AUSTRALIAN LOGISTICS COUNCIL

AUGUST 2015

ALC SUBMISSION

PRIMARY DUTIES FOR CHAIN OF RESPONSIBILITY PARTIES AND EXECUTIVE OFFICER LIABILITY

THIS SUBMISSION HAS BEEN PREPARED WITH THE ASSISTANCE OF KM CORKE AND ASSOCIATES, CANBERRA.

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ALC POSITION

No party advocating change has provided any evidence that changes to the Chain of Responsibility (**CoR**) contained in the *Heavy Vehicle National Law* (**HVNL**) will improve productivity or safety outcomes.

Moreover, a change to a general duty structure will lead to better safety and productivity outcomes with the development of formal training and accreditation frameworks.

It is however clear there is a general will for the insertion of general duties into the HVNL, broadly along the lines contained in the Discussion Paper.

The following comments are therefore provided.

Structure of duties

If a primary duty along the lines envisaged is to be imposed as suggested by the Discussion Paper, the appropriate duty holders are operators, prime contractors and employers. Failure to discharge a duty should be an offence.

However, the phrase proposed to be used to control the breadth of the discretion ('road transport operation') has no resonance at all within the industry.

To avoid confusion, the 'primary' duty could be therefore be expressed along the lines of:

» An operator, prime contractor and employer must take all reasonable steps/all reasonably practicable steps to ensure that the provisions of Chapter 4, Chapter 5 and Chapter 6 of the HVNL are complied with.

Duty specific duties could be framed along the lines of:

» A (duty holder) must not cause a breach of Chapters 4,5 and 6 (as is relevant to the duty holder) of the HVNL.

Any duties created from this review process would attract executive liability through amendment to section 636 of the HVNL, although support is **expressly** on the basis that the evidentiary burden of proof for **all** executive officer liability offences should rest with the prosecution and not the defendant.

ALC cannot support any further extension of CoR obligations under the HVNL to other parties.

Penalties

ALC agrees that penalties should be aligned more with the maximum penalties available under national safety laws.

Standard of care

ALC remains of the view that the current distillation (all reasonable steps) is satisfactory but notes a clear a wish to more closely align with WHS law, and its use of 'reasonable practicability' as the relevant standard of care.

Relationship between the HVNL and the model WHS Act

ALC remains of the view that section 18 of the HVNL sufficiently creates the nexus between the HVNL and WHS legislation.

However, if regulators see the need to duplicate WHS law in safety legislation, perhaps the time has come to move responsibility for policy development to the workplace safety silo, with relevant legislation sitting in that framework (with anything particularly industry specific sitting in regulations made under primary WHS legislation).

The HVNL would then focus exclusively on access and roadworthiness issues.

Guidance and enforcement

ALC remains of the view that relevant compliance with a registered industry code should be a defence to any allegation that a duty holder has failed to comply with a CoR duty (or at the very least be evidence of compliance).

ALC also believes that before any reform is made to the CoR:

- regulator guidance to industry must be prepared;
- regulator doctrine and training developed; and
- industry code registration guidelines must be developed so industry codes, drawn against the guidelines can be prepared before the new scheme starts.

Assuming enabling legislation is passed during 2016, any new duties scheme (including the proposed changes to CoR duties relating to the roadworthiness of vehicles) should commence on **1 January 2018**.

Operator licensing

The Discussion Paper implies that the rail safety model (which includes the concept of operator accreditation) is seen as being something that could be followed in the heavy vehicle sector.

In that case, the Transport and Infrastructure Council should task the National Transport Commission to consider the implementation of an operator licensing system (a policy option scoped out of the Heavy Vehicle Roadworthiness Programme) as a matter of priority.

Regulation impact statement/circulation of draft legislation

Once the Transport and Infrastructure Council makes a decision on the proposals flowing from this Discussion Paper, draft legislation and a regulatory impact statement must be circulated **as soon as possible** so that an informed decision as to whether the package provides a net public benefit to the Australian community can be made.

Introduction

The Australian Logistics Council (**ALC**) welcomes the opportunity to comment on the *Primary Duties for Chain of Responsibility Parties and Executive Officer Liability* Discussion Paper (**the Discussion Paper**).

The structure of the Chain of Responsibility (**CoR**) contained in the *Heavy Vehicle National Law* (**HVNL**) has been discussed at length over the last couple of years.

ALC has made submissions to government as invited on the issue. They include:

- ALC Submission on the Chain of Responsibility Taskforce Discussion Paper – 16 August 2013
- ALC Submission on the Chain of Responsibility: Duties review Discussion Paper – February 2015
- ALC Submission on the Heavy Vehicle Road Worthiness Review – 27 March 2015

Summary of ALC views

The ALC view can be summarised as follows:

- There has been a continued improvement in the death and injury statistics relating to the operation of heavy vehicles, reducing (as indicated on page 8 of the Discussion Paper) on average by 3.2% a year.
- The relevant provisions of the HVNL should be treated as if they were industry specific safety requirements prescribed by regulations made under WHS law.
- It is unsound to have general safety duties fragmented in statutory instruments ranging from the HVNL to road safety remuneration orders made under the *Road Safety Remuneration Act 2012* to any WHS instruments that may be made as a result of the Australian Work Health and Safety Strategy 2012-2022.
- The current HVNL structure serves to buttress the general duties imposed on a PCBU by WHS legislation - inserting a general duty in the HVNL is an unnecessary duplication that does not lead to any greater safety outcomes.
- Given the atomised nature of the road transport industry the general duties imposed by WHS law, enhanced by sector specific rule based law as developed under the HVNL, is the regulatory design most likely to advance desired safety outcomes.
- ALC does not accept an argument that a relatively prescriptive legislative regime precludes the targeting of poor performers and that the current legislative structure somehow requires every marginal breach of the law to be brought to sanction. With appropriate internal guidelines and managerial guidance, enforcement officers should be able to use lawfully gained intelligence to monitor those industry participants who are reasonably believed to be in breach of their CoR obligations (or indeed their general HVNL obligations) and deal with them using the laws currently in force.

- On balance, the interoperation of:
  - the general duty based obligations a person conducting a business or undertaking (**PCBU**) possesses under WHS law, that implies a requirement for continuous improvement which should encourage a willing industry participant to adopt an approach to safety that is more than a 'check box' approach; together with
  - more specific rules generally contained in the HVNL

  should lead to better safety outcomes.
- For this reason, ALC continues to the hold the view that more emphasis should be placed on explaining the current legislation. However, if there are any specific weaknesses in the HVNL that are identified, they can be corrected using the HVNL Legislation Maintenance Programme.
- However, if general duties are to be introduced, then it is appropriate to remove many of the technical offences contained in the HVNL.
- It is unsound to simply uplift a general duty structure contained in the *Rail Safety National Law.*
- Most relevant duties are imposed on rail transport operators who must:
  - win regulator accreditation (through displaying the competence and capacity to manage risks to safety associated with those railway operations)
  - comply with an approved safety management system (which must contain a safety management plan, emergency management plan, a health and fitness management programme, a drug and alcohol management programme and a fatigue risk management programme[1]); and
  - ALC members finally report adopting a general duties is unlikely to bring about improved safety outcomes without the development of practices and procedures that will build operator capacity, noting that the rail safety law (a possible model for the heavy vehicle sector) has operator accreditation, a requirement to operate under a safety case system and seven pages of regulations
- This is appropriate given there are relatively few (mostly large and sophisticated) regulated entities. Conversely, the heavy vehicle industry is an atomised industry, with participants of different sizes operating on public roads. The HVNL structure is therefore more appropriate for the heavy vehicle environment.
- A person who has complied with a registered industry code should be taken as having discharged the duty to take all reasonable steps to comply with the HVNL requirement to show **all** reasonable steps adds a legislative emphasis that makes clear that a duty holder must do everything that could reasonably be required of it to discharge the relevant obligations contained in the HVNL which is appropriate.
- The NHVR must currently rely on enforcement services provided by jurisdictional regulators under service agreements. However these regulators not only discharge duties on behalf of the NHVR but also must discharge responsibilities according to priorities established by the jurisdictions that employ them.
- ALC members also report that the compliance costs inherent in having to comply with the current law that is enforced in different ways by different jurisdictions, will undoubtedly increase as different jurisdictions establish different standards as to what constitutes the taking of all reasonable steps (or all reasonably practicable steps) to prevent a breach of the HVNL should a general duties scheme be introduced. ALC is therefore of the view that an extension of a duty-based regulatory regime cannot be supported unless and until the NHVR has full-time employees actively involved in the enforcement of the HVNL.
- Changes to legislation of this magnitude should be accompanied by a regulatory impact statement quantifying the costs to industry imposed as a result of the proposed changes to the law as well as the productivity benefits and enhanced safety outcomes anticipated so a decision that is to the greatest net benefit to the community is satisfied, as anticipated in the COAG *Guide for Ministerial Councils and National Standard Setting Bodies*.

1 Contained in Division 6 of Part 3 of the *Rail Safety National Law*

The debate

ALC continues to note that no party advocating change has provided any evidence that change will improve productivity or safety outcomes.

Sadly, the matter has been largely driven by ease of prosecution, as indicated by page 10 of the Discussion Paper:

> Due to the prescriptive nature of the HVNL, it is often unavoidable for regulators to prosecute many smaller offences, each with relatively low penalties, rather than with a breach of a duty which carries a higher penalty. Queensland and NSW have provided examples of instances where prosecutors have had to charge hundreds of offences to ensure the Court has an appropriate picture of the defendant's conduct. This places an unreasonable burden on regulators to prepare cases, courts to hear them and transport companies to defend them.

This regulatory structure and penalty level is of course due to the fact that the law broadly sat underneath broader WHS (or OHS, as it was formally called) obligations.

However, it is clear that there is a general will for the insertion of general duties into the HVNL, broadly along the lines contained in the Discussion Paper.

The following comments are therefore provided.

General duties

ALC believes the focus of the National Heavy Vehicle Regulator (**NHVR**) and the jurisdictional regulators providing services to it under service arrangements should be to ensure the safe operation of vehicles – that is a focus on fatigue and speed, and mass, dimension and loading issues.

Any broader considerations should be managed by organisations through the internal procedures used to manage WHS obligations generally.

If a primary duty along the lines envisaged is to be imposed, the appropriate duty holders are operators, prime contractors and employers, as suggested by the Discussion Paper.

Failure to discharge a duty should be an offence.

The current proposal is for these duty holders to have a duty to ensure the safety of their 'road transport operations' limited to 'the existing regulatory framework of the HVNL' with the Discussion Paper asking for what could be included in a definition for a 'road transport operation'.

ALC members report the phrase has no resonance at all within the industry.

This is particularly the case with members conducting sophisticated enterprises that can be said to operate a number of different (albeit interlinked) 'operations'.

It is clear that some involved in developing the Discussion Paper have a very wide view of what could constitute a 'road transport operation'.

As an example, page 21 of the Discussion Paper suggests that one way a loading manager can comply with obligations include putting systems in place for unexpected jobs – for example where there have been unexpected road delays.[2]

This is something a business should do. However, some ALC members consider that this is not something that as a matter of law should be characterised as a reasonable step/reasonably practicable step that must be taken into account when assessing liability for a CoR offence.

It is already proposed to impose a CoR obligation on operators, employers and prime contractors a requirement to take all reasonable steps to ensure their business practices will not cause a heavy vehicle to breach the safety requirements set out in Chapter 3 of the HVNL.

2 It is presumed a proposed primary duty holder could be held liable (particularly if an employer or a prime contractor) if a loading manager failed in this regard.

Given this, a complementary duty could be expressed along the lines of:

> An operator, prime contractor and employer must take all reasonable steps/all reasonably practicable steps to ensure that the provisions of Chapter 4, Chapter 5 and Chapter 6 of the HVNL are complied with.

This formulation would expressly deliver the intention expressed in the Discussion Paper[3] to limit the ambit of these powers to 'the existing regulatory framework of the HVNL', leaving relevant parties to manage other WHS obligations under processes developed for the purposes of WHS law.

Role specific duties

It is good regulatory practice to use terms and concepts that are employed in a consistent way.

Section 5 of the HVNL extends the ordinary meaning of the word 'cause' (which is used consistently in the relevant chapters of the HVNL), through a definition reading:

> **Cause**, a thing, includes:
> (a) contribute to causing the thing; and
> (b) encourage the thing.

This extended definition covers the same concept as the phrase 'result in, encourage or provide incentive to' that is proposed to be used as the duty for specific duty holders.

To avoid confusion, the duty could therefore look like this:

> A (duty holder) must not cause a breach of Chapters 4,5 and 6 (as is relevant to the duty holder) of the HVNL.

These two proposed distillation of duties will still allow the repeal of the 80 or so provisions of the HVNL identified in the Discussion Paper as being unnecessary.

Imposing CoR obligations on other parties

It is understood some regulators are arguing that CoR obligations should be imposed on other parties.

No evidence has been presented as to how such an extension will assist safety or productivity outcomes.

As would be understood, such an extension would need to be tested by a regulatory impact statement to ensure that such a step would provide the Australian community with a net public benefit.

That said, at this stage ALC cannot support any further extension of the CoR obligations under the HVNL.

Executive liability

ALC commends the recent exercise conducted by NTC which revised the current executive liability obligations against the document entitled *Personal Liability for Personal Fault: Guidelines for Applying the COAG Principles*.

It agrees that any duties created from this review process would attract executive liability through amendment to section 636 of the HVNL, but **expressly** on the basis that the evidentiary burden of proof for **all** executive officer liability offences should rest with the prosecution and not the defendant (a so-called 'type 1 offence), as contained in Draft Proposal 14.

Penalties

If the changes along the lines are made, ALC agrees that penalties should be aligned more with the maximum penalties available under national safety laws, including a hierarchy of penalties based on the nature of the actual harm or damage caused.

3 In Draft Proposal 1

Standard of care –'all reasonable steps' vs 'so far as is reasonably practicable'

ALC has expressed the view that the term 'all reasonable steps' should be read as imposing a requirement that such steps as:

» ought reasonably to be taken by way of precaution against the occurrence of (at least, speed and fatigue offences) under any circumstances that may reasonably be anticipated; and

» prevents continuance of offending practices when discovered should be taken.[4]

The touchstone for whether an action to ensure safety is 'reasonably practicable' is whether taking the action is 'grossly disproportionate' to the risk.

As Chris Maxwell said in his March 2004 review of Victoria's occupational health and safety legislation:

> …Questions of cost should be determined objectively. Since 1989 it has been the law in Victoria that the 'practicability' factors in the act (including cost) are to be applied objectively, not by reference to the subjective circumstances of the particular employer. In the case of knowledge, this means that the duty to remove a risk regardless of the particular employers ignorance of the risk if he/she ought reasonably to have been aware of it.
>
> Likewise with cost. Whether the cost of a risk prevention measure is 'grossly disproportionate' to the particular risk is to be determined objectively, regardless of the particular financial circumstances of the employer in question. Any other approach would create the intolerable situation where two workers in the same industry would receive different levels of safety protection merely because one worked for a prosperous employer and the other for a struggling employer.[5]

ALC remains of the view that the current distillation (**all** reasonable steps) adds a legislative emphasis that makes clear that a duty holder must do everything that could reasonably be required of it to discharge the relevant obligations contained in the HVNL.

However, there is clearly a wish to more closely align with WHS law, and its use of 'reasonable practicability' as the standard of care, as well as the use of broader general duties.

Relationship between the HVNL and the model WHS Act

ALC remains of the view that section 18 of the HVNL sufficiently creates the nexus between the HVNL and WHS legislation.

The current legislative design makes clear that parties owe their primary safety duty to WHS legislation, with the HVNL clearly dealing with additional safety issues (arising from fatigue, speed, and mass, dimension and loading shortfalls) specific to the heavy vehicle industry.

In that case, the addition into the HVNL of the general principles applicable to primary duties similar to those contained in the model WHS law is simply a redundancy.

Equally, whilst appropriate in the specific operating environment of the rail industry (in which accredited operators follow approved safety management systems) the shared responsibility and accountability principles contained In the *Rail Safety National Law* are not of particular assistance in the more atomised road transport industry.

That said, ALC members are sophisticated companies that take their WHS responsibilities in a holistic manner.

4 *Rolfe v Willis* [1916] HCA 26

5 State of Victoria *Occupational Health and Safety Act Review* March 2004: 7-8. See also Safework Australia *Interpretive Guideline-Model Work Health and Safety Act The Meaning of 'Reasonably Practicable' w*ww.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/607/Interpretive%20guideline%20-%20reasonably%20practicable.pdf

They have noted that the proposed addition of general duties in the HVNL duplicates the extended safety duties of a person conducting a business or undertaking (**PCBU**) imposed under WHS law and that the safety of supply chains and networks is an important focus area of the Australian Work Health and Safety Strategy 2012-2022.

ALC has held the view that a specialist safety agency such as the NHVR should develop the safety standards that should be applied to heavy vehicles.

However, if regulators see the need to duplicate WHS law in safety legislation, perhaps the time has come to move responsibility for policy development to the workplace safety silo, with relevant legislation sitting in that framework (with anything particularly industry specific sitting in regulations made under primary WHS legislation).

That would mean:

» rights and obligations are contained in one legislative suite, which should add to overall coherence in approach;

» government enforcement priorities and practices would be predictable and consistent, as only one agency would have the responsibility for administering the relevant law; and

» companies can develop genuinely coherent WHS strategies that cover all facets of business, delivering cost and efficiency benefits.

The HVNL would then focus exclusively on access and roadworthiness issues.

However, for the time being the current legislative structure will exist.

Guidance and enforcement

Page 14 of the Discussion Paper cites from Gunningham and Bluff's *Principle, Process. Performance or What?* working paper, to support the proposition of including primary duties into the HVNL.

However, the same paper indicated:

> The very breadth and flexibility of general duties entail considerable uncertainty for duty holders as well as for OHS inspectors. **The lack of guidance provided to duty holders about the outcomes required of them or the means of ensuring OHS mean that it is uncertain whether the duty of care has been complied with until and unless a matter is actually tested in court. As a result, there has been a tendency to flesh out the duties of care in regulations and evidentiary standards in order to describe an acceptable standard of care or at least some processes for achieving it.** The latter provide non-mandatory guidance about how to achieve the principles set out in the general duties. Robens intended that such evidentiary standards fill in much of the detail which was lacking in the general duties, but to do so in a more flexible and participatory fashion than had occurred in the past using regulations. Both duty holders and OHS inspectors have tended to overlook OHS problems not specifically addressed in regulations or evidentiary standards, even though a wider range of issues are embraced by the broad general duties.
>
> Although the general duties provide umbrella coverage of a wide range of OHS issues, they do not explicitly require attention to a wider range of organisational factors influencing OHS performance. Nor do they directly encourage organisations to develop an OHS culture or to "build in" OHS considerations at every stage of their operations…[6]

As ALC has indicated, the *Rail Safety National Law* (seen as a model for the HVNL) buttresses general duties with (amongst other things) a requirement for operator accreditation and the development of safety management schemes.

6 National Research Centre for OHS Regulation Working Paper 9 (2003) *Principle, Process, Performance or What? New Approaches to OHS Standards Setting:* 9-10

Given the observations of Gunningham and Bluff, it is imperative the NHVR provide guidance so as to what constitutes compliance with general duties.

This means using the capacity to make regulations under sections 623 and 624 of the HVNL to provide examples of how a person can satisfy any new duty created through this process – **before** any new scheme commences.

The NHVL also creates the capacity for the registration of industry codes that can be used as evidence of compliance.

However, ALC was disappointed that page 19 of the NHVR Corporate Plan 2015/16 – 2017/18 indicates that guidelines prepared for the purposes of section 705 of the HVNL (which allows for the registration of industry codes of practice that may be used as a defence that all reasonable steps were taken to prevent contravention of various provisions of the HVNL) are scheduled for development and completion during 2016-17.

One of the important elements that allows industry to support high level process and outcome based regulation such as that contained in the HVNL is the ability to be able to rely on compliance with registered industry codes as evidence that the person took 'all reasonable steps' to have prevent a contravention of the law, as permitted by section 625 of the HVNL.

ALC remains of the view that relevant compliance with a registered industry code should be a defence to any allegation that a duty holder has failed to comply with a CoR duty.

At the very least, they should be available for use 'as' evidence of compliance.

The relevant registration guidelines must be prepared and published with sufficient time so that relevant industry codes can be developed and registered **before** the duties regime anticipated by the Discussion Paper commences.

Earlier in this submission, ALC doubted that whether a loading manager had in place a system to handle unexpected jobs was a failure in a 'road transport operation' such as to attract liability under the HVNL.

It is an example of a concern that although the Discussion Paper evinces an **intention** not to increase regulatory burden, such a burden may arise in practice as to what a regulator (or a court) considers is a relevant step to take to discharge a safe loading practice (for example) which becomes a *de facto* requirement, irrespective of the view of the operator.

ALC repeats the concern expressed in earlier submissions made in this process that different jurisdictions providing enforcement services on behalf of the NHVR may take different approaches as to what constitutes the discharge of the relevant standard of care should a general duties scheme be introduced.

The ALC preference remains that general duty-based regulatory regimes not proceed unless, and until, the NHVR has full-time employees actively involved in the enforcement of the HVNL.

However, short of this, if enforcement officers are to be given the responsibility to determine whether or not a general duty holder is operating a safe 'road transport operation' it is absolutely imperative that doctrine and training be developed so that there is a national approach towards administering the changed regime - **before** any new scheme commences.

Finally, ALC members report that merely inserting general duties into the law will not facilitate any significant change to safety and productivity outcomes without the development of practices and procedures that will build operator capacity.

Whilst it is acknowledged that these things cannot be developed before the Transport and Infrastructure Council (**TIC**) makes a decision based on responses to this Discussion Paper, they can **once** the TIC decision is made.

In summary, assuming any relevant legislation giving effect to the proposed reforms passes during 2016, so that:

» regulator guidance to industry can be prepared;

» regulator doctrine and training can be developed;

» industry code guidelines can be developed; and

» industry codes, drawn against the guidelines, can be prepared

any new duties scheme should commence on **1 January 2018**.

So that industry can coherently develop management strategies to deal with a new regulatory paradigm, the change to CoR duties relating to the roadworthiness of vehicles should commence at the same time.

Any earlier implementation could lead to a rushed implementation leading to industry disappointment along the lines of that experienced with the failure of the access permit process that occurred when the HVNL commenced operation.

This is something to be avoided.

Operator licensing

Finally, if the rail safety model is seen as being something that could be followed in the heavy vehicle sector, work could commence on developing an operators licensing concept for the sector.

This is an issue scoped out of the Heavy Vehicle Roadworthiness Programme process.

Some ALC members have expressed concern that even the current proposals are insufficient to capture marginal operators who 'cut corners' to maintain viable vehicles, to the commercial detriment to those operators who 'play by the rules', including those rules relating to safety.

Given the number of entities involved in the heavy vehicle transport sector compared with the rail sector, a licensing regime is probably the more efficient way to mimic the accreditation/safety management system created under the rail safety legislation.

TIC should task the National Transport Commission to consider the implementation of operator licensing in Australia as a matter of priority.

Regulatory impact statement/ circulation of draft legislation

This submission has identified:

- compliance costs that a general duties scheme can impose on industry, given the outer ambit of what falls within the duty can only be determined through action in court, or as alternatively operators adopt practices that regulators consider to be a 'reasonable step' to take in a particular circumstance;
- further compliance costs on industry as a result of having to comply with both general WHS obligations (as administered and interpreted by WHS officials) and new general duties relating to 'road transport operations' (as administered and interpreted by jurisdictional regulators); and
- implementation costs flowing from:
  - the need to ensure regulators administer the new laws in a nationally consistent manner (borne by regulators);
  - the need to provide the regulator guidance that one would expect to be provided in a general duties environment and, in the case of the NHVR, the development of a set of guidelines for the registration of industry codes in a timeframe earlier than currently planned; and
  - the need to redevelop current industry codes so they reflect the new law – in this context, this would include the separate changes to the CoR as it relates to the proposed new duty to maintain the roadworthiness of vehicles (bourn by the sponsors of the industry codes).

The Australian Government Guide to Regulation suggests that a regulatory impact statement should be prepared where proposed changes affect a large number of businesses or where administrative and compliance costs are measurable (if not high).[7]

7 http://cuttingredtape.gov.au/handbook/ris-categories-glance

It is clear that a regulatory impact statement is necessary to be prepared for this proposal.

It is finally the case that when implanting a new reform the 'devil is always in the detail'.

Whilst the Discussion Paper suggests the 'intent' is not to increase regulatory burdens, this can only be finally ascertained when the proposed legislation is available for perusal.

As it currently operates, the applied law model of developing legislation provides limited opportunity to have any poorly drafted or contentious legislation changed once introduced into the host parliament.

It is therefore imperative that once TIC makes a decision on the proposals flowing from this discussion paper, draft legislation and a regulatory impact statement must be circulated **as soon as possible** which provides an estimate of the costs to industry of the proposal, and the anticipated level of productivity and safety improvements that the changes will provide, so that an informed decision as to whether the package provides a net public benefit to the Australian community can be made.

Australian Logistics Council
August 2015

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