Australian Government supports this recommendation in principle, noting that this is a decision for those state and territory governments.

Austrroads has recently completed a Review of Australia's Overseas Driver Licensing Policy. The review includes analysis of the safety of overseas drivers on Australian roads and challenges associated with the conversion of an overseas licence for an Australian licence. The review concluded that a number of threshold actions are required to manage the challenges identified and deliver a more robust framework for managing overseas drivers in Australia.

Recommendation 7

The committee recommends that the Australian Government convene a series of industry-led roundtables to make recommendations to government to establish an independent industry body which has the power to formulate, implement and enforce supply chain standards and accountability as well as sustainable, safe rates for the transport industry.

The Australian Government does not support this recommendation.

On 18 April 2016, the Government introduced legislation into the Parliament repealing the *Road Safety Remuneration Act 2012*. The legislation successfully passed the Parliament and the Road Safety Remuneration System, including the Tribunal and the orders it made, ceased to operate on 21 April 2016. The Government has committed to never re-establish the Tribunal or a similar body that sets mandatory rates of pay for owner drivers and small transport businesses.

The Government's decision to abolish the System was informed by two independent reviews and extensive feedback received from industry participants. The reviews, conducted by Jaguar Consulting and Pricewaterhouse Coopers, recommended that the Tribunal be dismantled as they could establish no conclusive link between safety outcomes and rates of remuneration.

Following the release of the review reports, the then Department of Employment consulted more than 150 industry participants from across Australia. The overwhelming feedback from these consultations was to abolish the Tribunal. Industry participants were of the firm view that the Tribunal did not improve safety and instead caused financial damage to owner drivers and uncertainty for an entire industry.

This was supported by the Australian Small Business and Family Enterprise Ombudsman's inquiry into the effect of the Road Safety Remuneration Tribunal's Payments Order on Australian small businesses. The Ombudsman concluded that safety in the road transport industry should not be addressed by setting mandatory rates of pay.

The Australian Government is committed to investing in safety initiatives that have a direct impact on improving safety outcomes for the transport industry. The Government is providing \$22 million over four years to the NHVR to progress a package of practical initiatives that will improve safety in the heavy vehicle industry.

Funding of initiatives in 2016–17 and 2017–18 included: chain of responsibility education for industry, improved heavy vehicle monitoring capability, the development of a Master Industry Code of Practice, establishing the Heavy Vehicle Confidential Reporting Line, piloting new livestock transfer infrastructure, and developing safer freight networks in areas identified as higher risk.

In 2018–19, funding is supporting the expansion of the National Safety Camera Network, fatigue management courses and safety education and awareness raising campaigns, such as the #GetTruckWise campaign.

As noted by the committee, the NHVR has the power to formulate, implement and enforce supply chain standards and accountability. The Australian Government has worked proactively with the states and territories on amendments to the HVNL to require all responsible parties in a goods or services supply chain to take reasonable steps to prevent breaches of road transport laws, including those relating to fatigue and transport operations. These changes took effect in mid-2018. The establishment of a new industry body with powers in relation to supply chains standards would therefore be unnecessary and duplicative.

Recommendation 8

The committee recommends that the Australian Government convene a series of industry-led roundtables to make recommendations to government on ways to strengthen the Heavy Vehicle National Law.

The Australian Government supports this recommendation in principle.

The NTC is currently undertaking a comprehensive review of the HVNL legislation. This includes industry consultation via a range of mechanisms including roundtables, access to a series of issues papers and a dedicated review website. Stakeholders have provided a total of 180 formal and public submissions for the NTC's consideration. The NTC expects to release a Consultation Regulation Impact Statement in early 2020.

This process has also been augmented by an expert panel consisting of industry experts to assist the NTC in on a range of matters.

It is expected that the NTC will make recommendations to Transport Ministers in late 2020.

Recommendation 9

The committee recommends that, informed by industry roundtables, the Australian Government amend the Heavy Vehicle National Law to address issues throughout the supply chain in the transport industry including chain of responsibility, minimum payment terms of 30 days and electronic work diaries.

The Australian Government supports this recommendation in principle.

The Australian Government notes the strengthening of the Chain of Responsibility provisions in the HVNL, which took effect on 1 October 2018.

As noted in response to Recommendation 8, the NTC is currently undertaking a comprehensive review of the HVNL legislation and expects to make recommendations to Transport Ministers in late 2020.

Minimum payment terms are currently outside the scope of the HVNL.

Recommendation 10

The committee recommends that the Austroads review consider:

- **raising the standard required of heavy vehicle drivers under the Heavy Vehicle Competency Based Assessment (HVCBA), with a renewed focus on safety; and**
- **national consistency in relation to heavy vehicle instructor or assessor eligibility, including requiring mandatory industry experience in driving and handling the appropriate vehicle.**

The Australian Government supports this recommendation.

See response to Recommendation 5 of the Final Report.

Recommendation 11

Following the Austroads review, the committee recommends that the COAG Transport and Infrastructure Council work to ensure that all jurisdictions adopt the revised criteria of the National Heavy Vehicle Driver Competency Framework (NHVDC Framework) as a matter of urgency.

The Australian Government supports this recommendation.

See response to Recommendation 5 of the Final Report.

Recommendation 12

The committee recommends that the Australian Skills Quality Authority (ASQA) take a more active role in monitoring the delivery of heavy vehicle training undertaken by registered training organisations and other providers.

The Australian Government supports this recommendation.

ASQA's Regulatory Strategy 2018-20 confirms ASQA's ongoing engagement with heavy vehicle regulators at the national, state and territory levels to understand concerns in this sector. ASQA will continue work commenced in 2017-18, monitoring RTOs and liaising with regulators.

This engagement will enable ASQA to respond more promptly to any concerns transport regulators have with quality of training or assessment leading to heavy transport licenses. In accordance with ASQA's risk-based approach to regulation, this will ensure regulatory scrutiny is applied where heightened risk is identified.

