

APPENDIX C: RESPONSE TO REGULATORY IMPACT STATEMENT

RIS p7

"Key supporters of the proposal to reduce the barriers to the personal importation of new or used vehicles were those, such as enthusiast vehicle owners and used vehicle importers, who saw the current Act and regulations as restricting their import vehicle choices and inflating the price of vehicles for Australian consumers.

"In a media release issued on 16 April 2015, the Government announced that it had ruled out allowing the large-scale importation of used vehicles due to potential safety concerns and difficulty in ascertaining the vehicle's provenance.

"Consequently, consideration of a large scale used imports scheme is therefore excluded from the analysis in this RIS."

The department has ignored the advice of the Productivity Commission shown below. These recommendations were also supported by the Harper Review, and department commissioned reports from Castalia.

RIS Recommendation 5.4: Refers to the second-hand vehicle import arrangements under the Act:

"The Australian Government should progressively relax the restrictions on the importation of second-hand passenger and light commercial vehicles. The new regulatory arrangements for imported second-hand vehicles should be developed in accordance with the outcomes of the Australian Government's current review of the Motor Vehicle Standards Act 1989 and should:

- 1. Not commence before 2018, and ensure that reasonable advance notice is given to affected individuals and businesses, such as vehicles leasing companies;*
- 2. Be preceded by a regulatory compliance framework that includes measures to provide appropriate levels of community safety, environmental performance and consumer protection;*
- 3. Initially be limited to vehicles manufactured no earlier than five years prior to the date of application for importation; and*
- 4. Be limited to second-hand vehicles imported from countries that have vehicle design standards consistent with those recognised by Australia.*

"The Australian Government should remove the \$12,000 specific duty on imported second-hand vehicles from the Customs Tariff as soon as practicable."

Personal Import Scheme

The department went further in denying Australians more choice by cancelling the New Personal Import Scheme" which was initially proposed by the government to provide greater choice and pricing.

On 16 April 2015, the then Assistant Minister for Infrastructure and Regional Development announced that the Government was considering possible options for the personal importation of new vehicles but was not inclined to take the same approach for used vehicles (thus this option has been excluded from the analysis in this RIS). The announcement provided further detail on the options being considered, including a reduction on restrictions to the personal importation of new vehicles.

Discounted larger volume of used vehicle imports due to New Personal imports able to supply choice to public.

"Further, on 16 August 2017, the Government announced it had decided not to proceed with the personal importation of new motor vehicles".

"The Government concluded that the benefits did not justify the cost and complexity of this particular change. The personal importation of new vehicles is therefore excluded from the analysis in this RIS."

New Personal Imports were subsequently cancelled leaving a massive deficiency in the delivery of choice to Australian consumers. RIS had been done by this point so does not accurately reflect actual real world. p16 and again in justification on p55: Agreement that reforms were needed in the RAWs and Low Volume space but not necessary on the actual vehicles that were eligible.

Unnecessary delays in RAWs approvals

P14 of RIS demonstrates the unnecessary points of control under which the RAWs scheme has been operating. The streamlining of the application process is ineffective as there will be a stage 1 and stage 2 ISO requirements. This is a major delay in a RAW being approved. Additionally, the requirement to reapply every two years also increases business burden, raises costs and creates instability.

RIS p18

This document states "Some stakeholder comments highlighted particular concerns about the alleged higher degree of non-compliance of Registered Automotive Workshops (RAWs)".

The proposed format for RAWs and a massive increase in compliance and enforcement tools included with the legislation will resolve a majority of these issues. Further enhancing checks by mandating an "offshore" pre-shipment inspection will add additional security in quality and provenance of vehicles. With these additional checks, ensuring that RAWs and AVV's are Australian owned and that all certification is done within Australia removes the need for the highly restrictive current SEVS proposal. Thresholds can be substantially lower and more flexible.

SEVs criteria

P26 of RIS states that a passenger vehicles needs to meet two out of four. This is incorrect. Currently, if the make is not sold by a FV in Australia then the vehicle is eligible. Additionally, if the variant is not available under a type approval then RAWs are permitted to bring the vehicle in and create a Campervan/Motorhome. Two import criteria have been left out of this statement including one that gainfully employs many.

Also on page 26 a statement is made regarding non-compliance with modification requirements. This has nothing to do with SEVS. This is a compliance and enforcement issue which will definitely be rectified with the new powers. Denying Australians choice is not the answer.

SEVS vehicle choice

P27 states: "The proposed changes to the register entry criteria will improve administration through transparent and objective criteria; remove models that are not genuine specialist and enthusiast vehicles; and provide an improved range of vehicles, including new specialist and enthusiast vehicles, through the RAW Scheme."

Many Australian enthusiasts want vehicles that are not supplied under a type approval. This is demonstrated by the fact they are prepared to buy a vehicle where spare parts may be an issue, where servicing may be not specialised, where finance is tricky and insurance is more expensive. Why? Because they are enthusiastic about owning something different. Maybe they owned that model of car overseas before they moved to Australia? Whatever the reason, dictating what an enthusiast is allowed to be excited about is very un-Australian. There are many people mover car clubs, truck bus clubs etc. Choice should not be the exclusive right of an individual in a government department or restricted to whatever the FVs dictate.

Costings

Page 39. Real costs are significantly less as the savings in model reports are grossly overstated along with savings to vehicle modifications. These modification savings were proposed more than 11 years ago when it was agreed changes should be made. The industry has been subjected to nil change since then and it is now forced to take these changes as a trade off for some of the proposed changes to legislation.

SEVs manipulation

Page 40 of RIS states sunsetting allows for changes putting further burden on small business by allowing a SEVs entry to continue until such times as 100 type approved vehicles have been delivered to the public (and registered), then allowing a two year window for business stability. The proposed option could see FV manufacturers flying out a single vehicle to stop vehicles being available to RAWs.

Performance criteria

This is poor with no justification for the figures or numbers. Appendix G in RIS demonstrates the lack of available vehicles after 2008. Some of those vehicles shown after 2003 are Type approved vehicles anyway. The obvious gap is apparent after 2008 where nothing really fits. Gone are any hot hatches or equivalent with only Supercars available. RAWs recommends leaving power-weight ratio at 110kw/t, but remove the incremental requirement. Vehicles have had to meet emission improvements at the cost of performance increments.

Environmental criteria

Remove the restriction on meeting current emission laws. These are generally used and should at least be able to meet prior emission requirements. Remove power restrictions on small vehicle like K cars

Mobility vehicles

P41 RIS states: "Manufacturers do not always produce mobility access vehicles on the production line, however, such vehicles are instead often modified after production, by either a subsidiary company or specialist organisation, but before it enters the market through a franchised or licensed retailer. The manufacturer takes responsibility for the finished product of these vehicles. Including these in the scope of the criteria will increase the range of mobility access vehicles that the Government can have confidence in the quality of modification – therefore increasing the choice for consumers with a disability. Evidence that the vehicle contained the mobility features at the first point of sale to the original market, such as first registration documents, EU Compliance certificate or Japanese export certificate would be required for eligibility acceptance."

Comment: Many fantastic modifications are done by non-factory affiliated or controlled companies. The requirement that they be factory supported is both naïve and selling short the many Australians that need the benefit of improved mobility vehicle options.

Further:

"With respect to wheelchair restraints, Australia requires a higher wheelchair total mass than is contained in the Japanese standards. The reforms will require that the Australian Standards (with higher mass restraint limits) be used as a compliance requirement – which can be done by a Registered Automotive Workshop using a Model Report."

The Australian standard outlines requirements which basically are for a commercial situation like a taxi or equivalent. Many Australians do not require a vehicle that needs to support an electric wheelchair. There is a need for smaller, more concise options and this needs to be sorted through the Australian Standards.

Rare vehicles

The rarity requirements are very restrictive. They are also incredibly hard to prove. The averaging of a particular make model or variant makes this almost impossible. Added to this is that it a particular year that fits this criteria and makes this vehicle "Rare":

- Total worldwide production of the vehicle 'Make', and total production by the 'Manufacturer' of the vehicle is less than 3000 units per year (averaged over the production period for the subject model); or
- Total worldwide production of the vehicle 'Model' is less than 1000 units per year (averaged over the production period for the model); or
- Total worldwide production of the vehicle 'Variant' is less than 1000 vehicles per year worldwide (averaged over the production period for the variant).

The option of non-conversion should be open to only m1 class vehicles.

Left Hand Drive

"During consultation in 2016, some stakeholders suggested that heavy commercial vehicles should be included under this category, however only 44 heavy vehicles have ever been converted under this category. Given the higher risk heavy vehicles pose to the community, the downward pressure the government wishes to exert on the average heavy vehicle age and the minimal impact on the current RAWs sector, it is difficult to reconcile commercial heavy vehicle use with the policy intent of the specialist and enthusiast category. The reforms will therefore not include heavy commercial vehicles under this pathway."

"Given the risk heavy vehicles pose to community?"

There have been NO accidents from converted RAWs or Low Volume heavy vehicles. The large scale and simplicity of these vehicles make conversion much simpler than smaller vehicles. There are conversion companies whose sole business is the conversion of these vehicle. The fleet age impact of 44 vehicles that have been imported under this category is like a grain of sand on the beach. Insignificant. If the government wants to make a real difference with heavy vehicle fleet age then allow the importation of heavy vehicles under eight years of age. With the high cost of capital, many operators cannot afford to replace equipment with new or near new. By offering a lower price point alternative, operators can balance the cost of repair to the offsets from improved fuel efficiency, maintenance and driver comfort. Newish used vehicles will push older vehicles to "scrappage"

Campervans and Motorhomes

“A unique pathway under the current SEV eligibility criteria allows for the importation of vehicles for the purpose of conversion to campervans and motorhomes. This has led to the annual importation of thousands of Toyota Estimas and Nissan Elgrands without subsequent conversion, which are then sold as people movers – a highly profitable business model due to the significant arbitrage available on these vehicles at eight-12 years old, and the minimal compliance work undertaken.”

This was a loophole explored by many RAWs as it allowed for many of the vehicles that the scheme should have catered for. That said, there are many companies employing Australian workers currently using this scheme. The total removal of used vehicles for fabrication into Campervan/Motorhome is both negligent and dismissive of the businesses that use this criteria correctly. With “Baby Boomers” enjoying the benefits of retirement, this category has seen a growth in recent years. Add the backpacker tourism market to this and it becomes obvious that this proposal sells Australians well short and denies them choice and affordable price pointing.

Comment: There is a tightening of SEVS requirements without reasonable justification. Many issues could be handled through certification and compliance regimes.

RIS p44

“Under the current Act, New Low Volume Manufacturers (including New Low Volume Second Stage Manufacturers) are able to supply up to 25 or 100 new vehicles per vehicle category per year, depending on the vehicle category. Under the reforms, low volume manufacturers will be able to supply vehicles that comply with the SEV criteria under the RAW scheme, with the benefit of model reports, or under type approvals in unlimited numbers.”

A cap on vehicle plating numbers creates an intrinsic value. Without this, the system is open to abuse and devaluation in real terms of the requirements for importing a new or used vehicle. RAWs recommends 350 to 500 units as a reasonable figure.

“The supply and demand of all vehicles, but especially specialist and enthusiast vehicles, is subject to changing consumer demands, changing supply markets, exchange rates, source country economics and future vehicle products. The Department estimates that the reforms to the SEV eligibility criteria and RAWs compliance requirements will enable the RAWs industry to continue at similar volumes as currently processed.”

The Department has repeatedly assured the RAWS sector that sound modelling has been undertaken to support the legislative decision-making process. Despite numerous requests, the Department has been unable to or has declined to provide the modelling as this information is considered “cabinet in confidence”. It has now come to light that the review team in fact did not and does not possess any significant modelling data despite previous claims to the contrary. Furthermore, we understand that the Department also chose to dismiss modelling data provided by AIMVIA and subsequent related discussion with the RAWS Association. This is of immense concern to the RAWS sector as the review team have got the thresholds and, possibly, the criteria wrong leading to poor advice further up the legislative chain.

Section comment

8.2 Review

“Following the Government’s agreement, the Department will also commence consultation with heavy vehicle industry stakeholders including State and Territory Governments, the National Heavy Vehicle Regulator and industry peak associations on future harmonisation of heavy vehicle Design Rules with international standards.”

Given the highly contentious changes to both the compliance and enforcement powers and the SEVS criteria/thresholds, it is important that a review is done within 12 months of commencement of the new legislation. This should be done in conjunction with major stakeholders.

The removal of LHD NC and MD ME categories from SEVS should not be considered until proposed consultation with heavy vehicle stakeholders occur.

RIS Appendix B

Productivity Commission Recommendations

“On 30 October 2013, the Government commissioned the Productivity Commission to undertake an inquiry into public support for Australia’s automotive manufacturing industry. The Commission provided its inquiry final Report to the Government on the 31 March 2014 which was publicly released on 26 August 2014, along with the Government’s response.

The Productivity Commission made two recommendations that are relevant to a review of the Act.

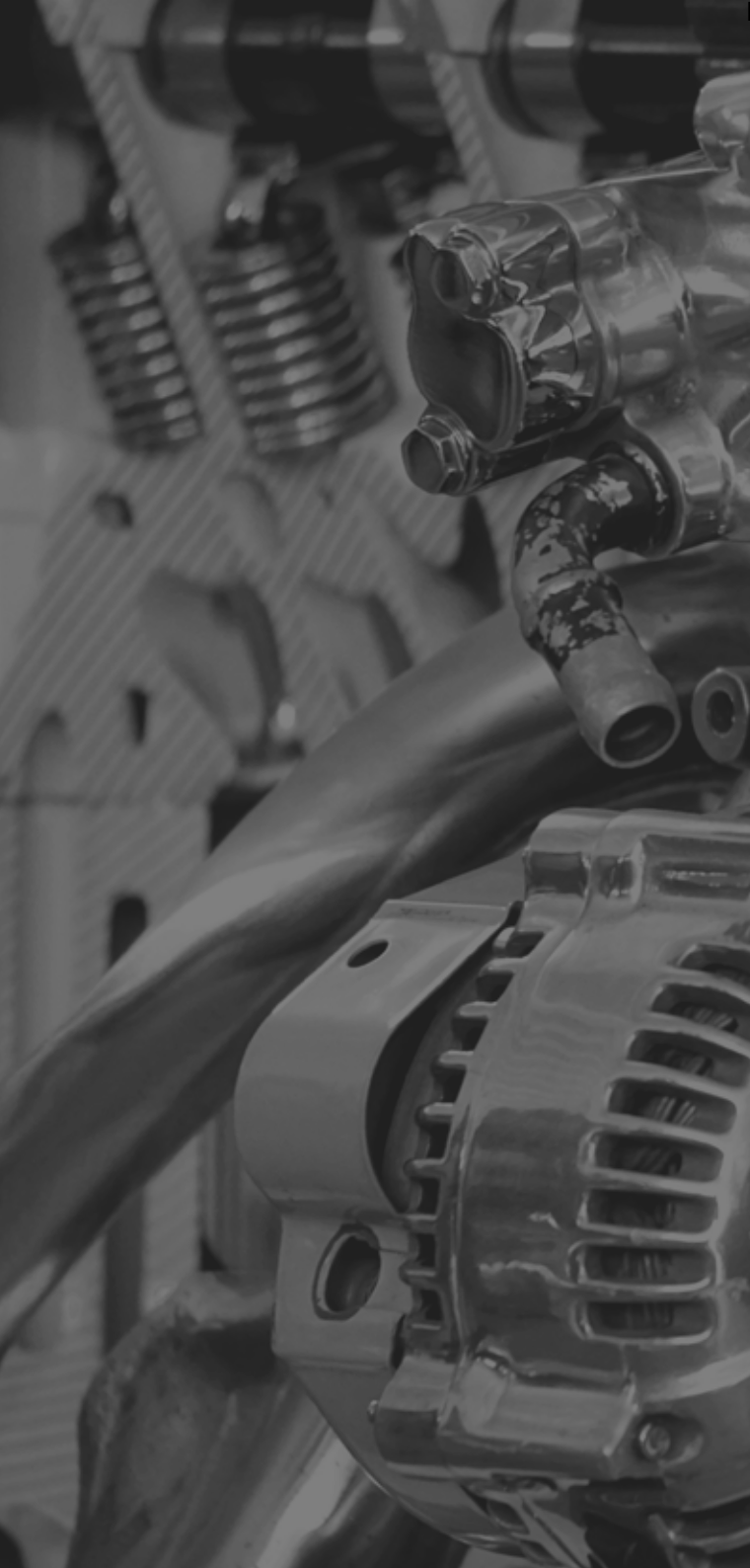
Recommendation 5.4

This part of the report refers to the second-hand vehicle import arrangements under the Act:

The Australian Government should progressively relax the restrictions on the importation of second-hand passenger and light commercial vehicles. The new regulatory arrangements for imported second-hand vehicles should be developed in accordance with the outcomes of the Australian Government’s current review of the Motor Vehicle Standards Act 1989 and should:

1. Not commence before 2018, and ensure that reasonable advance notice is given to affected individuals and businesses, such as vehicles leasing companies;
2. Be preceded by a regulatory compliance framework that includes measures to provide appropriate levels of community safety, environmental performance and consumer protection;
3. Initially be limited to vehicles manufactured no earlier than five years prior to the date of application for importation; and
4. Be limited to second-hand vehicles imported from countries that have vehicle design standards consistent with those recognised by Australia.

The Australian Government should remove the \$12,000 specific duty on imported second-hand vehicles from the Customs Tariff as soon as practicable.”



Government Response – Note

“Importation of second hand vehicles will be thoroughly considered in the 2014 Review of the Motor Vehicle Standards Act 1989. Changes to current arrangements for importation of second hand vehicles will involve careful consideration of an appropriate regulatory framework and standards, with emphasis on safety, environmental performance and consumer protection.”

It is quite definitive what the productivity commission advised. The Harper Review, and two reports commissioned by the review team from Castilia also make this recommendation. All these recommendations have been brushed off without proper understanding on how certification and compliance can resolve the mentioned issues. The RIS states it is noted, but it would appear by the Criteria and Thresholds that this was definitely not taken into account.

RIS Appendix C

There are quite a large number of brands in the market place and type approval holders exercise their right to bring in only selected models or variants. For so many years Australians got the basic model without the “luxury” specs. Real choice is about allowing alternative choices to be brought if a Type approval holder has not in the past or currently allows for this.

RIS Appendix D

“High-cost compliance and testing requirements for individual vehicles, such as the requirement to replace serviceable catalytic converters and tyres, will be removed. In addition, the requirement for emissions testing will be reduced. Removing these requirements reduces costs by \$800 per vehicle.”

This was being done for over 10 years. This should not be used as an offset.

Conclusion

RAWS Association has previously contributed comments to the department which relate to interpretations that are now contained in this RIS.

We don’t believe the RIS is an accurate representation of our responses and believe the weighting of the Department’s interpretations has not been fair with most ignoring our justifiable concerns.

RAWS and other low volume participants believe we are being subjected to a proposed legislation that favours big business and that our considered feedback has not received reasonable consideration from the MVSA review team as is evidenced by the interpretations now detailed within the RIS.

Again, we call on the department to re-evaluate our concerns as a demonstration that it values the presence and the contribution of small Australian business as much as it does big, foreign business.