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**21 March 2018**

Ms D Jeffrey,  
Committee Secretary  
Transport and Public Works Committee  
Parliament House  
George Street  
Brisbane Qld 4000

Dear Ms Jeffrey,

On 15 February 2018 the Hon Mark Bailey MP, Minister for Transport and Main Roads, introduced the Heavy Vehicle National Law and Other Legislation Amendment Bill 2018 (the Bill) into the Queensland Parliament. The Bill was referred to the Transport and Public Works Committee (the Committee) for detailed consideration and report by 20 April 2018. Submissions to the Committee must be made by 22 March 2018. This letter contains NatRoad's input to the Committee's inquiry.

NatRoad is Australia's largest national representative road freight transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators, general freight, road trains, livestock, tippers, express car carriers, as well as tankers and refrigerated freight operators. Accordingly, we have an active interest in the Heavy Vehicle National Law (HVNL) and changes to the HVNL which affect members. Part 4 of the Bill contains changes to the HVNL.

NatRoad notes that Parts 5-9 of the Bill would amend Queensland-specific transport legislation. This letter, however, deals with 2 specific issues arising from Part 4 of the Bill.

Before we set out those issues, we note the Bill reinforces the obligations imposed by the changes to the HVNL that will be introduced by the *Heavy Vehicle National Law and Other Legislation Amendment Act, 2016 (Qld)* (the Amending Act) following proclamation of Chapters 2 and 3 of the Amending Act. Aligning the responsibilities of executive officers covered by the HVNL with the harmonised Work Health and Safety Acts is a principal intention of the reforms commenced with the Amending Act and added to by the Bill.

In that regard the Bill contains Clause 16. The effect of Clause 16 is to amend new section 26D (introduced by the Amending Act) to extend the executive officer due diligence obligation to cover 18 specified provisions of the HVNL. Hence, positive due diligence obligations of executive officers in relation to safety duties under section 26C would encompass all offences that executive officers are currently liable for under section 636(2) HVNL.

However, we raise the issue of the effect of proposed Clause 16(3) which says:



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Section 26D— insert— *(2A) Subsection (1) does not apply to an executive of the legal entity acting on a voluntary basis, whether or not the executive is reimbursed for the expenses incurred by the executive for carrying out activities for the legal entity.*

This proposed subsection would have the effect of excluding the duties applying to executive officers acting on a voluntary basis. No mention of this is made in the Explanatory Notes and was not presaged by any other document that we are aware of. This provision is inconsistent with the model Work Health and Safety laws. Under the WHS laws, volunteer officers have a duty to exercise due diligence under the WHS Act. A volunteer officer is expected to comply with that duty. A volunteer officer cannot however, be prosecuted for failing to comply with that duty (see section 34(1) WHS Act). This immunity from prosecution is designed to ensure voluntary participation at an officer level is not discouraged. We would suggest that the proposed change in Subclause 16(3) of the Bill not proceed and its terms be better aligned with the work health and safety laws.

The second issue is that the Bill's effect is that all provisions relating to a national heavy vehicle registration scheme have been removed or amended. As is stated in the Explanatory Notes:

*The policy objective of having the Regulator maintain a database of heavy vehicles is achieved by repealing the un-commenced Chapter 2 that deals with registration of heavy vehicles under the HVNL and inserting a new Part 12.2A in Chapter 12 of the HVNL that requires the NHVR to maintain such a database.*

National registration provisions have been replaced with provisions allowing the NHVR to hold a database of registrations. Jurisdictions will retain all registration related functions. The policy intent is misconstrued. The intent is to not proceed with a national registration system, a matter which could add efficiencies and simplicity to the operations of NatRoad's members' businesses. We do not support the registration system being State and Territory based with a database only being maintained by the NHVR.

Yours sincerely,

Warren Clark  
CEO