Ia Ara Aotearoa Transporting New Zealand

submission to

Waka Kotahi NZ Transport Agency (Waka Kotahi)

on

Proposed changes to land transport regulatory fees, charges and funding

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1. Representation

1.1 Ia Ara Aotearoa Transporting New Zealand (Transporting New Zealand) is made up of several regional trucking associations for which Transporting New Zealand provides unified national representation. It is the peak body and authoritative voice of New Zealand's road freight transport industry which employs 32,868 people (2.0% of the workforce), and has a gross annual turnover in the order of $6 billion.

1.2 Transporting New Zealand members are predominately involved in the operation of commercial freight transport services, both urban and inter-regional. These services are entirely based on the deployment of trucks both as single units for urban delivery and as multi-unit combinations that may have one or more trailers supporting rural or inter-regional transport

1.3 According to Ministry of Transport (MOT) research (National Freight Demands Study 2018) road freight transport accounts for 93% of the total tonnage of freight moved in New Zealand.

2. Introduction

2.1 Transporting New Zealand provides sector leadership and believes we all need to operate in an environment where the following must be managed and co-exist:

- The safety and wellbeing of our drivers and other road users, our drivers are our most valuable asset
- The impacts of transport on our environment
- The transport of goods by road is economically feasible and viable and it contributes the best way it can to benefit our economy.

2.2 Regulatory fees directly impact the vast majority of our members and Transporting New Zealand is well regarded as having a relatively good understanding of the services and systems Waka Kotahi NZ Transport Agency (Waka Kotahi) provides.

2.3 We appreciate the important role that effective regulation brings to maintaining a safe transport system and we support an effective and efficient regulatory system being in place.

2.4 Transporting New Zealand welcomes the opportunity to comment on the Waka Kotahi Consultation Document: Proposed changes to land transport regulatory fees, charges and funding (the Document).

3. Our position principles

3.1 Generally, Transporting New Zealand believes in a user pays approach and therefore, we agree with the principle that the costs of regulating the land transport system should be recovered from all users as stated on page 6 of the Document.

3.2 Transporting New Zealand believes the National Land Transport Fund (NLTF) should be ring-fenced for roading projects and paying low-level subsidies of public transport operating costs and Police road safety activities.

3.3 We believe there should be good transparency and value for money in the spending by regulators. Therefore, we contend that all the costs related to administering and managing the integrity of the systems related to use of the transport system, such as driver training, driver licensing, transport and goods service licensing, vehicle inspection and road user charges (RUC) should be appropriated and recovered within those respective areas. For example, the costs to administer the driver licence, as well as the costs to manage the integrity of Waka Kotahi agents issuing driver licences, should be paid for within the driver licence fee.

4. Strategic level response to the discussion document

4.1 The Foreword of the Document says,“Safety needs regulation” and the proposals relate to parts of the system that are either safety related, for example, driver licensing and testing, motor vehicle licence and registration fees, transport service licence; or related to funding road infrastructure, for example, road user charges and eRUC providers. We agree that these areas should be in scope however, page 22 of the Document also refers to additional funding being required to support “access and mobility” and “environmental sustainability”. We do not believe that these additional areas should be in scope for any increase in funding.

4.2 Transporting New Zealand is mindful there are a number of parties currently involved in maintaining a safe transport system, in particular Waka Kotahi, Police and WorkSafe. On page 10 of the Document, Waka Kotahi identifies itself as “New Zealand’s lead transport regulator” and we are intrigued as to what underlies this claim. We do not doubt Waka Kotahi plays a major role however, from our perspective, particularly given we represent transport businesses and their workers, Police and WorkSafe, are equally prominent in regulating the system we operate in. We raise this issue because:

- We are concerned at the growing complexity and uncertainty in the regulatory system. Traditionally, transport operators have focussed on complying with the various land transport rules made under transport legislation. However, the predicament that operators now find themselves in is that despite compliance with land transport rules, they are at risk of being seen by WorkSafe as not doing all that is reasonably practical to manage the respective risks associated with their activity.
- Bearing in mind that the potential consequences of a WorkSafe prosecution are orders of magnitude more severe that non-compliance with most land transport rules, there is increasing stress on operators as they seek to establish confidence in meeting the “doing all that is

practical” threshold under the Health and Safety at Work Act. This issue is made even more challenging because such determination is extremely subjective.

- Another good example of the challenges our members face in the regulatory space is how we have demonstrated over the past 12 months that the vast majority of the volatility and uncertainty faced by livestock transporters is largely as a result of the business practices of farmers, livestock agents and meat processing plants. Despite it perceiving itself as the lead regulator, Waka Kotahi does not appear to be able to take any direct action to remedy this. On a more positive note, Waka Kotahi has agreed to chair an across industry and government working group to investigate the issues. However, it appears it will take several months if not years for those issues to be resolved and in the meantime, those closest to the risk of harm and prosecution, our operators, make their best efforts to carry on safely providing their services.
- We believe there needs to be less focus on which agency is seen as the “lead transport regulator” and more focus on actually managing the risk in the transport system. We think a more collaborative and integrated approach among the three agencies would help achieve better safety outcomes.

4.3 In the summary section, page 14 of the Document refers, “the road transport industry’s cost typically rise by 2% annually”. This comparison appears to deflect the reality that Waka Kotahi is seeking a substantial amount of money, $100 million per year, and that is a significant increase on its current annual spend of $185.5 million. We are concerned at the vagueness and lack of clear connection between the additional investment of $100 million and the outcomes this will lead to in terms of a reduction in deaths and serious injuries. Bearing in mind the investment levels from the National Land Transport Fund (NLTF) for the NZ Police contribution to the Road Safety Partnership Programme are in the order of $400 million per year for the three years 2021 to 2024 period[1], we contend that Waka Kotahi should clearly demonstrate that the additional $100 million it is seeking is good investment compared to other opportunities available.

5. Comments on the proposals

5.1 Transporting New Zealand agrees with the findings of MartinJenkins and Kristy McDonald QC in terms of there being gaps and system weaknesses (page 10 of the Document refers) in the current regulatory system and in principle, we support these being resolved. However, we do not believe Waka Kotahi has presented a good case on how best to achieve this.

5.2 Proposal 1 regards obtaining approximately $35 million of the $100 million per annum from either reallocating land transport revenue (road user charges (RUC), fuel excise duty (FED), and motor vehicle licensing and registration) or increasing the fees and charges. Waka Kotahi proposes the $35 million spend include:

- Oversight of the regulatory function (including system reviews and monitoring, and strengthening partnership with industry)
- Funding the cost of regulatory services that cannot be efficiently or fairly collected from specific groups

[1] 2021 – 2024 Road Safety Partnership Programme, May 2021, (Waka Kotahi, NZ Police, Ministry of Transport)

- Helping to repay the government rectification loans.

5.3 For the reasons explained in paragraphs 5.2 to 5.8 inclusive of this submission we do not support Proposal 1.

5.4 Transporting New Zealand believes Waka Kotahi's proposal is somewhat akin to and suffers the proverbial "robbing Peter to pay Paul" dilemma. We do not agree with Waka Kotahi's position that if funding was allocated from land transport revenue it would not cost anything (page 21 refers). We believe there is an opportunity cost associated with this and Waka Kotahi should provide evidence to indicate that spending $34.9 million on improving its regulatory functions provides a better return on investment than spending that same amount on road maintenance or state highway safety improvements.

5.5 Waka Kotahi proposes that some $20.4 million per annum of the $34.9 million increase be used to fund oversight of the regulatory function, and in particular $17.57 million of that be spent on regulatory strategy and policy functions to see if the systems are fit for purpose and value for money. We have raised our concerns regarding the efficacy of CoF inspection, driver license testing and heavy vehicle certification on a regular basis over the past two decades and we do not believe Waka Kotahi needs to spend an additional $17.57 million per year for them to come to the same conclusion. We are also concerned that Waka Kotahi falls into the proverbial predicament of being both the poacher and game keeper.

5.6 Another reason why we do not support the proposed increased spend in this area is that we do not believe Waka Kotahi is allocating its resource wisely and prudently. Over the past 12 months in particular, we have seen Waka Kotahi strengthening its relationship with industry and while we agree that maintaining a relationship with our sector is important, we question how that is done and what values it brings. We have seen unprecedented levels of "consultation" with new forums established to listen to anecdotes from industry which include member associations like ours, and individual operators selected by Waka Kotahi. The scope of discussion is unlimited and often regards issues outside the mandate of Waka Kotahi, particularly during the Covid-19 response which was by and large managed by the Ministry of Health. These are regularly attended by several members from Waka Kotahi, in fact the industry workshop it hosted on 1 April 2022 on these specific proposals had 24 people on the teleconference, of which 10 were representing Waka Kotahi, yet only three of its people appeared to actively participate in the discussion. This approach of having large numbers of its staff attend meetings is typical and we cannot see how these associated costs can be justified in terms of value add and we do not believe Waka Kotahi's approach is good use of its funding.

5.7 An even more concerning issue for us with this proposal is the scope. As mentioned in 5.1 above, we accept the current system for managing safety is not working well and that needs to be fixed however, we strongly oppose Waka Kotahi's proposal that the additional funding be also used for system reviews, and monitoring and reporting in areas such as environmental sustainability and access and mobility (page 22 of the Document refers). As we have recommended to the Ministry of Transport in its consultation last month on road user charges, we believe costs related to managing the environment should be managed via the Emissions Trading Scheme. In a time where we would expect a degree of austerity to be applied, we do not see the need or value in reviewing and reporting on the regulatory function of mobility and access.

5.8 Waka Kotahi proposes it spend an additional $14 million per annum, or thereabouts, on among other things, monitoring drivers, driving course providers and instructors and undertaking audits on certifiers and agents (page 23 of the Document refers). Waka Kotahi takes the view that this should come from land transport revenue because it cannot be efficiently or fairly collected from specific user groups and these services benefit all road users and are considered "public good". For the following reasons we disagree with that rationale:

- Monitoring of drivers, including commercial drivers, is already undertaken by Police and in the latter case, the Police Commercial Vehicle Safety Team (CVST). If more monitoring and funding is required, then in our view that should be appropriated via that channel rather than Waka Kotahi doing it.
- We believe the benefits of monitoring and auditing schemes such as those for driver licensing, driver training and vehicle certification are fundamental elements to the system that manages those drivers or vehicles respectively and therefore, those costs should be appropriated back to those areas and captured in those fees and charges.
- Contrary to Waka Kotahi's view that it is unfair to collect these costs from the specific user groups, we believe that sheeting the related costs back to the respective area and those that directly benefit from it is actually the fairer way of doing this. In addition, we believe our preferred approach provides greater transparency and that is beneficial to understanding the efficacy of the various elements of the regulatory system.
- Finally, Waka Kotahi's justification view that the costs cannot be efficiently collected from the specific user groups appears somewhat disingenuous, particularly given that Waka Kotahi propose that if the increase in money is not obtained via a reallocation of land transport revenue, then it will collect it directly from the specific user groups via its proposals two (2) to eight (8). By and large we understand Waka Kotahi currently has commercial arrangements in place with its agents, and drivers are already paying a licence, therefore in our view, incorporating the additional revenue sought by increasing those fees should be feasible and viable.

5.9 In regard to proposals two (2) to eight (8) we trust that Waka Kotahi is best placed to understand the respective business costs of each of the specific activities, for example the difference between the cost to replace a registration certificate versus the cost to cancel a registration etc. and the respective numbers of transactions. Therefore, with the exception of a comment on proposal four (4) we have refrained from commenting on the explicit numbers and cost increases or decreases as outlined as in our view they are somewhat academic. Our broad comments on the proposals are:

- Until better evidence is provided that gives us greater certainty that the changes will in fact change the risk profile in respective areas, we do not support the increased costs.
- In regard to proposal two (2) and the intent to achieve fewer unlicensed and improperly licensed drivers on the road, we believe managing that risk should lie with Police rather than Waka Kotahi seeking new funding to do this.
- In regard to proposal four (4) and the proposed fee increases for RUC administration charges. There is a 66 percent increase for phone/fax transactions and a 70 percent increase in transaction costs for payments

made via agents. However, there is a significant larger increase of 151 percent for online transactions costs and 181 percent for industry agent transaction fees (Table 10 of the Document refers). There is no clear justification as to why online and electronic processing costs have increased more than the more labour-intensive methods of payment via agent, phone or fax. There is insufficient justification in the Document for these increases and, furthermore, on face value, it does not appear that everyone is paying their fair share of the cost increases.

- Furthermore in regard to proposal four (4), from a transport operator perspective we acknowledge the fee increases are relatively small compared to the actual cost of RUC paid. On page 73 of the Document the stated objectives include, among other things, "all users of the service pay their fair share to ensure: … the system is fair". On the face of it, this sounds reasonable however, what does Waka Kotahi actually mean by fair? Many of our operators use technology such as telematics and electronic charging (eRUC) and therefore, maintain a higher level of compliance however, we understand that is less the case with light vehicles which typically take a more antiquated approach and have correspondingly poorer levels of compliance. These changes do nothing to promote improvements in RUC collection leakage and we would argue are far from fair. We recommend Waka Kotahi consider a pricing structure that promotes increased compliance with RUC payment and in our view, we believe this is the sort of approach that an effective regulator needs to be taking.
- In regard to proposal five (5) and changes to transport services licences we note there is a forecasted annual volume of 137,785 transactions relating to goods service licences and rental service licences which, if the proposed increase of $55.37 was passed, generates about $7.6 million of additional revenue. We understand this to be the mechanism for collecting the group charge for TSL holders and it is a charge on each vehicle due to be paid when each vehicle gets a WOF or COF. Therefore, should this cost increase progress, this directly impacts most of our members and until Waka Kotahi can clearly demonstrate the value that increased costs bring, we do not support it.
- In regard to proposal six (6), on numerous occasions we have raised concern with Waka Kotahi in regard to both the integrity of the heavy vehicle certification regime and the availability of services. While we accept the proposed cost increases are small in absolute dollar terms on a per inspection basis, the percentage increases which range from approximately double to 16-fold (page 100 of the Document refers) appear to us to be grossly disproportionate. The potential increase from $5.17 to $47.22 per certification by a specialist heavy vehicle certifier represents additional revenue of nearly $2 million (based on 45,089 inspections as page 100 refers) and in our view Waka Kotahi needs to clearly demonstrate how this additional spend adds value. Furthermore, Waka Kotahi acknowledges these increases will not remedy the shortage in supply of heavy vehicle certifiers therefore, a cost increase of this quantum and no obvious improvement in service is a bitter pill that our members do not want to swallow.

6. Concluding comments

6.1 Transporting New Zealand believes an effective regulatory regime is an important element to managing a safe transport system. We believe in a user pays approach and therefore, we agree with the principle that the costs of regulating the land transport system should be recovered from the users. We also agree in principle and support Waka Kotahi's approach that the fees and charges reflect the respective cost of the activity, for example, the costs to administer the driver license are reported in the fees paid for a driver license. However, we also believe that the associated monitoring and audit costs for each of the respective areas should be appropriated and collected from those the respective areas' fees and charges and not collected from land transport revenue.

6.2 Transporting New Zealand is mindful that some fees and charges have not been changed for a considerable period. Furthermore, the findings of the two independent reviews undertaken by MartinJenkins and Kristy McDonald QC are not surprising as these are issues that we have raised on regular basis over the past two decades. It is both a travesty and a tragedy that it has taken the death of a person in 2018 for Waka Kotahi to finally accept that change needs to be made.

6.3 We agree it is highly probable some cost increases are justified however, we do not believe that Waka Kotahi has sufficiently justified the need for an additional $100 million per annum spend. The proposed change is in the order of a 54 percent increase, i.e. an additional $100 million on it current spend of $185.5 million. We acknowledge it is not ideal applying a statistical value of life approach however, we also believe Waka Kotahi has a duty to be fiscally responsible to the users paying it to manage transport services. We urge Waka Kotahi to undertake more work and clearly demonstrate the value this $100 million per year will bring.

6.4 Notwithstanding paragraphs 6.1 to 6.3 above, Transporting New Zealand is not ignorant to the possibility that Waka Kotahi will forge ahead regardless and collect the additional revenue it desires. Under such circumstances, our preferred option is not to reallocate money from transport revenue funding and instead, collect the additional revenue from amendments to fees and charges.