

Heavy Vehicle National Law Review

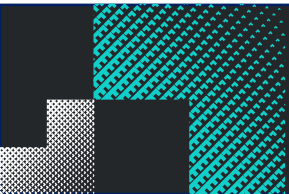
2019 National Local Roads & Transport Congress
Hahndorf, 18 November 2019



The National Transport Commission

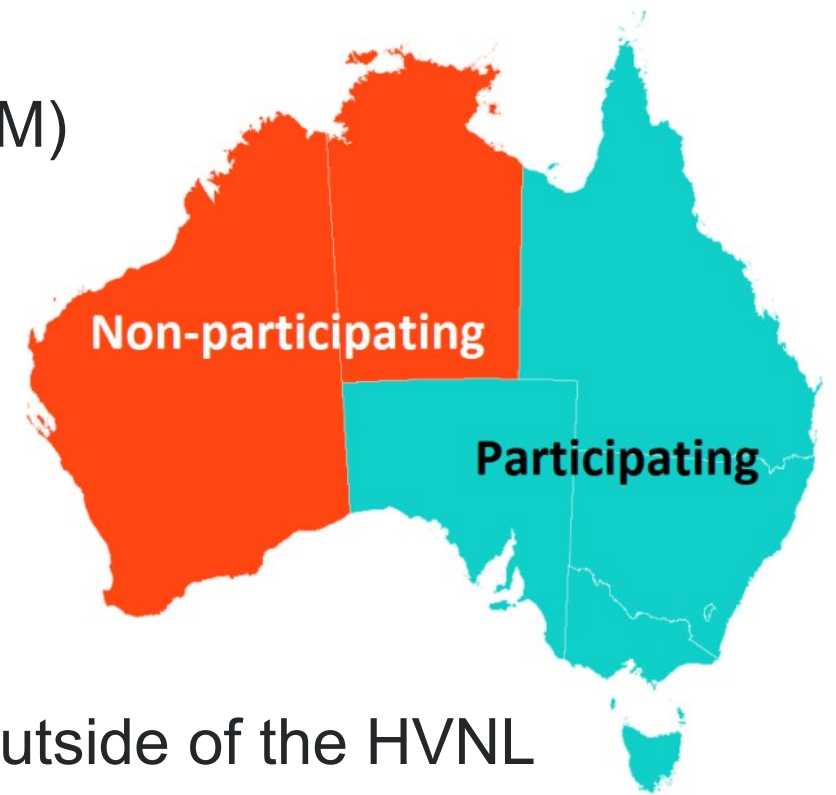
We are a national body established to develop, propose, maintain and monitor national land transport reform on behalf of all Australian governments.

We do this to improve safety, productivity, environmental outcomes and regulatory efficiency.



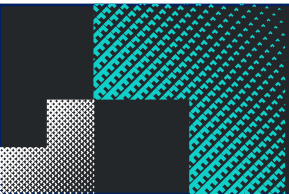
■ The Heavy Vehicle National Law

- An applied law hosted in Queensland
- Regulates heavy vehicle use (over 4.5 tonne GVM)
- Commenced in February 2014
- Covers a range of regulatory areas:
 - Duties and chain of responsibility
 - Mass, dimension and loading (and access)
 - Fatigue management
 - Accreditation (NHVAS)
- Not truly national – half the country (by area) is outside of the HVNL



■ Why we're reviewing the law

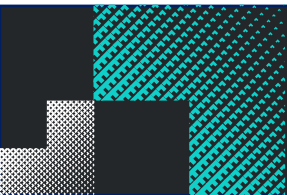
- Ministers asked us to, because the current law:
 - Is not best practice – it's long, complex and highly-prescriptive
 - Represents a compromise of jurisdictions' views
 - Doesn't translate to remote operations very well
 - Doesn't translate to specialised vehicles or operations very well
 - Could be more efficient in key areas, such as fatigue management and access decision-making



Goals of the review

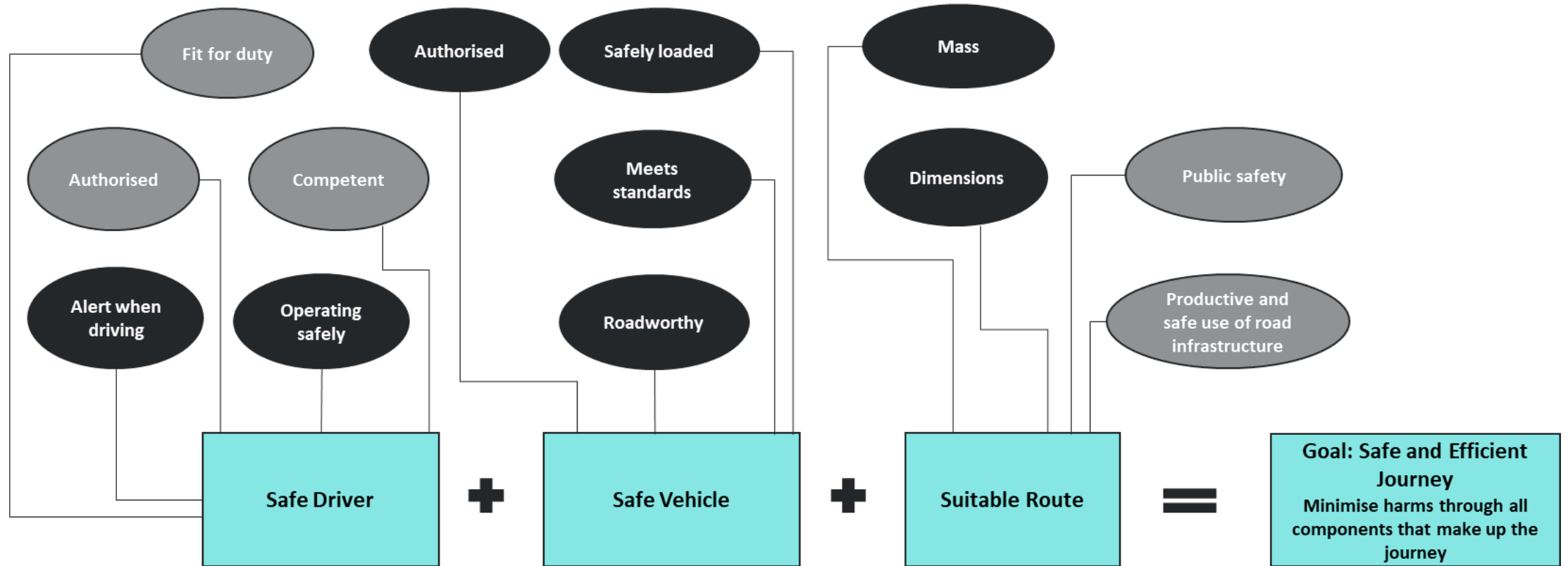
The HVNL Review aims to deliver a new law that –

- targets the highest priority risks
 - aligns harms and risks to controls
 - is proportionate to the identified risks
 - is fair, transparent and appellable
 - is enforced fairly and predictably, and
 - encourages a shift in the balance from traditional roadside enforcement to back of house
- while improving the efficiency in handling the national freight task.



Approach: the safe and efficient journey

Parties in the Chain (Influencers)



Governance and policy groups

Decisions:

- TISOC and the Transport and Infrastructure Council

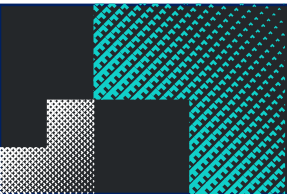
Oversight:

- Commission, Expert Panel and jurisdictions (including ALGA)

High-level policy engagement:

- NHVR, other regulators, police and industry members (e.g. IAG-HV)

Workshops to refine policy options – broad consultation is key



Where we're up to



Risk-based regulation

Consultation now open →



Effective fatigue management

Consultation now open →



Easy access to suitable routes

Consultation now open →



Safe people and practices

Consultation now open →



Vehicle standards and safety

Consultation now open →



Assurance models

Consultation now open →

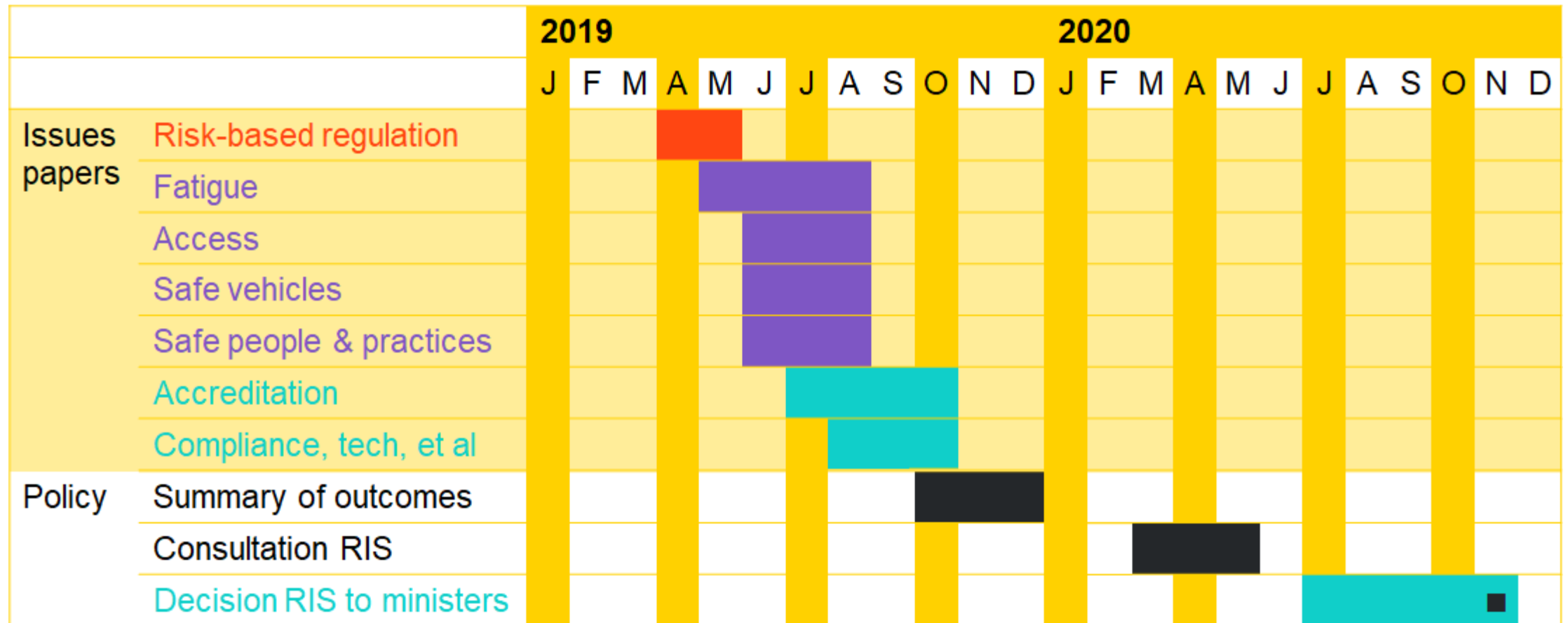


Effective enforcement

Consultation now open →

- Seven issues papers released
- Consultation now closed
- We have now moved from identifying problems to solutions

What's next



The big issues

Fatigue management:

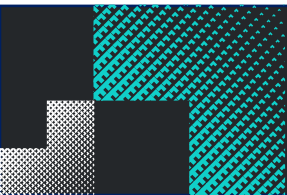
- Simpler rules focused on risks
- Support better fatigue management options, eg technologies

Assurance (accreditation):

- Recognition and support in law for operators to manage their own risks

Access:

- Broad network access for higher productivity vehicles, including PBS
- Efficient access decision-making with productivity a priority
- Sensible decisions balancing safety, efficient freight movement and the protection / consumption of road assets



Access is a big concern

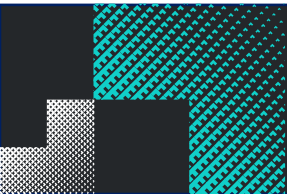
A focus of key Commonwealth reviews:

- Oversize Overmass Review
- Productivity Commission's National Transport Regulatory Reform inquiry

Raised as a significant issue by:

- Industry
- Road managers

Most concerns relate to permit process... transferring approvals to gazette notices and speeding up the process could make substantial improvement.



Safe, productive road freight movement

We need:

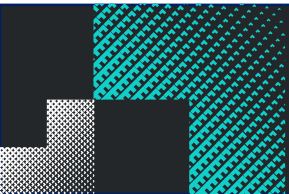
- Suitable networks
- High productivity vehicles
- Smart operations, and
- Good regulation

With a persistent challenge in funding and maintaining road networks and infrastructure



Access issues

- Applying for an access permit can be complex and long-winded
 - Timeframes and delays
 - High volume of permits
 - Process can break down
- Complicated systems of vehicle classification
- The process challenges road manager resources
- Road managers can't delegate their roles under the HVNL
- Decisions are not open to external review
- Decision-making can be inconsistent and reasons for refusal broad
- Some challenges aren't really about the law



Access submissions

What we heard can be broken into the following themes:

- access decision-making process
- access decision-making timeframes
- vehicle classification system
- road manager challenges
- external review
- role of data and technology
- expanding as-of-right access
- using the right tools to accelerate decisions
- other access issues.

Received 46 submissions

Summary available on hvnreview.ntc.gov.au

PROCESS	TIMEFRAMES	VEHICLE CLASSIFICATION	ROAD MANAGER CHALLENGES	EXTERNAL REVIEW
DATA AND TECHNOLOGY	PERMITS & NOTICES	RIGHT TOOLS	OTHER	

What we said

In the Easy access to suitable routes paper the NTC observed that the access decision making process is prescriptive and inflexible. We said it challenges road manager resources and they are unable to delegate this role.

What we heard

Government	▼
Local government	▼
Operators	▼
Peak bodies	▼
Points of agreement	▼
Points of disagreement	▼
Suggested policy options	▼

Access submission feedback

State and territory governments

- Many problems could be solved with operational rather than legislative improvements
- Supported a 'deemed refusal' after 28-days
- Partnership and collaborative approach adopted by the Tasmanian Government is considered the 'gold standard'
- Review mechanism to incentivise road authority action
- Supported greater use of technology and data for improving access arrangements

Local governments

- Many issues are not related to the HVNL, but its implementation
- Ongoing collaboration, cooperation and communication is necessary – Tasmanian Government approach 'gold standard'
- A reduction in timeframes will not result in different outcomes
- Did not support a penalty mechanism for failing to resolve access within the statutory timeframe.
- Councils face more challenges than states and territories
- Do not support including an external review mechanism

Access submission feedback

Operators

- Would like to be able to directly liaise with road managers regarding access
- Needs to be a way to drive an outcome when there is failure to make a decision within the statutory timeframe.
- Supported a 'deemed consent' after statutory timeframe
- Supported an external review mechanism

Peak bodies

- Streamline permit approval process
- Supported changing the statutory timeframe, with most peak bodies suggesting a period of 7 days.
- Supported an external review mechanism
- Divided as to whether telematics should be voluntary or mandatory

Access – points of agreement

Points of agreement

- Operators should be able to directly liaise with local councils.
- Many issues could be resolved through operational improvements.
- Needs to be a way to an outcome when there is failure to make a decision within the statutory timeframe.
- Local government resourcing issues challenge capacity to make a decision within statutory timeframes.
- Needs to be incentives to compel parties to make a decision within the statutory timeframe.
- The way time is counted should be changed.
- Tasmanian government approach could serve as a model at a national scale.
- In-vehicle technology, electronic mapping, databases and data sharing are important for a future HVNL.
- To the greatest extent possible, notices rather than permits should be used for road access approvals.
- HVNL reforms should not create unnecessary obstacles for any new charging framework.

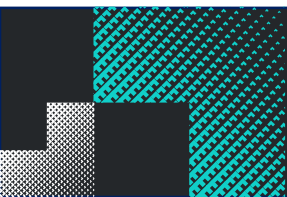
■ Access – points of disagreement

Points of disagreement

- What process improvements could/should be made within the law.
- What the statutory timeframe for an access decision should be. Suggestions included 48 hours, 7 days and retaining the current 28 days.
- Whether a failure to make a decision should lead to a 'deemed consent' or 'deemed refusal'.
- How time should be counted for an access decision process.
- Whether external review should be allowed and how this would work.
- Whether telematics should be mandatory or voluntary.
- How delegation of powers would work in a practical sense.
- How public safety and amenity should be dealt with and defined under a new HVNL.

Access opportunities

- An approach to optimise access for lowest net cost:
 - Needs to be safe, and meet community expectations
 - It should be efficient and support productivity
 - Sensible use of public resources, assets and infrastructure
- Broaden access decisions:
 - Favour as-of-right access over permits (or equivalent)
 - Review general access
- Quicker and simpler decisions:
 - Quick and responsive, if not proactive
 - Consistent, fair, appellable
 - Clear accountability



 So...

...how can local governments get involved?

Selected access policy options

Read and suggest your own policy option at hvnreview.ntc.gov.au

SPO-KA01: Efficient and accountable access decisions (7-day)	SPO-KA02: Efficient and accountable access decisions (28-day)	SPO-KA03: Incentives for quick access decisions
<ul style="list-style-type: none">▪ A statutory timeframe of seven days (extendable to 28 days)▪ Road manager response within 48 hours▪ Ability for road managers to delegate decision-making powers▪ A deemed consent for a nil response within the statutory timeframe, and▪ External review of decisions.	<ul style="list-style-type: none">▪ A statutory timeframe of 28 days (as is the case now)▪ A deemed refusal for a nil response within the statutory timeframe, and▪ Independent review of decisions.	<ul style="list-style-type: none">▪ Penalty to road managers where a nil response is received▪ Nil response would delegate decision-making powers to another party▪ Portion of permit application fee to road managers where access is granted in time, and▪ Refund portion of permit application fee to operator where application is refused.

Selected access policy options

Read and suggest your own policy option at hvnreview.ntc.gov.au

SPO-KA05: Permit decision database applied to access decisions

- Road managers enter permit decisions into a shared database.
- Database would allow for precedent decisions if there is no decision from the road manager within the statutory timeframe.

SPO-KA07: Access precedents

- Once a route has been approved for a particular class of vehicle, any vehicle of that class should be able to access the route under the same conditions.

SPO-KA09: Risk-based access decision-making

- Lower-risk and higher-risk access applications are differentiated and processed under different frameworks.

SPO-KA10: Implement Tasmanian system across participating states and territories

- Law would encourage the development of gazetted notices over individual permits.
- Apply a similar methodology and approach to the Tasmanian example

Have your say

We aren't just taking formal submissions...

Heavy Vehicle National Law Review: Suggested policy option
SPO-F01 – Elevate safety to be the primary object of the law



SPO-F01 – Elevate safety to be the primary object of the law

Author: National Transport Commission

21 October 2019

Issue addressed:

The objects of the current Heavy Vehicle National Law (HVNL) include the promotion of both safety and productivity. Stakeholders consider that the law should not imply that productivity can be achieved at the expense of safety. Stakeholders have suggested the objects of the law should clearly indicate that safety is the primary objective, to remove any potential conflicts.

This suggested policy option addresses the potential conflict between safety and productivity in the objects of the current HVNL.

Relationships and dependencies:

This suggested policy option relates to others covering objects of the law.

Policy summary

The object of the future HVNL would clearly explain the purpose of the HVNL.

Safety would be defined as the overarching or primary object of the law. This is in-line with other legislation such as rail safety and work health and safety law.

Other objects (including managing impact on the environment, road infrastructure and public amenity, and promoting productivity) would be included as secondary objectives under the overarching safety object.

The new HVNL object should be drafted recognising the following principles:

- The primary object is to ensure safety of operators and the public.
- The object would resolve the current perceived conflict between industry promotion and safety by removing 'promotion'.
- There is not any conflict between safety and managing the impacts of heavy vehicle operations on the environment, public amenity and road infrastructure.
- Efficiency is not only achieved through improved access, it could also be achieved through reduced prescription in the HVNL,

better and innovative management of risk, safer and more efficient vehicles and greater use of technology.

To elevate safety as the primary object of the law, potential wording may indicate that safety is the primary purpose, and it should be delivered in a way that:

- Manages heavy vehicles' impact on the environment, road infrastructure and public amenity
- Enables the efficient road transport of goods and passengers by heavy vehicles, and
- Encourages and facilitates safe, efficient and innovative business practices.

Heavy Vehicle National Law Review: Suggested policy option
SPO-F01 – Elevate safety to be the primary object of the law



Advantages

- Clearly articulates that the primary objective of the law is safety.
- Provides clarity for all parties that safety is the primary consideration.
- Enables the implementation of schemes/frameworks under the HVNL that can enhance the efficiency (and therefore productivity) of the movement of passengers, goods and plant/equipment where this can be achieved safely.
- Allows for a regulatory framework that optimises the safe and sustainable use of infrastructure, vehicles and resources to benefit industry, the economy and the broader community.
- Will ensure that operational policies developed by the NHVR covering access, vehicle standards, fitness for work, compliance and assurance must be done with the primary objective of improved safety.

Challenges

- May reduce the flexibility of the law to deal with future scenarios that are not about the safety of heavy vehicle operations. This may be out of scope of the HVNL and would likely require primary legislation amendment.
- The HVNL still covers access arrangements which have an element of productivity attached (i.e. there is no economic regulation in the heavy vehicle space).
- Some may argue that safety will unnecessarily be used as a further impediment to productivity, particularly given that the HVNL has not delivered on the assumed productivity benefits.
- Without clear guidelines it is possible that the "safety card" could be inappropriately used.

How this policy option might affect –

Drivers

The reframing of the object would have limited effect on drivers as it does not change the purpose or scope of the HVNL in a material way, but simply clarifies that if conflicts arise between objectives, safety considerations take precedence.

Operators

The reframing of the object would reinforce safety responsibilities under chain of responsibility.

Others in the chain of responsibility

The reframing of the object would reinforce safety responsibilities under chain of responsibility.

Enforcement

The reframing of the object should drive priorities for enforcement and penalties for infringements that have an impact on safety.

Administrators

The reframing of the object could change the focus of regulator activities.

10 October, 2019
Gizmo says:

"OSOM operators shouldn't have to obtain local permits to detour around impassable obstacles or HV bypasses that impede state road routes."

107 0

6 March, 2019
MSTONE says:

"Drivers must be able to rest when they need to - driving hours have to be flexible and reflect the delays and holdups that operators face."

103 0

4 April, 2019
RAF says:

"Adoption of a collaborative approach to roadside enforcement not a punitive one. Fines for work diary spelling mistakes don't improve safety"

56 0

11 June, 2019
Andyk says:

"The majority of us try and do the right thing, to be fined thousands of dollars for a simple mistake is wrong"

53 0

28 June, 2019
bencannon says:

"Current vehicle length restrictions mean that bunks are often too small or non-existent. Drivers need good sized bunks for good rest."

49 0

10 October, 2019
KristelJ says:

"There has to be a warning process implemented. The current process of fining drivers \$674 for not ticking one box is absurd!"

49 0

22 March, 2019
MSTONE says:

"Ensure the law is easily read/understood + defined, no subjective fines and penalties. Err on side of education + warnings vs punitive fine"

41 0

11 October, 2019
Snowy68 says:

"Lower fines (or reduce revenue raising) for all non safety issues ! Forgetting to "tick a box" or "dot an l" will NOT cause an accident !"

38 0

11 October, 2019
Gordo says:

"Stop fining drivers for simple clerical errors. A missed signature or date does not constitute a

21 May, 2019
streamlinetrucking says:

"One rule for all drivers across the nation. The detachment of rules from states to territories is

21 April, 2019
reeva says:

"The new law must be simple for all to understand, not a thousand pages that nobody can."

29 June, 2019
roeold55 says:

"Any decisions re fatigue must be weighted towards opinions of drivers & operators not

Is this suggested policy option feasible and practical?

could work

could work with refinement

could not work

I think SPO-F01

Please provide brief details

You have 250 characters left.

Submit



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