



SUBMISSION TO

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT COMMITTEE

INQUIRY INTO THE

Interstate Road Transport Charge Amendment Bill (No. 2) 2008

AND

Road Charges Legislation Repeal and Amendment Bill 2008

NOVEMBER 2008

CONTENTS

1. SUMMARY OF RECOMMENDATIONS
2. FOREWORD
3. INTRODUCTION
4. THE AUSTRALIAN TRUCKING ASSOCIATION
5. BACKGROUND
 - 5.1 THE ROAD USER CHARGE
 - 5.2 SETTING HEAVY VEHICLE CHARGES
 - 5.3 HEAVY VEHICLE CHARGES RECOMMENDATIONS
6. FEDERAL INTERSTATE REGISTRATION SCHEME CHARGES
7. AUSTRALIAN CAPITAL TERRITORY REGISTRATION CHARGES
8. CHANGES TO THE ROAD USER CHARGE
 - 8.1 AUTOMATIC INDEXATION
 - 8.2 TRANSPARENCY AND INDUSTRY OVERSIGHT
 - 8.3 REST AREAS AND FATIGUE
 - 8.4 MODEL AMENDMENTS TO THE *ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008*
 - 8.5 HOUSE OF REPRESENTATIVES DEBATE
 - 8.6 ALTERNATIVE AMENDMENTS TO THE *ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008*

1. SUMMARY OF RECOMMENDATIONS

Recommendation 1

The Senate should not oppose the *Interstate Road Transport Charge Amendment Bill (No. 2) 2008*.

Recommendation 2

The Senate should support schedules 1 and 2 of the *Road Charges Legislation Repeal and Amendment Bill 2008*.

Recommendation 3A

The Senate should amend schedule 3 of the *Road Charges Legislation Repeal and Amendment Bill 2008* to implement the model amendments set out in Attachment A of this submission; or alternatively,

Recommendation 3B

- (1) **The Senate should amend schedule 3 of the *Road Charges Legislation Repeal and Amendment Bill 2008* to:**
 - (i) **prevent the proposed regulations from prescribing a method for indexing the road user charge by replacing proposed section 43-10(8) with ‘*the regulations must not apply a method for indexing the road user charge*’. A consequential amendment to section 43-10(7) would also be required;**
 - (ii) **require the rate of the charge to be set by a disallowable legislative instrument issued under the proposed regulations;**
 - (iii) **require the proposed regulations to include:**
 - (a) **a 60 day consultation period on any increase in the charge before the determination is made;**
 - (b) **the public release of all the expenditure figures and revenue estimates, statistics, formulas, methods and inputs used to calculate the proposed road user charge and a statement explaining the reasons for the proposed increase before the start of the consultation period;**
 - (c) **a requirement that the Transport Minister must have regard to any submissions received during the public consultation period;**
- (2) **The Government should increase the funding of the Heavy Vehicle Safety and Productivity Program to \$100 million over the four years to 2011-12;**
- (3) **The Government should commit to conducting a review of the program in 2011 with a view to considering the extension of the program in the 2012-13 Budget context. The review should consider the progress of rest area construction on the AusLink National Network compared to the national guidelines; and**
- (4) **The Government should require matching funding from the state and territory governments as a condition of funding under the Heavy Vehicle Safety and Productivity Program.**

2. FOREWORD

The Senate has referred for inquiry the provisions of the *Interstate Road Transport Charge Amendment Bill (No.2) 2008* and the *Road Charges Legislation Repeal and Amendment Bill 2008* to the Standing Committee on Rural and Regional Affairs and Transport.

The Bills seek amendments to the *Fuel Tax Act 2006* and the *Interstate Road Transport Charge Act 1985* and related legislation to implement the recommendations of the 2007 Heavy Vehicle Charges Determination agreed by Commonwealth, state and territory transport ministers in February 2008.

The Australian Trucking Association (ATA) and its members did not support the recommendations of the 2007 Heavy Vehicle Charges Determination and seek consideration of the committee for amendments to the *Road Charges Legislation Repeal and Amendment Bill 2008* that would:

- (i) augment safety and productivity outcomes in the trucking industry by providing reasonable commitments to the on-going provision of heavy vehicle rest areas on the AusLink National Network;
- (ii) maintain bureaucratic accountability in setting heavy vehicle charges by removing the possibility that increases in the road user charge could be made by way of automatic indexation;
- (iii) improve transparency in setting heavy vehicle charges by requiring disclosure of all the figures, estimates, statistics, formulas and inputs used to calculate the road user charge; and
- (iv) secure the ability of the trucking industry to assess and comment on the almost \$2 billion dollars worth of charges levied upon it each year by Commonwealth, state and territory governments for the provision and maintenance of road infrastructure.

The process of the 2007 Heavy Vehicle Charges Determination conducted by the National Transport Commission (NTC) has led to a most unfortunate outcome to which we now find the issues presented for committee inquiry. Specifically, an acute lack of transparency in the modelling and unwillingness on part of the NTC to constructively engage with the ATA resulted in the development of a charges proposal that failed to address industry concerns and could not be justified to our members.

3. INTRODUCTION

The ATA and its members appreciate this opportunity to make a submission to the committee detailing the trucking industry's concerns with respect to the provisions of the Bills and the process of consultation that has unfortunately lead us to this inquiry.

The contact in the ATA Secretariat for this submission is:

Bill McKinley
National Manager
Government Relations and Communications
Tel: (02) 6253 6921
Email: mckinleyb@atatruck.net.au

4. THE AUSTRALIAN TRUCKING ASSOCIATION

The ATA was originally established in 1989 as the Road Transport Forum and is the peak national body that unites and represents the interests of the Australian trucking industry.

The membership of the ATA's General Council comprises the peak state and sector based trucking associations, the Transport Workers' Union, some of the nation's largest transport enterprises and representatives of small fleet owners and owner drivers.

This submission has been considered and endorsed by the ATA's Transport and Economics Policy Committee.

5. BACKGROUND

5.1 THE ROAD USER CHARGE

The road user charge is a fiscal instrument of the Australian Government set in unanimity with heavy vehicle registration charges and levied to recover the allocated costs to heavy vehicles of Commonwealth, state and territory and local government expenditures on public road construction and maintenance.

As with all fuel consumers, including private motorists and other business users, trucking companies pay an embedded excise tax of 38.143 cents on every litre of diesel or petrol purchased.

In order to mitigate the costly imposition to the Australian economy of indirect taxes levied on intermediate inputs to business, the *Fuel Tax Act 2006* provides a scheme – fuel tax credits – designed to allow businesses to recover the excise tax paid on diesel and petrol that has been consumed for the purposes of carrying on the activities of the business.

In order to recover government expenditures on public road construction and maintenance from the trucking industry, the road user charge reduces the amount of excise tax businesses are able to recover on fuels consumed in heavy vehicles for travelling on a public road.

The road user charge is currently set at 19.633 cents per litre.

The effect of the road user charge is to reduce the eligible fuel tax credits claim of 38.143 cents per litre to 18.51 cents per litre for fuels consumed in *on-road* activities by heavy vehicles, thereby reducing the effective rate of tax on the trucking industry to a level that internalises the costs of road infrastructure provision and maintenance.

Trucking companies price freight services with regard to the net price of fuel, thereby ensuring pass through of the *on-road* fuel tax credit to downstream industries and removal of the costly imposition to the Australian economy of an excise tax on intermediate transport services.

5.2 SETTING HEAVY VEHICLE CHARGES

National heavy vehicle charges, including the road user charge and registration charges, are established by agreement between Commonwealth and state and territory transport ministers on advice of recommendations put forward by the NTC.

The formal consultation on the 2007 Heavy Vehicle Charges Determination was undertaken by the NTC during the second half of 2007, with recommendations receiving endorsement at the 28 February 2008 meeting of the Australian Transport Council (ATC).

The ATA and its members devoted significant time and resources to the consultation process and by this were successful in achieving the removal of a couple of the most destructive and unwarranted proposals being favourably considered by the NTC, including the:

- (i) imposition of different registration charges for prime movers nominated to pull different trailer combinations but that in reality are used to haul a variety of single and multi-trailer combinations, which would have significantly reduced flexibility in the trucking fleet and imposed costly distortions on fleet operations; and
- (ii) application of an incremental pricing-type formula, with administration of individual state based charges conducted through cumbersome state permit systems, for charging the nation's most safe, efficient and environmentally friendly modular combinations.

As mentioned previously, however, there was an acute lack of transparency in the modelling and unwillingness on part of the NTC to constructively engage with the ATA. As a result, the charges proposal failed to address industry concerns and could not be justified to our members, despite their agreement with the general principle that the trucking industry should pay its fair share of government expenditure on public road construction and maintenance.

5.3 HEAVY VEHICLE CHARGES RECOMMENDATIONS

The major recommendations of the 2007 Heavy Vehicle Charges Determination endorsed by transport ministers include:

- (i) increasing the road user charge from 19.633 cents per litre to 21 cents per litre, with implementation originally proposed for 1 July 2008 but subsequently deferred by the Australian Government until 1 January 2009;
- (ii) implementing a new and substantially altered schedule of heavy vehicle registration charges phased in over three years from 1 July 2008; and
- (iii) applying a formula to automatically index the road user charge each year beginning from 1 July 2009.

Heavy vehicle registration charges









The first year phase-in of the new schedule of heavy vehicle registration charges has been implemented in all jurisdictions – except for the Northern Territory, the Australian Capital Territory and the Federal Interstate Registration Scheme – and has been in operation since 1 July 2008.

The fully phased-in schedule includes significant increases in registration charges for highly productive multi-combination vehicles, such as B-doubles and road-trains, as well as for heavy truck and dog trailer combinations.

The first year phase-in of the new schedule includes a number of decreases in the registration charges applying to some classes of rigid trucks, light truck and dog trailer combinations and semi-trailers; however, the net effect of the fully phased schedule imposes an overall increase in charges levied on the trucking industry.

Table 1 below provides a summary comparison of truck registration charges between the previous schedule (i.e. 2007-08) and the new schedule phased in over three years.

Table 1. 2007-08 truck registration charges *as against* the endorsed 3-year phase-in truck registration charges, *selected vehicles* (\$/combination)

2 axle rigid: 4.5-12.0 tonne 	2007-08 2008-09 onwards	355 380
3 axle rigid: 4.5-18.0 tonne 	2007-08 2008-09 onwards	710 652
4 axle rigid: > 25.0 tonne 	2007-08 2008-09 onwards	2,365 859
3 axle rigid, 2 axle dog trailer 	2007-08 2008-09 onwards	2,365+(2×355)= 3,075 859+(2×380)= 1,619
3 axle rigid, 4 axle dog trailer: > 42.5 tonne 	2007-08 2008-09 2009-10 onwards	4,494+(4×355)= 5,914 5,161+(4×380)= 6,681 5,828+(4×380)= 7,348
Semi-trailer: tandem-drive, tri-axle 	2007-08 2008-09 onwards	4,019+(3×355)= 5,084 3,930+(3×380)= 5,070
B-double: tandem-drive, tri-axle 	2007-08 2008-09 2009-10 2010-11 onwards	5,911+(6×355)= 8,041 7,050+(3×380)+(3×380)= 9,330 7,050+(3×1,190)+(3×405)= 11,835 7,050+(3×2,000)+(3×430)= 14,340
Double road train: tandem-drive, tri-axle 	2007-08 2008-09 2009-10 2010-11 onwards	5,911+(8×355)= 8,751 7,050+(6×380)+(2×380)= 10,090 7,050+(6×405)+(2×380)= 10,240 7,050+(6×430)+(2×380)= 10,390
Source: NTC, 200, <i>Heavy Vehicle Charges Determination Regulatory Impact Statement</i> NTC, <i>Road Transport Charges July 2007 Adjustment</i>		

Automatic indexation

Further to increasing heavy vehicle charges, transport ministers agreed to index the road user charge by an adjustment formula that would result in substantial annual increases, with each increase likely to be a magnitude greater than the 1.367 cent per litre increase proposed in the *Road Charges Legislation Repeal and Amendment Bill 2008*.

The adjustment formula, if implemented, would calculate an index based on weighted percentage changes in road expenditures and proxy numbers for increases in the size of the heavy vehicle fleet and vehicle kilometres travelled. The effect of the adjustment formula, if applied as a hypothetical *Road User Charge July 2008 Adjustment*, would be an increase of 7.9 per cent or 1.553 cents per litre, taking the road user charge from 19.633 to 21.186 cents per litre in a single year.

As recommended by the NTC and agreed (perhaps unknowingly) by transport ministers, the road user charge adjustment is intended to be applied automatically and without constraint. The proposed adjustment process would require only superficial disclosure of government expenditures on public road construction and maintenance and would eliminate parliamentary and industry scrutiny of heavy vehicle charges.

Automatic indexation is discussed further in Section 8.1 below.

Revenue effects

NTC estimates show that Commonwealth and state and territory government revenues would rise as a result of implementation of the 2007 Heavy Vehicle Charges Determination, with the annual revenue to governments growing by \$168 million.

Table 2 below details the revenue estimates produced by the NTC for the purposes of the 2007 Heavy Vehicle Charges Determination regulatory impact statement.

		2007-08	2008-09	2009-10	2010-11
Australian Government: <i>Road user charge</i>	Annual revenue	1,146	1,186	1,226	1,226
	<i>Change</i>		40	80	80
State/territory government: <i>Registration charges</i>	Annual revenue	638	644	688	727
	<i>Change</i>		4	50	88
All government	Annual revenue	1,785	1,830	1914	1953
	<i>Change</i>		44	130	168

Source: NTC, 2007 Heavy Vehicle Charges Determination Regulatory Impact Statement

The revenue estimates by the NTC are both deficient and conservative insofar as no consideration is given to the revenue impact of the proposed automatic indexation or to systematic increases in annual fuel consumption or growth in the heavy vehicle fleet.

The Australian Government revenue estimates produced by the Treasury for the purposes of the 2008-09 Budget are of significantly greater magnitude than the NTC estimates as they take account of the revenue effects of automatic indexation as well as growth in annual fuel consumption.

The Budget projections show revenues flowing to the Australian Government by implementing the recommendations of the 2007 Heavy Vehicle Charges Determination would increase by \$490 million over the four years to 2011-12. The four year Budget revenue projections are detailed in Table 3 below.

		2008-09	2009-10	2010-11	2011-12
Australian Government: <i>Road user charge</i>	Revenue growth	40	110	150	190

Source: Australian Government, 2008-09 Budget: Budget Paper No. 2.

6. FEDERAL INTERSTATE REGISTRATION SCHEME CHARGES

The *Interstate Road Transport Charge Amendment Bill (No. 2) 2008* would impose nationally agreed registration charges on vehicles registered under the Federal Interstate Registration Scheme. The Bill would not affect registration charges for heavy vehicles registered in the states or territories.

The Federal Interstate Registration Scheme was established in 1987 as an alternative to state based registration schemes for trucks engaged in the haulage of interstate bound freight.

As shown in Table 4 below, there are about 10,000 trucks and 12,000 trailers registered under the Federal Interstate Registration Scheme, representing roughly 2.5 per cent of the national truck fleet and 8 per cent of the trailer fleet.









Table 4. Truck registrations under the Federal Interstate Registration Scheme <i>as against</i> the national registrations			
	FIRS	National¹	%
Rigid trucks: > 4.5 tonne	552	294,673	0.19
Articulated trucks	9,157	74,423	12.30
Trailers	12,095	147,913 ²	8.17
Notes:	¹ National totals from 2007 Motor Vehicle Census relate to the 2006-07 financial year while FIRS totals from unpublished DITRDLG data relate to the 2007-08 financial year. ² National trailer totals have been derived from the rigid truck and articulated truck figures using trailer statistics used in the 2007 Heavy Vehicle Charges Determination.		
Source:	ABS, <i>Motor Vehicle Census</i> , 31 March 2007, Cat. No. 9309.0 DITRDLG, unpublished registration statistics at 30 June 2008 NTC, <i>2007 Heavy Vehicle Charges Determination Regulatory Impact Statement</i>		

With implementation of the recommendations of the 2007 Heavy Vehicle Charges Determination achieved by all state governments, it is currently the situation that more than 95 per cent of registered trucks in Australia are subject to the first year phase-in of the new registration charge schedule.

An unfortunate outcome of this is that there are currently three different registration charge schedules in operation around the country, with a uniform schedule applying to more than 95 per cent of trucks and two schedules applying to less than 5 per cent.

Table 5 on page 8 details the variation between jurisdictions in truck registration charges.

Table 5. Variations in 2008-09 truck registration charges, selected vehicles (\$/combination)

2 axle rigid: 4.5-12.0 tonne		States	380
		ACT & NT	363
		FIRS	354
3 axle rigid: 4.5-18.0 tonne		States	652
		ACT & NT	762
		FIRS	707
4 axle rigid: > 25.0 tonne		States	859
		ACT & NT	2,419
		FIRS	2,356
3 axle rigid, 2 axle dog trailer		States	$859+(2\times 380)=$ 1,619
		ACT & NT	$2,419+(2\times 363)=$ 3,145
		FIRS	$2,356+(2\times 354)=$ 3,064
3 axle rigid, 4 axle dog trailer: > 42.5 tonne		States	$5,161+(4\times 380)=$ 6,681
		ACT & NT	$4,597+(4\times 363)=$ 6,049
		FIRS	$4,477+(4\times 354)=$ 5,893
Semi: tandem-drive, tri-axle		States	$3,930+(3\times 380)=$ 5,070
		ACT & NT	$4,111+(3\times 363)=$ 5,200
		FIRS	$4,003+(3\times 354)=$ 5,065
B-double: tandem-drive, tri-axle		States	$7,050+(3\times 380)+(3\times 380)=$ 9,330
		ACT & NT	$6,047+(6\times 363)=$ 8,225
		FIRS	$5,888+(6\times 354)=$ 8,012
Double road train: tandem-drive, tri-axle		States	$7,050+(6\times 380)+(2\times 380)=$ 10,090
		ACT & NT	$6,047+(8\times 363)=$ 8,951
		FIRS	$5,888+(8\times 354)=$ 8,720
Source: NTC, 2007 Heavy Vehicle Charges Determination Regulatory Impact Statement NTC, Road Transport Charges – July 2008 adjustment for FIRS registered heavy vehicles NTC, Road Transport Charges – July 2008 adjustment for ACT registered heavy vehicles			

Notwithstanding the significant reservations held by the ATA and its members with regard to the process and calculation of the new heavy vehicle charges, on grounds of national uniformity the ATA believes it to be appropriate that the minority of registrations under the Federal Interstate Registration Scheme be brought into line with the nationally agreed charges.

The ATA further views the alignment of Federal Interstate Registration Scheme charges with the nationally agreed registration charges a positive step toward establishing the Federal Registration System, agreed by transport ministers in July 2008. The proposed Federal Registration System would be a significant step in the right direction toward achieving national regulation for the trucking industry.

The Federal Registration Scheme would extend the approach established under the Federal Interstate Registration Scheme to all heavy vehicles, potentially administered through state and territory transport agencies in order to avoid unnecessary duplication of bureaucracy and the network of road agency shop fronts.

Recommendation 1

The Senate should not oppose the *Interstate Road Transport Charge Amendment Bill (No. 2) 2008*.

7. AUSTRALIAN CAPITAL TERRITORY REGISTRATION CHARGES

Schedules 1 and 2 of the *Road Charges Legislation Repeal and Amendment Bill 2008* would enable the Australian Capital Territory to establish heavy vehicle registration charges through its own legislative powers and to align the territory's registration charges with the nationally agreed schedule.

At present, heavy vehicle registration charges in the ACT are determined by Commonwealth legislation – the *Road Transport Charges (Australian Capital Territory) Act 1993*.

Ironically, the *Road Transport Charges (Australian Capital Territory) Act 1993* represents the last remnant of transport ministers' previous attempt to implement a legislative mechanism to achieve national uniformity in road transport regulation but that is now acting to block implementation of nationally agreed charges.

At the time of implementation of the Act it was agreed by transport ministers that all states and territories would amend the necessary heavy vehicle charges legislation to refer to the template legislation contained in the Act, with a view to expanding template legislation to other areas of road transport regulation.

The desired result of the template approach would be single implementation, by the Australian Government, of heavy vehicle registration charges across all jurisdictions; however, the approach was destined for failure because the states and territories did not carry through with the agreement and instead continued to implement heavy vehicle charges through their own discrete legislation.

As Table 1 on page 5 shows, the 2007 Heavy Vehicle Charges Determination reduces registration charges for three and four axle rigid trucks and light truck and dog trailer combinations.

For the reasons detailed in Section 6 above and on the further consideration that the ACT has the highest proportion of rigid vehicles and could potentially benefit from implementation of the first year phase-in of registration charges, the ATA believes it to be appropriate that heavy vehicle registrations in the ACT should be brought into line with the nationally agreed charges.

Recommendation 2

The Senate should support schedules 1 and 2 of the *Road Charges Legislation Repeal and Amendment Bill 2008*.

8. CHANGES TO THE ROAD USER CHARGE

Schedule 3 of the *Road Charges Legislation Repeal and Amendment Bill 2008* would increase the road user charge from 19.633 to 21 cents per litre and would allow the Government to automatically index the rate of the road user charge by way of regulation.

8.1 AUTOMATIC INDEXATION

Proposed section 43-10(4) of the *Fuel Tax Act 2006* explicitly envisages that regulations could be made under the Act to introduce a method for automatically indexing the road user charge.

As referred to in Section 5.3, automatic indexation allows for the road user charge to be increased every year without the constraint of parliamentary or industry scrutiny. Automatic indexation would seriously diminish the accountability and transparency required in setting heavy vehicle charges that deliver an annual revenue stream to governments of almost \$2 billion.

Indexation is strongly opposed by the members of the ATA and the wider trucking industry.

The proposed adjustment formula would generate substantial annual increases in the road user charge – increases that quite likely would be a magnitude greater than the increase proposed in the provisions of the *Road Charges Legislation Repeal and Amendment Bill 2008*.

As per the recommendations of the 2007 Heavy Vehicle Charges Determination, it is possible that there will not be another determination involving industry consultation and parliamentary scrutiny for a period of five years. During this time, it is further possible that the road user charge could be inflated by more than 6 cents per litre; generating additional *annual* revenues to the Australian Government in the order of \$350 million dollars, without any requirement for consultation, transparency or accountability.

The trucking industry believes its views should be heard and considered on such substantial charge increases and is also concerned the introduction of automatic indexation would remove the ability of the parliament to scrutinise the level of the road user charge.

Under the existing Act, the parliament has the ability to scrutinise and disallow every proposed change in the road user charge. Under the proposed system, however, it is to be expected that the parliament will have only one opportunity – when the regulations are first introduced.

In accordance with normal practice, it would be expected that the automatic annual increases produced by application of indexation would themselves not be disallowable.¹

In arguing for application of automatic indexation, the NTC's principal rationale is administrative convenience. In the 2007 Heavy Vehicle Charges Determination Regulatory Impact Statement, the NTC examined three options for automatically indexing heavy vehicle charges and a fourth option involving the annual recalculation of charges based on consultation with the industry. The NTC's major concerns with the implementation of the fourth option included that the process:

- may require a consultation process as it would lead to differentiated changes to heavy vehicle charges and that this may make it more difficult to meet an annual timetable; and
- is resource intensive and may involve legislative and administrative difficulties for governments.²

In other words, the major arguments promulgated by the NTC in favour of automatic indexation are that industry consultation and parliamentary scrutiny are resource intensive, time consuming and difficult undertakings.

The ATA and its members absolutely reject this argument. In the opinion of the trucking industry, it should neither be easy nor convenient for governments or government agencies to impose or increase taxes. Public financing decisions require the full consideration of government and of affected parties, detailed and constructive consultation and, most importantly, the scrutiny of parliament – not least because this is its primary function.

The NTC further raised a concern regarding the annual recalculation of heavy vehicle charges, asserting that it could lead to volatility making it difficult for trucking operators to manage forward contracts. The concern applies equivalently to application of automatic indexation and highlights the potential dangers of blindly applying the results of an adjustment formula without the checks and balances of transparency, consultation, scrutiny and parliamentary oversight. A prudent

¹ For an example outside the Infrastructure portfolio, see regulations 14-15 of the *Federal Magistrates Regulations 2000*.

² National Transport Commission, *2007 Heavy Vehicle Charges Determination: Regulatory Impact Statement*, p.50

decision-maker would consult the industry, consider the results of those consultations and set the charges so they did not change in a volatile way.

8.2 TRANSPARENCY AND INDUSTRY OVERSIGHT

One of the key concerns of the ATA and its members in regard to the current calculation of the road user charge is that the process failed to deliver transparency and constructive engagement on a multitude of issues presented for consideration and discussion.

During development of the 2007 Heavy Vehicle Charges Determination, the NTC refused to provide the trucking industry with the model it uses to determine charges and further refused to provide raw data submitted by the states and territories for the purposes of calculating charges.

As a result, it has not been possible for the trucking industry to address failings in the assumptions used by the NTC in its modelling nor has it been possible for the trucking industry to seek independent verification of the expenditure figures and revenue estimates, statistics, formulas, methods and inputs used to calculate heavy vehicle charges.

The process of consultation was not transparent, did not seek constructive engagement and the recommendations therefore failed to garner support within the trucking industry. This is not just an issue for industry; but should be of significant concern to the Government because an open and transparent process will tend to correct errors in the calculation of the charge.

For example, the NTC's pavement wear calculations used in the 2007 Heavy Vehicle Charges Determination are based on statistical estimates using Equivalent Standard Axles (ESAs). The NTC commissioned ARRB to undertake significant research, which derived new predictive equations to estimate ESAs subject to a given level of gross vehicle/combination mass. There was, however, one significant problem with the statistical relationships – they do not match the real world results generated by real world vehicles.

In every case where the ATA assessed the ESAs for real world vehicles, carrying legally compliant loads and using accepted engineering formulas, the results demonstrated less road wear than the predictive formulas. The NTC's statistical model particularly broke down in the case of B-double combinations, which were supposedly the primary focus of the 2007 Heavy Vehicle Charges Determination.

This example demonstrates the importance of constructive engagement and consultation with industry and the necessity for governments to rely more heavily upon real-world information rather than on the results of statistical modelling – no matter how attractive and elegant the statistical relationships seem.

Heavy vehicle charges will continue to be an area of serious contention until governments ensure that they are set in consultation with the industry through an open, transparent and understandable process.

8.3 REST AREAS AND FATIGUE

Driver fatigue is recognised as a major cause of heavy vehicle accidents. In 2006, the NTC estimated that heavy vehicle driver fatigue could have been the cause of 33 fatal crashes, 156 serious crashes and a further 3,214 minor crashes in the base year for its analysis, 1996.³

³ National Transport Commission. *Heavy Vehicle Driver Fatigue: Final Regulatory Impact Statement*, p6.

After extensive industry consultation, the NTC developed a regulatory proposal to address heavy vehicle driver fatigue, including model fatigue legislation. The Queensland, New South Wales, Victorian and South Australian governments have now implemented slightly different versions of this legislation.

One of the key areas of the NTC's regulatory proposal was the requirement for the provision of additional heavy vehicle rest areas. As the NTC pointed out:

Recent research has highlighted the benefits of taking short naps, especially in relation to the recharging function of a power nap. The ability to utilise this and other rest time practices to the benefit of driver safety is therefore paramount. Roadside rest areas for commercial vehicle operators should provide for the needs of these drivers. While Australian jurisdictions have endeavoured to provide parking and rest areas for heavy vehicle drivers, it is evident that these rest areas do not adequately cater for all driver needs, with concerns expressed about a lack of consistency in the frequency of rest areas provided and the facilities available.⁴

The NTC has released National Guidelines for the Provision of Rest Areas to set out the best means of providing additional rest areas. According to the NTC, the national guidelines were endorsed by the Australian Transport Council.⁵ The guidelines are summarised in Table 6 below.

Table 6. Summary of the national heavy vehicle rest area guidelines

Type of rest area	Maximum interval	Capacity	Amenities
Major	100km	20 vehicles	<ul style="list-style-type: none"> · all weather pavement with sealed access and egress; · shade; · rubbish bins;
Minor	50km	10 vehicles	<ul style="list-style-type: none"> · separate parking for heavy and light vehicles where possible; · sheltered areas; · tables and/or benches; and · toilets and drinking water, where justified.
Truck parking bay	30km	4 to 5 vehicles	<ul style="list-style-type: none"> - all weather pavement; - rubbish bins; and - shade.

Source: National Transport Commission, *National Guidelines for the Provision of Rest Area Facilities: Final Report*.

The guidelines recommend that rest areas and parking bays should be provided on both carriageways of divided highways, and on both sides of major undivided highways to eliminate the need for heavy vehicles to turn across oncoming traffic.

As a result of these recommendations, it follows there could be as many as twelve heavy vehicle facilities per 100 kilometres of major highway, as table 7 shows.

⁴ Ibid, p.9.

⁵ Ibid, summary section, rest areas and napping guidelines.

Table 7: Rest areas required per 100 kilometres

Type of rest area	Requirement	Duplicated
Major rest areas	1	2
Minor rest areas	2	4
Truck parking bays	3	6
Total	6	12

In February 2006, the Council of Australian Governments (COAG) agreed to the provision of additional heavy vehicle rest areas as part of its National Competition Policy Review, agreeing that:

- an audit of rest areas against the national guidelines would be completed by mid-2007; and
- the states and territories would provide rest areas to nationally agreed standards by the end of 2008.⁶

Austrroads completed the *Audit of Rest Areas Against National Guidelines*⁷ in 2008 and despite the title of the report, the audit is in fact a survey of 13,823 kilometres of major highways rather than an audit of the 22,500 km of roads on the AusLink National Network.

The report found that none of the audited routes fully met the spacing recommendations of the national guidelines, with 60 per cent of the audited routes demonstrating substantial deficiencies in the frequency or provision of rest opportunities. Major rest areas were under-provided in all jurisdictions, with the exception of Victoria. There were notable deficiencies in Queensland and the Northern Territory.

The following routes were identified as demonstrating particular deficiencies in the frequency or provision of rest areas:

- Mitchell/Barrier Highway (NSW) – excessive spacing of all rest areas
- Princes Highway (NSW, between Sydney and Victorian border) – excessive spacing of all rest areas, lack of major rest areas.
- Mitchell/Great Western Highway (NSW) – excessive spacing of major and minor rest areas.
- Barton Highway (NSW) – excessive spacing of truck parking bays.
- New England Highway (NSW) – excessive spacing of major and minor rest areas.
- Sturt Highway (Victoria) – lack of major and minor rest areas.
- Calder Freeway/Highway (Victoria) – lack of truck parking bays.
- Princes Freeway (Victoria, Melbourne – Geelong) – lack of minor rest areas and truck parking bays.
- Princes Highway (Victoria, Melbourne – Sale) – excessive spacing of major rest areas, no minor rest areas.
- Bruce Hwy (Queensland) – excessive spacing of rest areas, lack of minor rest areas.
- Cunningham/New England Highway (Queensland) – excessive spacing of all rest areas.

⁶ Council of Australian Governments, *Communiqué*, 10 February 2006, Attachment B. p.13.

⁷ Austrroads, 2008, *Audit of Rest Areas against National Guidelines*, Technical Report AP-T95/08.

- Gore Highway (Queensland) – excessive spacing of all rest areas.
- Pacific Highway (Queensland) – excessive spacing of rest areas, lack of minor rest areas.
- Gateway Motorway (Queensland) – excessive spacing of rest areas, lack of minor rest areas.
- Great Eastern/Coolgardie-Esperance/Eyre Highway (WA) – excessive spacing of major rest areas and minor rest areas.
- Barrier Highway (SA) – excessive spacing of truck parking bays, lack of major rest areas.
- Dukes Highway (SA) – lack of major rest areas.
- Eyre Highway (SA) – excessive spacing of truck parking bays and major rest areas.
- National Highway 1 (SA) – excessive spacing of truck parking bays, lack of major rest areas.
- Sturt Highway (SA) – excessive spacing of major rest areas.
- Midland Highway (Tasmania) – excessive spacing of truck parking bays, lack of major and minor rest areas.
- Bass Highway (Tasmania) – lack of major and minor rest areas.
- Stuart Highway (NT) – excessive spacing of rest areas, lack of major rest areas.

The report found that nearly three-quarters of rest areas on the audited routes were not duplicated correctly on the other side of the road, except in Tasmania.

The real-world situation is even worse than the report suggests. Its measured tone and references to 'particular deficiencies' and 'excessive spacing' do not do justice to the reality of life on Australia's roads.

Truck drivers need places to stop and rest. They need to be able eat, sleep, stretch their legs and go to the toilet. The lack of rest areas means they are required to push on when tired or hungry. Rest areas that are available are often full and occasionally filled with gravel for road maintenance works.

The trucking operators and drivers who have to deal with the lack of rest areas day in and day out have expressed their concerns at meeting after meeting, including at the recent meeting of the ATA's Transport and Economics Policy Committee that approved this submission. During this meeting, operators discussed, in particular, the desperate need for the provision of a major heavy vehicle rest area on the Nambucca Heads-Urunga section of the Pacific Highway, in addition to rest areas to the north and south of Grafton.

So how many additional rest areas are needed?

The Australian Government's principal responsibility is the 22,500 kilometres of roads that make up the AusLink National Network. On the basis of the national guidelines, it follows there should be some 2,700 rest areas and parking bays on the network around Australia.

The Austroads audit identifies 1,111 rest areas on 13,823 kilometres of highway. If this figure is extrapolated to take into account the full AusLink network, it can be reasonably estimated there are currently 1,800 rest areas across the network, with the audit therefore suggesting a shortfall of 900 rest areas across the AusLink National Network.

Of course, Australia's governments will not meet their commitment to build these extra heavy vehicle rest areas by the end of 2008. There is usually an embarrassed shuffling of feet when the commitment is mentioned. Nonetheless, the Australian Government and a number of state governments are taking action to build more rest areas.

In the 2007 election campaign, the Australian Government announced its commitment to spend:

- \$80 million for safety upgrades on the Dukes Highway in South Australia, including overtaking lanes, rest areas and pavement reconstruction.⁸ In the 2008-09 Budget, the Government brought forward \$12 million of this funding to 2008-09;⁹
- \$160 million to upgrade Northern Territory highways, including a heavy vehicle bypass of Katherine, more spending on flood immunity and better rest areas.¹⁰

The Australian Government has also budgeted \$70 million over four years for rest areas, infrastructure upgrades and technology trials under the Heavy Vehicle Safety and Productivity Program. The funding for the program is contingent on the passage of the *Road Charges Legislation Repeal and Amendment Bill 2008*.

At the state level, the South Australian Government used its 2007-08 Budget to allocate \$10 million over four years for rest area improvements under its roadside rest areas strategy¹¹ and the Queensland Government announced a plan to build 25 extra heavy vehicle rest areas, with \$6 million in funding allocated to build the first 11 of these.¹²

Although these Australian and state government programs are admirable, they will not achieve the COAG directive to build heavy vehicle rest areas to national standards by the end of 2008 nor do they offer a pathway to achieve the national standards at any time in the future.

In fulfilling their stated commitments to the provision of rest areas, the Australian and state and territory governments could consider the appropriateness of public-private partnerships.

8.4 MODEL AMENDMENTS TO THE ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008

The ATA has proposed model amendments to the *Road Charges Legislation Repeal and Amendment Bill 2008* to address the issues set out in Sections 8.1 through 8.3. The text of the model amendments is provided in Attachment 'A' to this submission.

The ATA's model amendments would set the road user charge at 21 cents per litre, the same figure as the Bill. The amendments would empower the Transport Minister to vary the charge by legislative instrument; each variation to the charge would be subject to parliamentary scrutiny, in accordance with the trucking industry's concerns about using regulations to automatically index the charge in the future.

Under proposed section 43-15 of the *Fuel Tax Act*, the Transport Minister would have to meet a number of requirements before altering the charge. These requirements are set out below, and aim to address the industry's concerns about the existing charge setting mechanism.

⁸ Rudd, K and M Ferguson. "Federal Labor Announces Support for South Australian Road Projects," Media release, 9 November 2007.

⁹ Albanese, A. "Funding for Infrastructure in South Australia Tops \$277 million." Media release Budget-Infra 05/2008, 13 May 2008.

¹⁰ Ferguson, M and W Snowdon. "Federal Labor Invests \$386 million in Northern Territory Roads," Media release, 16 November 2007.

¹¹ Department of Transport, Energy and Infrastructure, *Roadside Rest Areas Strategy for South Australia*. June 2008, Page 28.

¹² Pitt, W. "Plan to Expand Network of Rest Areas for Truckies and Heavy Vehicles," Media release, 9 October 2008.

Indexation

The Transport Minister would not be able to apply a method for indexing the charge (s43-15(2)).

Establishing a transparent system for calculating and consulting on the charge

The road user charge would have to be based on the net difference between the amount of government expenditure on public road construction and maintenance expenditure allocated to heavy vehicles, and the amount of government revenue raised through the registration of heavy vehicles and other charges imposed as a direct result of heavy vehicle use (s43-15(3)).

The aim of this section (including the definitions in section 43-15(8)) is to ensure that the road user charge is used to recover the direct cost of road construction and maintenance and not used by a future government to recover externalities such as environmental or congestion related costs.

It should be noted, however, that section 43-15(3) would continue to allow the Government to include an estimate of mass-related enforcement costs in the cost base for calculating the road user charge.

Sixty days before making a determination, the Transport Minister would have to release publicly all the expenditure figures and revenue estimates, statistics, formulas, methods and inputs used to calculate the proposed road user charge and a statement explaining the reasons for the proposed rate increase (s43-15(4)(e)).

The public release of this information would enable the industry to contest any incorrect assumptions in factual errors in the calculation of the charge, such as the error detailed in Section 8.2.

The Transport Minister would be required to have regard to submissions received within the 60-day public consultation period (s43-15(4)(f)).

Additional heavy vehicle rest areas

The Transport Minister would only be able to increase the road user charge if:

- an average of 90 rest areas had been constructed per year on the AusLink National Network since the date the existing road user charge became effective (s43-15(4)(b));
- the type of rest areas constructed, their spacing and amenities are consistent with the goal of bringing the rest areas on the AusLink National Network into line with the recommendations in the national guidelines by 2019 (s43-15(4)(c)); and
- The construction of rest areas makes reasonably adequate provision for current and future use by high productivity vehicles (s43-15(4)(d)(ii)).

The trucking industry believes that ten years is a reasonable amount of time for governments to bring the rest areas on the AusLink National Network into line with the national guidelines, and has advanced the case for a ten year rest area plan in the past.

Section 43-15(4)(d) would assign a new function to Infrastructure Australia – advising the Transport Minister that the rest area requirements have been met. Infrastructure Australia's enabling Act envisages the organisation would be assigned additional functions like this one over time (cf *Infrastructure Australia Act*, s5(2)(k)).

8.5 HOUSE OF REPRESENTATIVES DEBATE

The Opposition attempted to amend the *Road Charges Legislation Repeal and Amendment Bill* in the House of Representatives, with the amendments largely, but not entirely, based on the ATA's model amendments.

A number of the issues raised in the House of Representatives debate are relevant to the committee's consideration of the Bill and the ATA's model amendments.

Automatic indexation and transparency

The Minister for Infrastructure, Transport, Regional Development and Local Government emphasised there would be a separate debate about the regulations for increasing the road user charge.¹³ He also gave a commitment to ensuring that any future adjustment in the charge would be preceded by a transparent process so the industry has confidence in what it is paying and how it is calculated¹⁴. The ATA welcomes the Minister's commitments, which show the Government's view about how to adjust the road user charge has evolved since the Bill was drafted.

It should now be a relatively straightforward matter to amend the Bill to reflect the Government's views and address the industry's concerns. Section 8.6 below sets out an alternative approach to amending the Bill if the Government is not prepared to agree to the ATA's model amendments.

Rest areas

During the debate, the Minister argued that the ATA's plan to build 900 additional rest areas over ten years was simply impractical.¹⁵

The ATA accepts the plan is certainly ambitious, but has the advantage of being a great deal more practical than COAG's directive that jurisdictions should build enough rest areas to meet the agreed standards by the end of 2008. Further, the plan further reflects a strongly held view in the trucking industry that governments need to develop a ten-year plan to address the current rest area shortage.

However, the ATA accepts it is difficult for governments to make ten or even five year expenditure commitments, because the Commonwealth's budgetary framework is based upon the current budget year plus three outyears.

Section 8.6 below therefore details an alternative approach that would satisfy the trucking industry's concerns.

Substantial harmonisation of transport regulations

Under the Opposition's proposed amendments, the Transport Minister would only have been able to increase the road user charge if "*substantial harmonisation has been achieved in State and Territory transport regulations, including heavy vehicle fatigue reform measures*".

While the trucking industry strongly supports the intent of the Opposition on this matter, the ATA does not support the proposed amendment. The amendment would not provide the Australian

¹³ House of Representatives, Hansard, 23 October 2008, page 25.

¹⁴ *ibid.*, page 20.

¹⁵ *ibid.*

Government with the means to achieve nationally uniformity in road transport regulations. The most likely outcome is that the heavy vehicle charges process would simply stall.

The ATA strongly supports the introduction of national road transport laws, including fatigue laws, with appropriate allowances for divergent operating conditions across Australia. The ATA is currently working with the Department of Infrastructure, Transport, Regional Development and Local Government to assess the regulatory impact on governments and on the trucking industry of the implementation of the proposed national laws.

The process leading to national road transport laws will be as complicated as it will be difficult. It is the opinion of the trucking industry that the proposed amendment would make this process less likely to succeed.

8.6 ALTERNATIVE AMENDMENTS TO THE ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008

Given the issues raised in the House of Representatives debate, the ATA's Transport and Economics Policy Committee has endorsed an alternative package of policy measures and amendments to the *Road Charges Legislation Repeal and Amendment Bill 2008* for the committee to consider if it does not agree with the ATA's original model amendments.

The alternative package would meet the industry's concerns regarding the Bill and, in addition, would deliver some 350 rest areas over four years and create a pathway for governments to bring the rest areas on the AusLink National Network into line with the national guidelines by 2019. The road user charge would still increase to 21 cents per litre on 1 January 2009, as proposed in the Bill.

Proposed amendments to the Bill

Under this alternative proposal, there would need to be amendments to schedule 3 of the Bill to deal with the industry's concerns regarding automatic indexation and the arrangements for setting the road user charge in the future. The amendments would need to:

- prevent the proposed regulations under the *Fuel Tax Act 2006* from prescribing a method for indexing the road user charge and setting it automatically. This could be achieved by replacing proposed section 43-10(8) with '*the regulations must not apply a method for indexing the road user charge*'. A consequential amendment to section 43-10(7) would also be required;
- require the rate of the charge to be set by a disallowable instrument issued under the proposed regulations, instead of being set automatically by the application of an indexation formula detailed in the regulations. This amendment would meet the industry's concerns about need for continued parliamentary scrutiny of the charge, without requiring the Government to make fresh regulations whenever a change is required.
- require the proposed regulations to include:
 - a 60 day consultation period on any proposed increase in the charge before the determination is made;
 - the public release of all the expenditure figures and revenue estimates, statistics, formulas, methods and inputs used to calculate the proposed road user charge

and a statement explaining the reasons for the proposed increase before the start of the consultation period;

a requirement that the Transport Minister must have regard to any submissions received during the public consultation period;

Table 8 below compares the arrangements for setting the road user charge in the Bill with the arrangements under the amendments proposed in this section.

Table 8: Comparison of arrangements for setting the road user charge		
	Road Charges Legislation Repeal and Amendment Bill	ATA alternative amendments
Road user charge from 1 January 2009	21 cents per litre	21 cents per litre
Legal basis for adjusting the charge after 1 January 2009	Indexed by regulations under the <i>Fuel Tax Act</i> . The regulations would set out a mathematical formula for altering the charge; the results of the formula would take effect automatically.	Regulations under the <i>Fuel Tax Act</i> would set out the principles for calculating the charge in future and provide for consultation arrangements in line with the requirements of the Act. The charge would be set by a determination issued under the regulations.
Consultation arrangements	None specified. Once the regulations were made, the charge would increase automatically without consultation.	60 day consultation period on the proposed charge, with the public release of the information and formulas used to calculate the proposed charge. The Transport Minister would be required to have regard to the results of those consultations.
Opportunities for parliamentary scrutiny	One opportunity only, when the regulations were made. Parliament would not be able to scrutinise future changes in the road user charge; they would occur automatically.	Parliament would be able to scrutinise the regulations when they were made. Parliament would also be able to scrutinise the rate of the charge each time it was changed, because it would be set by a disallowable instrument under the regulations.

Rest areas

The trucking industry continues to hold the view that the Government should bring the AusLink National Network into line with the national rest area guidelines by 2019, which would require the construction of some 900 rest areas. However, the industry recognises the practical difficulties that governments face in making a ten-year commitment to any program, however desirable.

The Government has already committed \$70 million to the Heavy Vehicle Safety and Productivity Program over four years. An alternative to making a ten year commitment would be for the Government to increase the funding for this program to \$100 million over four years and to require the states and territories to provide matching funding.

Once an allowance is made for the proposed digital tachograph trial, this approach would provide \$196 million over four years for rest areas – enough to build some 350 rest areas at an average cost of \$550,000 per rest area.¹⁶

It would deliver essentially the same results as the first four years of the decade long program envisaged by the ATA in our original model amendments.

In order to establish a pathway toward completing the program by 2019, the Government should make a commitment to reviewing the Heavy Vehicle Safety and Productivity Program in 2011, with a view to considering the extension of the program in the 2012-13 Budget context. The review would need to consider the progress of rest area construction on the AusLink National Network compared to the national guidelines.

Recommendation 3A

The Senate should amend schedule 3 of the *Road Charges Legislation Repeal and Amendment Bill 2008* to implement the model amendments set out in *Attachment A* of this submission; or alternatively,

Recommendation 3B

(1) The Senate should amend schedule 3 of the *Road Charges Legislation Repeal and Amendment Bill 2008* to:

- (i) prevent the proposed regulations from prescribing a method for indexing the road user charge by replacing proposed section 43-10(8) with ‘*the regulations must not apply a method for indexing the road user charge*’. A consequential amendment to section 43-10(7) would also be required;**
- (ii) require the rate of the charge to be set by a disallowable legislative instrument issued under the proposed regulations;**
- (iii) require the proposed regulations to include:**
 - (a) a 60 day consultation period on any increase in the charge before the determination is made;**
 - (b) the public release of all the expenditure figures and revenue estimates, statistics, formulas, methods and inputs used to calculate the proposed road user charge and a statement explaining the reasons for the proposed increase before the start of the consultation period;**
 - (c) a requirement that the Transport Minister must have regard to any submissions received during the public consultation period;**

(2) The Government should increase the funding of the Heavy Vehicle Safety and Productivity Program to \$100 million over the four years to 2011-12;

¹⁶ The average cost of the rest areas under the new Queensland program is \$545,000, and is used as a guide for this submission.

- (3) The Government should commit to conducting a review of the program in 2011 with a view to considering the extension of the program in the 2012-13 Budget context. The review should consider the progress of rest area construction on the AusLink National Network compared to the national guidelines; and**
- (4) The Government should require matching funding from the state and territory governments as a condition of funding under the Heavy Vehicle Safety and Productivity Program.**

Add number

2008

The Parliament of the
Commonwealth of Australia

THE SENATE

Road Charges Legislation Repeal and Amendment Bill 2008

(Amendments to be moved to the bill by [insert movers' names])

- (1) Schedule 3, page 5 (lines 15 to 25), omit the item, substitute:

4 At the end of section 43-10

Add:

Meaning of road user charge

- (7) The **road user charge** for taxable fuel means:
- (a) if no rate has been determined by the *Transport Minister under section 43-15—21 cents for each litre of the fuel;
 - (b) otherwise—the rate determined by the Transport Minister under section 43-15.

43-15 Determining the road user charge

- (1) The *Transport Minister may determine, by legislative instrument, the *road user charge.
- (2) In determining the *road user charge, the *Transport Minister must not apply a method for indexing the charge.
- (3) The *road user charge must be based on the figure (the **net figure**) that is the difference between:
 - (a) the amount of government expenditure on construction and maintenance of public roads that is allocated to heavy vehicles; and
 - (b) the amount of government revenue raised through registration of heavy vehicles and other charges imposed as a direct result of heavy vehicle use.

Note: 'Government revenue', 'government expenditure' and 'heavy vehicle' are defined in subsection (8).

- (4) The rate of the *road user charge must not be increased unless:
 - (a) the net figure has increased since the date the existing road user charge became effective; and
 - (b) an average of at least 90 additional heavy vehicle rest areas have been constructed each year on the National Land Transport Network, as defined in the *AusLink (National Land Transport) Act 2005*, since the date the existing road user charge became effective; and
 - (c) the type of rest areas constructed, their spacing and amenities are consistent with the goal that rest areas in the National Land Transport Network will comply by

2019 with the recommendations in the *National Guidelines for the Provision of Rest Area Facilities Final Report, Revised November 2005*, prepared by the National Transport Commission; and

- (d) Infrastructure Australia, the body established by the *Infrastructure Australia Act 2008*, has advised the *Transport Minister in writing that:
 - (i) the matters referred to in paragraphs (b) and (c) have occurred, or will have occurred, at the date the proposed increase in the road user charge is to become effective; and
 - (ii) the construction of heavy vehicle rest areas makes reasonably adequate provision for current and future use by high-productivity vehicles.

Note: Infrastructure Australia's functions include functions conferred by laws other than its enabling Act—see paragraph 5(2)(k).

- (e) the Transport Minister has released publicly, at least 60 days before making a determination under this section (the **public consultation period**), the net figure mentioned in subsection (3), all the expenditure figures and revenue estimates, statistics, formulas, methods and inputs used to calculate the net figure and the proposed rate of the road user charge, the advice of Infrastructure Australia referred to in paragraph (d) and a statement explaining the reasons for the proposed rate increase; and
 - (f) the Transport Minister has had regard to submissions received within the public consultation period.
- (5) The arterial road and other expenditure figures provided by the Commonwealth, States and Territories and released in accordance with paragraph (2)(e) must contain a statement of verification by the auditor-general in the jurisdiction to which the figures relate.
 - (6) The *Transport Minister must not make more than one determination in a financial year if the effect of the determination would be to increase the *road user charge more than once in that financial year.
 - (7) A determination made under this section must not take effect earlier than the first day after the end of the period in which the determination may be disallowed under Part 5 of the *Legislative Instruments Act 2003*.
 - (8) In this section:
 - government expenditure** means the amounts of expenditure by the Commonwealth, States, Territories and local governments for a financial year calculated in real terms as averages over a seven-year period using the latest:
 - (a) available arterial road expenditure figures provided by each of the States and Territories; and
 - (b) local road expenditure information based on Australian Bureau of Statistics figures.

government revenue means the total of the amount of revenue expected to be raised by each of the Commonwealth, States, Territories and local governments in the financial year immediately following the date the determination made under this section is to commence.

heavy vehicle means a vehicle with a gross vehicle mass of more than 4.5 tonnes.

- (2) Schedule 3, page 5 (line 29) and page 6 (lines 1 to 8), omit the items (items 6, 7 and 8).