



HVNL high-level regulatory framework – decision

Regulatory Impact Statement summary

June 2023



Report outline

Title	Heavy Vehicle National Law high-level regulatory framework – decision regulation impact statement
Type of report	Summary of recommendations
Purpose	To complement the <i>Heavy Vehicle National Law high-level regulatory framework, Decision regulation impact statement</i> .
Abstract	This document complements the <i>Heavy Vehicle National Law high-level regulatory framework, Decision regulation impact statement</i> . It provides a snapshot of the 14 recommendations approved by ministers on 9 June 2023, as well as the problems in the current law that the recommendations address. This document also includes information on the next steps the NTC will take to progress policy on access and fatigue.
Attribution	<p>This work should be attributed as follows, Source: National Transport Commission, <i>Heavy Vehicle National Law high-level regulatory framework decision regulation impact statement, Summary of recommendations</i>.</p> <p>If you have adapted, modified or transformed this work in anyway, please use the following, Source: based on National Transport Commission, <i>Heavy Vehicle National Law high-level regulatory framework decision regulation impact statement, Summary of recommendations</i>.</p>
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1 Introduction

This document summarises key elements of the *Heavy Vehicle National Law high-level regulatory framework Decision regulation impact statement* (referred to as ‘HVNL decision RIS’ in this document). It presents a snapshot of:

- the problems identified with the current Heavy Vehicle National Law (HVNL)
- the 14 recommendations from the HVNL decision RIS that ministers approved at the Infrastructure and Transport Ministers’ Meeting (ITMM) on 9 June 2023.

The document also includes some information on the next steps for developing how access and fatigue will be treated under the new law.

The audience for this document is anyone who has an interest in how the HVNL will be structured in the future. This includes:

- operators
- drivers
- other chain of responsibility parties
- industry groups
- the National Heavy Vehicle Regulator
- police
- government departments and agencies.

1.1 Scope

The scope of this document is limited to a high-level summary of:

- the problems with the current law
- the approved recommendations
- next steps for access and fatigue.

The following parts of the HVNL decision RIS are out of scope for this document:

- Information about the history of the projects and work completed so far by the National Transport Commission (NTC).
- The connection between the recommendations in the HVNL decision RIS and the recommendations in the report by Ken Kanofski (referred to as the ‘ITMM reform package’ in the HVNL decision RIS).¹
- The analysis methodology and criteria the NTC used to evaluate the recommendations.

¹ Appendix B of the HVNL decision RIS matches the recommendations in the RIS against the recommendations in the report by Ken Kanofski.



There is more detailed information about these elements in the HVNL decision RIS. You can also find more detail on the problem description and the recommendations in that document. This includes:

- how the recommendations in the HVNL decision RIS were developed
- detailed analysis of each recommendation



2 Summary of problems with the current law

The objectives of the HVNL are to:

- promote public safety
- manage the impact of heavy vehicles on the environment, road infrastructure and public amenity
- promote industry productivity and efficiency in the road transport of goods and passengers by heavy vehicles
- encourage and promote productive, efficient, innovative and safe business practices.

The HVNL Review identified problems with the current law that limit how well it meets these objectives. Many of those problems can be traced back to the current regulatory framework – that is, the way controls on heavy vehicles such as rules, principles and methods, fit together in the law.

2.1 Scope

The recommendations in the HVNL decision RIS aim to address the following problems with the current regulatory framework.

Problem 1 – Regulatory framework too prescriptive

The heavy vehicle industry is highly diverse. It needs both flexibility and certainty in meeting the goals of the law and complying with its prescriptive parts. But prescriptive requirements make up nearly two-thirds of the current HVNL. The new regulatory framework **needs to have a better balance between prescriptive obligations and obligations that are able to be met in different ways.**

There are some benefits to having prescriptive requirements. They can give industry certainty and make compliance and law enforcement simpler. But the level of prescription in the current law can give businesses the sense that compliance is a box-ticking exercise. Instead, the law should encourage businesses and the regulator to find better ways to manage safety risks.

Problem 2 – Not responsive to change

The HVNL **doesn't respond to changes in the operating environment**, such as innovations in technology or new safety risks. A lot of the detail about obligations and how to comply with them is in the HVNL itself - not in regulations or codes of practice. This makes it difficult to tailor and adapt regulation as the situation changes, and amendments to the law can take more than a year.

Problem 3 – Alternative compliance too constrained

Alternative compliance options are too heavily constrained by legislation. Some operators have found safer or more efficient ways to manage safety than meeting prescriptive rules. But there isn't much flexibility for them. They can apply to be accredited under the National Heavy Vehicle Accreditation Scheme, but many of the alternative compliance options under the scheme are limited and hardwired into the primary law.



The regulator can't create new alternative compliance options – even if operators can show they are managing risks by using improved business practices or new technologies.

Problem 4 – Doesn't keep up with technology or data sharing

There is **no clear pathway for recognising modern technologies** in the HVNL. The current law recognises a small number of specified technologies. But the law doesn't include an agreed process for identifying new technology that improves safety or productivity.

There are also **no provisions for sharing data**. The transport sector relies upon data more and more. But current clauses about data are only concerned with specific technology. The clauses are not comprehensive or consistent.

Problem 5 – Regulatory tools and powers need amending

Some of the **regulatory tools and powers in the HVNL are outdated, inflexible or unnecessarily constrained**. Some processes around the use of these tools and powers are out of line with best practice regulation.

Also, powers and delegations have to be updated so they can support the other changes to the law.

Problem 6 – Inefficient existing delegations

Some existing delegations of authority are inefficient. They limit the regulator's ability to modernise and manage risks. They also limit who can create codes of practice, which in turn affects what the codes focus on. As a result, there are few codes, and they don't cover drivers or other chain of responsibility parties.

The HVNL needs to be more flexible and responsive to reflect the diversity of both the industry and the freight and passenger task. The law needs to be able to keep up with:

- growth in road freight and changes in demand
- advances in technology and digitisation of the supply chain
- the gig economy and skills shortages
- external disruptions, such as COVID-19
- security and cyber threats
- environmental policies and emissions targets
- the need for continuous improvement in safety.



3 Summary of recommendations for changes to the HVNL

The recommendations in the HVNL decision RIS were approved by ministers on 9 June 2023. The goal of the recommendations is to address the six problems outlined. They are designed to deliver:

- a modern, outcomes-focused regulatory framework
- an improved National Heavy Vehicle Accreditation Scheme as part of a tiered assurance environment
- a technology and data framework
- an expanded driver duty.

The recommendations are grouped under the following themes:

- Regulatory framework: recommendations 1, 1a, 1b, 2, 3, 4 and 5.
- Assurance and accreditation: recommendations 6a, 6b, 7 and 8.
- Technology and data: recommendations 9, 10, 11, 12 and 13.
- Primary duties and responsibility: recommendation 14.

3.1 Impact of recommendations

Chapter 5 of the HVNL decision RIS includes detailed information on how each recommendation impacts operators, drivers and other parties.

Most of the recommendations are enabling in nature. They change the structure of the HVNL and how it works to make it possible for other changes to happen in the future. This means there aren't many direct impacts from these recommendations.

3.2 Regulatory framework

Recommendations in the regulatory framework section focus on addressing problem 1, problem 2 and problem 6.

The recommendations don't involve changes to duties or obligations of parties. Instead, they are enabling. They make it possible for the structure and mechanics of the HVNL to be changed so it is simpler and easier to understand. They also make it possible to change the 'one-size-fits-all' approach in the current HVNL, which doesn't recognise the diverse purposes and risks of heavy vehicle transport.

New regulatory powers, tools and instruments are introduced. This includes giving the regulator the ability to take an approach to regulation that is based on risk – not box ticking. There are also changes to ministerial powers to make sure the regulator's new powers are balanced by ministerial oversight.



Recommendation 1 – Tiered safety assurance environment

That the future HVNL establish a tiered safety assurance environment comprising a baseline tier and an alternate compliance tier, designed to reflect industry diversity and deliver regulatory flexibility.

Recommendation 1 creates a new overarching system that reflects the diversity of heavy vehicle operators better than the current law. It also helps streamline the HVNL so it can better respond to change.

The new tiered safety assurance environment includes two tiers:

- Tier 1 is a baseline compliance tier. It's for operators who want the simplicity and certainty of prescriptive rules.
- Tier 2 is an alternative compliance tier. It's for accredited operators who want more flexible options better suited to their business.

Together, the tiers will offer operators a spectrum of options. There's more information about the two tiers under recommendations 1a and 1b.

The law will be better at responding to risks to safety. It will also be better at keeping up with advances in technology and practices that improve safety. This is because:

- It will be easier and quicker to prescribe new obligations in response to new risks, technologies and practices.
- The regulator will be able to create new alternative compliance options that reflect new technology and the increasing sophistication of operators.

The recommendation benefits industry, suppliers of vehicle and safety technology and other parties.

Impact

This recommendation enables other changes. It doesn't propose changes to existing obligations. It also doesn't include any new obligations, or any new alternative compliance options.

You can find more information about potential impacts and benefits in sections 5.2.4 and 5.2.5 of the HVNL decision RIS.

Recommendation 1a – Baseline compliance tier 1

That as part of the tiered safety assurance environment, the future HVNL establish a baseline tier comprised of simplified, predominantly prescriptive requirements, given effect by a broad head of power for the prescribing of heavy vehicle obligations.

Under recommendation 1a, tier 1 will be the default level for baseline compliance. It will include simpler and clearer prescriptive requirements, known as heavy vehicle obligations



(or HVOs), that are easier to understand. The baseline compliance tier will suit operators who prefer simplicity and the certainty of set rules.

Recommendation 1a helps make the law more responsive. This is because:

- New heavy vehicle obligations will be created in regulation. They won't be hardwired into the primary law.
- Many existing requirements will be recast as heavy vehicle obligations. This means they can move out of the primary law and into regulation.

Heavy vehicle obligations will be the default tier for operators and drivers. An obligation will apply to an operator or driver unless it is dispensed with – that is, done away with. Obligations can be dispensed with in two ways:

- An operator applies for an alternative compliance option when they become accredited.
- There is an exemption or exception.

If an obligation is to be replaced with an alternative compliance option, it will have to be on a list approved by ministers.

It will also be possible to impose heavy vehicle obligations on off-road parties. This includes parties in the chain of responsibility (defined in section 5 of the HVNL), as well as other parties. As a result, it will be easier to allocate responsibility to the parties that can manage risk the best.

There is detailed analysis of how heavy vehicle obligations will work in section 5.2.4 of the HVNL decision RIS.

Impact

Recommendation 1a is part of an overarching framework. It makes other structural changes possible and doesn't propose changes to existing obligations or include any new obligations.

You can find more information about potential impacts and benefits in sections 5.2.4 and 5.2.5 of the HVNL decision RIS.

Recommendation 1b – Alternative compliance tier 2

That, as part of the tiered safety assurance environment, the future HVNL establish an alternative compliance tier for accredited operators, underpinned by a new power allowing the regulator to issue alternative compliance options, within prescribed outer limits and other specified constraints.

Tier 2 of the new assurance system is an alternative compliance tier. Recommendation 1b gives the regulator the power to create alternative compliance options for accredited operators. There will no longer be a few alternative compliance options hardwired into the primary law. Instead, the regulator will be able to create a sliding scale of options to suit operators of different sizes, sophistication and tasks.

The regulator will be able to issue options to operators in either of two ways:

- as part of accreditation modules



- on an individual bespoke basis, under special circumstances.

These changes to the structure of tier 2 make the accreditation scheme more flexible. It means the regulator can adapt and expand alternative compliance options in line with new risks and technologies. The regulator can also develop options that respond to the increasing sophistication of operators.

The regulator will be able to create accreditation modules based on risk-area standards. These are standards set in regulations around specific risk areas, such as fatigue, mass and maintenance. The regulator will be able to develop a library of modules related to the risk area, with associated compliance options.

Once an accredited operator is issued an alternative compliance option, the relevant heavy vehicle obligation from tier 1 is dispensed with. Instead, the operator will have to meet the requirements and conditions in the alternative compliance option.

The regulator will also be able to create accreditation modules that don't lead to alternative compliance options. For example, modules on driver competency, health and fitness, and sustainability. Being accredited under these modules may attract commercial benefits.

The future law will allow individual operators to propose bespoke alternative compliance options to the regulator. To do this, operators must demonstrate:

- a safety case that sets out how the safety standard threshold is met
- a unique business need
- that both the baseline heavy vehicle obligation and available alternative compliance options don't meet the unique business need.

The regulator's new power to create modules and issue alternative compliance options will be limited in three ways. Alternative compliance options must:

- be allowed under the law
- meet a safety standard threshold
- follow any relevant ministerial direction.

Under the enhanced system, there will be more flexibility for imposing obligations on off-road parties. This makes it easier to allocate responsibility to the supply chain parties that can manage risk the best.

Impact

Recommendation 1b makes structural changes possible and doesn't deal with specific existing or new alternative compliance options.²

The potential benefits for industry from recommendation 1b include:

- Smaller or less sophisticated operators will get access to alternative compliance options that aren't available to them under the current HVNL.
- Mid-tier operators will get access to a greater range of alternative compliance options.
- Sophisticated operators will have access to more flexible alternative compliance options.

² Recommendation 1b makes it possible to put in the changes under recommendations 6a, 6b, 7 and 8.



The regulator will adapt existing alternative compliance options (for example, Mass Management) so they can be applied in the new system. This will make sure there is continuity for existing accredited operators.

The regulator will also develop a limited suite of new alternative compliance options to be ready by the time the new law starts. The regulator will carry out the consultation and evaluation work for this process.

Recommendation 2 – Ministerial approvals

That, as part of establishing an appropriate balance of regulatory discretion and ministerial oversight, the future law establish new arrangements for ministerial approvals, such that:

2a In recognition of restructured arrangements for alternative compliance and accreditation, ministers will no longer be required to approve accreditation business rules.

2b As part of enhancements to accreditation, ministers will be empowered to approve a national audit standard to be applied as part of the National Heavy Vehicle Accreditation Scheme, as well as other schemes and third parties. A national audit standard audit certificate will be automatically admissible as evidence in primary duty proceedings.

2c The law clarify that consultation requirements apply to the development of ministerially approved guidelines.

2d Ministers will no longer be required to approve a sleeper berth standard, noting this may be prescribed as a heavy vehicle obligation in the future.

Recommendation 2 revises some ministerial approvals to support other changes in the HVNL. Together, the changes in this recommendation:

- strengthen the autonomy and discretion of the regulator
- make ministerial oversight and direction more targeted and appropriate.

Recommendation 2a removes the need for ministers to approve standards and business rules for accreditation. As a result, the regulator won't need to get ministerial approval for operational material. This makes the accreditation scheme able to respond to change quicker.

Recommendation 2b gives ministers the power to approve a national audit standard. This will replace the current power to approve a class of auditors. The regulator will develop the national audit standard, in consultation with state and territory governments, industry and other parties. The national audit standard will be designed around key elements of a safety management system. It will be designed so it can be applied to non-accreditation audits. It will also be a way for non-HVNL schemes to align with the National Heavy Vehicle Accreditation Scheme.

The future law won't specify the content of the audit standard. Ministers also can't use this new power to specify what the audit standard should contain. For more information on the national audit standard, see recommendation 8.



Under recommendation 2b, an audit certificate from an audit that meets the new standard can be admitted to court as part of evidence that an operator is doing what they can to meet the primary duty. This will not stop other evidence from being admitted in court. It also won't mean an audit that meets the standard is deemed compliance with the primary duty.

There's more information on the links between the primary duty, safety management systems, accreditation and the audit standard in section 5.2.4 of the HVNL decision RIS.

Recommendation 2c helps clarify the process for how guidelines are developed. Under the future law, guidelines will have to be consulted before ministers can approve them. This includes consulting with the following parties:

- industry
- the regulator
- state and territory governments
- police.

Recommendation 2d removes the need for ministers to approve a standard for sleeper berths. If a sleeper berth standard is developed in the future, it will be created as a heavy vehicle obligation.

Impact

The changes in recommendation 2 revise what ministers can approve in the future law. There are no specific proposals for what standards or guidelines will contain.

You can find more information about potential impacts and benefits in sections 5.2.4 and 5.2.5 of the HVNL decision RIS.

Recommendation 3 – Ministerial directions

To enable ministers to appropriately direct the regulator, and without impinging on regulatory autonomy, the future law will establish new ministerial direction arrangements, such that:

3a Ministers (collectively) will be empowered to give written directions about the issuing of alternative compliance options.

3b Ministers (individually or collectively) may direct the regulator to exercise a certain function or power in the case of a serious public risk, and when in the public interest to do so.

3c Ministers (individually or collectively) may direct the regulator to investigate or provide advice or information about a matter relating to a public risk.

3d Ministers (collectively) may direct the regulator to cancel a code of practice.

3e Ministers will retain the existing power (collectively) to direct the regulator about policies to be applied.

Ministers are generally responsible for their road network and road safety within their jurisdictions. Recommendation 3 expands the powers of ministers to direct the regulator to



respond adequately to serious events or systemic risks. The powers can only be used in specified circumstances. This helps make sure ministerial oversight and regulator autonomy remain balanced.

Under **recommendation 3a**, ministers can issue written directions about granting alternative compliance options. The regulator will have to follow such a ministerial direction. There are examples of the kinds of things directions may cover in section 5.2.4 of the HVNL decision RIS.

Recommendation 3b gives ministers the power to direct the regulator to suspend or revoke an alternative compliance option. Ministers can only use this power if there is a serious public risk or it is in the public's interest.

The directions can't be about a particular person, heavy vehicle, application or proceeding. The only exception to this is if the direction is to cancel an alternative compliance option for an operator, or their accreditation. This gives ministers the ability to respond quickly when there are serious safety incidents involving a particular operator.

Under **recommendation 3c** ministers can direct the regulator to investigate or give them advice or information about a matter relating to a public risk.

Recommendation 3d gives ministers the power to direct the regulator to change or cancel a code of practice. This power is limited to certain circumstances, such as when a code creates impractical or unreasonable standards. There's more information about codes of practice under recommendation 4.

Under the current law, the regulator has to publish any directions about policies in its annual report. Under **recommendation 3e** the regulator will also have to explain how it complied with the direction.

Impact

Recommendation 3 is part of the framework that makes other actions possible. There are no direct impacts.



Recommendation 4 – Codes of practice

That the future law establish new arrangements for codes of practice, replacing the existing industry code of practice mechanism and allowing the regulator to initiate, develop and approve codes of practice.

Codes of practice provide practical guidance on how to comply with legal obligations and set out best practice methods for managing safety. They can be tailored to help different groups of people comply with the HVNL. This includes operators, drivers and other chain of responsibility parties.

Under recommendation 4, codes of practice will have a more prominent role in the law. The regulator will be responsible for developing and maintaining codes of practice. The regulator will have to consult with industry, and industry will be given an opportunity to challenge proposed codes.

There's more information, including who can initiate a code of practice under the future law, in section 5.2.4 of the HVNL decision RIS.

Impact

This enabling recommendation makes it possible for the regulator to develop codes of practice in the future. It doesn't cover any specific codes.

Existing industry codes of practice will be reviewed by the regulator and transitioned to the new environment. Codes of practice won't be mandatory under the future law.

You can find more information about potential impacts and benefits in sections 5.2.4 and 5.2.5 of the HVNL decision RIS.

Recommendation 5 – Improvement notices

That the future law revise arrangements for improvement notices to allow improvement notice and prosecution processes to run concurrently.

Under recommendation 5, section 573(3) of the HVNL will be removed. This will make it possible for improvement notice and prosecution processes to run at the same time. This means the regulator will be able to:

- start proceedings against a party, even if an improvement notice has been issued for the same offence
- issue an improvement notice, even if proceedings about the same offence have already started.



The regulator's current tools in these circumstances are costly for all parties and often disproportionate. The change allows the regulator to secure compliance and fix an immediate safety risk in a less expensive and more proportionate way.

The future law will also make it clear that a party may have to implement a code of practice as part of an improvement notice.

Impact

Most rules about improvement notices will be the same in the future HVNL. All that will change through this recommendation is that it will be possible for improvement notice and prosecution processes to take place at the same time. There are no direct impacts on parties.

You can find more information about potential impacts and benefits in sections 5.2.4 and 5.2.5 of the HVNL decision RIS.

3.3 Assurance and accreditation

Recommendations in this section focus on addressing problem 3. They provide more information about how the regulatory framework changes apply to accreditation.

The recommendations describe changes to the National Heavy Vehicle Accreditation Scheme.³ Enhancing the accreditation scheme will make it more robust and increase people's confidence and trust in it.

The National Heavy Vehicle Accreditation Scheme will still be a voluntary scheme run by the National Heavy Vehicle Regulator. The recommendations make it easier for the regulator to offer a broader range of accreditation options and more flexible options. The changes will give more operators access to alternative compliance options.

Recommendation 6a

That as part of the new alternative compliance tier (recommendation 1b), the future law restructure the National Heavy Vehicle Accreditation Scheme so that accredited operators can apply for an expandable range of alternative compliance options – either on a bespoke basis or as part of accreditation modules developed by the regulator, within the ministerially approved limits.

Recommendation 6b

That the law ensures a three-year transition period for current NHVAS operators to provide operators adequate time for them to develop the necessary safety management system to qualify for the enhanced scheme.

³ These enhancements are made possible by recommendation 1b.



Recommendation 6a

Recommendation 6a expands on recommendation 1b. It describes how the National Heavy Vehicle Accreditation Scheme will be revised.

Under recommendation 6a, the regulator will be able to develop new accreditation modules. The modules will be based on risk area standards set out in the new law. For example, standards on risk areas like mass and fatigue.

Most accreditation modules will have alternative compliance options associated with them. Operators can apply for alternative compliance options when they apply for accreditation.⁴

The regulator will issue alternative compliance options to operators accredited in the relevant module. The regulator will also be able to suspend an alternative compliance option without cancelling or suspending an operator's accreditation.

Operators that apply for accreditation will have to show they have a safety management system in place. Operators will need to have their safety management system audited under a new national standard.

The need for a safety management system will be scalable to suit a range of operators of varying size and complexity.

There's more information about the requirement for a safety management system under recommendation 7. Information about the new national audit standard is under recommendation 8.

Non-HVNL schemes will be able to align their requirements with the new National Heavy Vehicle Accreditation Scheme. The regulator can then develop accelerated accreditation pathways for operators in these schemes. This will include access to alternative compliance options. As a result, operators with non-HVNL accreditation won't have to go through an accreditation process twice.

Recommendation 6b

Under recommendation 6b, there will be a three-year transition period between the current and revised accreditation schemes. This will help operators accredited under the current scheme to switch over. It gives them time to cover potential costs, set up a safety management system and arrange for auditors.

Operators participating in the current scheme will have their first audit three years after the new scheme starts. Until then, their current accreditation and concessions will be recognised.

Impact

Recommendations 6a and 6b describe changes to the National Heavy Vehicle Accreditation Scheme. They don't include information on specific modules or specific compliance options.

There's more information in section 5.3.4. This includes information about:

- how accreditation modules link to alternative compliance options

⁴ Some accreditation modules may not lead to alternative compliance options. This is covered under recommendation 1b.



- different roles and responsibilities for operators, road managers, ministers and third parties
- what the changes mean for operators accredited under non-HVNL schemes.

You can also find more information about potential impacts and benefits in sections 5.3.4 and 5.3.5 of the HVNL decision RIS.

Recommendation 7

That, as a fundamental enhancement to the scheme, the law establishes a scalable safety management system as a core accreditation requirement.

Recommendation 7 makes a scalable safety management system a core accreditation requirement under the revised National Heavy Vehicle Accreditation Scheme. That is, having a safety management system will be compulsory for accreditation.

A safety management system is a documented and comprehensive approach to managing safety that is integrated throughout a business. It includes all the necessary organisational structures, accountabilities, policies and procedures. A safety management system should address:

- all risks captured by the HVNL definitions of transport activities, public risk and safety risk
- all risks relevant to an operator.

Under recommendation 7, the core requirement for a safety management system will be built around:

- **Five safety management system standards.** These are leadership and commitment, risk management, people, safety systems and assurance. These risk area standards will be in the primary law.
- **A list of risks aligned to the primary duty,** such as fatigue, mass and maintenance. The list is non-exhaustive and can be expanded or changed over time. The list will be in regulation.

The regulator will assess an operator's safety management system. The assessment weighs up the size and complexity of the operation and the nature of the freight task. It determines whether risks are managed in an appropriate way, given those factors.

There's more information in section 5.3.4 of the HVNL decision RIS. This includes:

- information about the five safety management systems standards and the list of risks aligned with the primary duty
- information about how a scalable safety management system interacts with accreditation modules
- statistics about the existing accreditation customers and broader industry groups.

Impact



There will be an up-front cost to operators for developing a safety management system. But there are benefits, too, including:

- reduced business costs over time
- reduced crash risk
- improved safety and safety culture.

At least 65 per cent of all operators already have some kind of basic safety management system in place. The average estimated system start-up costs by operator size is:

- small operators – \$5,000 to \$10,000 each
- medium operators – \$6,200 to \$15,000 each
- large operators – \$6,400 to \$25,000 each.

The National Heavy Vehicle Accreditation Scheme will support accredited operators to help keep costs low. Support will include consultation, education, tools and templates. The regulator will also support accredited operators to transition to the new scheme.

There's more information about potential costs of recommendation 7 in section 5.3.4 of the HVNL decision RIS. You can also find more information about potential impacts and benefits in sections 5.3.4 and 5.3.5.

Recommendation 8

That, to support mutual alignment pathways and scheme robustness, a national audit standard be developed by the regulator and approved by ministers.

The National Heavy Vehicle Regulator has an existing function to manage an audit program for the National Heavy Vehicle Accreditation Scheme. Under recommendation 8, the regulator will develop a national audit standard. The standard will need to be approved by ministers.

The national audit standard will assess whether an operator's safety management system meets accreditation requirements. It provides a framework for consistent auditing practices at a high standard.

The standard will be designed so any heavy vehicle accreditation scheme based on having a safety management system can use it. This will support the regulator in creating pathways for operators accredited under other schemes.⁵

The national audit standard will follow the international ISO 19011 Guidelines for Auditing Management Systems standard. It will include guidance on:

- the purpose of audits
- how they should be undertaken
- who should undertake them.

The regulator will also develop detailed support instructions to complement the standard.

⁵ See recommendation 6a for more information.



Audits will still be conducted by independent auditors. Auditors must be recognised by the regulator as being approved under the National Heavy Vehicle Accreditation Scheme.

Impact

A more robust and trusted auditing regime may lead to fewer requests for multiple audits from customers and other third parties.

You can find more information about potential impacts and benefits in sections 5.3.4 and 5.3.5 of the HVNL decision RIS.

3.4 Technology and data

Recommendations in this section focus on resolving problem 4.

The recommendations establish a new technology and data framework in the law. They make the HVNL more responsive by:

- taking specific technologies out of the primary law so information can be updated or amended quickly and easily
- establishing formal processes around how to certify new technologies and data-sharing schemes and recognise them in the law.

Recommendation 9

That the future HVNL enables technologies to be recognised under the HVNL by establishing a technology and data framework that includes powers, functions, duties and obligations for specified roles in the framework, and appropriate rules in relation to technologies recognised under the HVNL for data protection, stewardship and assurance, and access and use.

Recommendation 9 sets up a technology and data framework in the HVNL. This will allow new technologies and data sharing schemes to be recognised in the law.

The framework will cover using technology or sharing data for regulatory purposes. For example, a requirement as part of:

- a heavy vehicle obligation
- a condition of an alternative compliance option
- an access permit or gazette notice.

The technology and data framework can also be used for non-regulatory purposes. For example, sharing vehicle data for monitoring infrastructure, not legal compliance.

The framework will:

- set up a framework administrator (see recommendation 10)
- set up data and technology applications (see recommendation 11)
- provide appropriate powers for ministers



- define relevant activities and roles
- include relevant rules for system approval and for data access, format and use
- set high level rules about the kinds of data to be shared and with whom
- create technology and data sharing standards.

The technology and data framework will complement – not replace – existing schemes. Voluntary data sharing schemes outside of the law can still be made, but they won't be covered by the standards, assurance and protections provided by the framework.

Impact

Recommendation 9 sets up the technology and data framework. It doesn't cover any specific technology or data sharing proposals and doesn't have a direct practical impact on industry.

Once it is operational, the law will be able to respond to advances in technology and practices much more quickly. More and newer technologies can be included in the HVNL, such as driver fatigue and distraction detection technology. This will benefit industry, the regulator and governments, as well as vehicle and safety technology suppliers.

You can find more information about potential impacts and benefits in sections 5.4.4 and 5.4.5 of the HVNL decision RIS.

Recommendation 10

That the technology and data framework will include the role, powers and functions of a framework administrator and include provisions for ministers to appoint one or more framework administrators.

Recommendation 10 sets up arrangements for a technology and data framework administrator. This role is needed to put the data and technology framework into operation.

Under recommendation 10, ministers can approve one or more framework administrators. Administrators will:

- Create, consult on and approve data and technology applications (see recommendation 11).
- Confirm that systems, service providers and data services meet requirements for a data and technology application.
- Publish a registry of data and technology applications, including approved providers.

Framework administrators will be able to contract third parties for some of their functions, for example, to test systems. They may also rely on certification by other entities. For example, using international standards and certifying bodies.

Framework administrators will be monitored to make sure they're effective.

Impact



Recommendation 10 sets up arrangements for a technology and data framework administrator. These arrangements don't have a direct impact on industry.

You can find more information about potential impacts and benefits in sections 5.4.4 and 5.4.5 of the HVNL decision RIS.

Recommendation 11

That the future HVNL enables the creation of data and technology applications by a framework administrator to outline the technical, data sharing, assurance and governance requirements for technologies recognised by the HVNL in line with ministerial requirements.

Under recommendation 11, data and technology applications are created by a technology and data framework administrator.

Data and technology applications are administrative instruments. They describe technology and data sharing schemes used under the law. This includes:

- technical requirements
- testing and evaluation requirements for system approval.

Data and technology applications will cover technologies used for compliance and non-compliance purposes. The applications will have to comply with all privacy laws.

Administrators will have to follow certain conditions when developing a data and technology application. Conditions will be set by ministers. They include a condition to consult with industry, the regulator, governments and other parties to make sure an application is fit for purpose.

Data and technology applications only apply in a practical sense when they are included in:

- a heavy vehicle obligation
- an alternative compliance option
- an access notice or permit.

There's more information about data and technology applications in section 5.4.4 of the HVNL decision RIS.

Impact

Recommendation 11 is an enabling mechanism and doesn't directly impact any parties. It doesn't consider any specific technology or data sharing schemes.

You can find more information about potential impacts in sections 5.4.4 and 5.4.5 of the HVNL decision RIS.



Recommendation 12

That the future HVNL prohibits the access and use of data produced by recognised technologies under the HVNL (other than by its owner), except as allowed by the HVNL and regulations, other applicable Acts, and as specified in the relevant data and technology application.

Recommendation 12 addresses the access and use of data under the future HVNL. It reinforces data restrictions and protections.

Under recommendation 12:

- All requirements for sharing data come with controls that limit:
 - who has access to the data
 - how it is used.
- Individuals are aware of data being collected about them and their activities.

Data protection and privacy principles in the HVNL will focus on protections for the collection and use of data under the HVNL. They won't replace or affect existing state and national laws on privacy and data access and protection.

Operators will still be able to share their own data under voluntary commercial arrangements with third parties. These types of arrangements would fall under relevant state, territory or Commonwealth laws.

Rules about personal information and privacy will be modelled on Part 7.4 of the current HVNL.

Impact

Recommendation 12 reinforces privacy and provides clear legal protections for data use and sharing. It doesn't have a practical impact on parties.

You can find more information about potential impacts and benefits in sections 5.4.4 and 5.4.5 of the HVNL decision RIS.

Recommendation 13

That the future HVNL ensures that a person can present to a court data from a non-certified application as evidence of complying with the HVNL and it will be up to the court to decide what weight to place on that evidence.

Recommendation 13 is about using data from an application that isn't certified as evidence at court. Under this recommendation, the future law will make it clear this kind of data can be submitted to court as evidence of complying with the HVNL. The court will decide how much importance to place on that evidence.



Impact

Recommendation 13 makes the current law clearer and stronger. It has no direct impact on parties.

3.5 Primary duties and responsibilities

The recommendation in this section focuses on resolving problem 5.

The recommendation is about a driver's fitness to drive. It makes driver duties and responsibilities clearer and stronger in the future law.

Recommendation 14

That the future law expands the driver duty not to drive while fatigued to also include not driving if unfit for other reasons.

The current HVNL includes the driver duty not to drive a heavy vehicle if impaired by fatigue (section 228 of the HVNL). Recommendation 14 extends the driver duty so it also covers not driving if they are unfit for other reasons.

Drivers will be responsible for managing their health and fitness in a proactive way. This is because they have a shared responsibility for making sure they are fit to drive.

This change will need to be supported by information for operators and drivers to support them to meet their obligations. Under the new law, the regulator will be able to develop a code of practice that provides this information (see recommendation 4).

Impact

Drivers already have a duty under work health and safety law to take reasonable care of their own safety and the safety of others.

This recommendation is a small change to the driver duty to make it clear that drivers should not drive if they are unfit for the task. It gives legal protection to drivers to stop driving if needed. That's because parties in the chain of responsibility can't cause or encourage a driver to break the law.

You can find more information in sections 5.5.4 and 5.5.5 of the HVNL decision RIS.



4 Next steps – access and fatigue

The ITMM reform package⁶ contains recommendations about heavy vehicle access and fatigue management. These are not considered in the HVNL decision RIS.

The NTC has developed a work program to progress the recommendations on access and fatigue. We understand that progressing these recommendations is critical to improving the HVNL. We want to make sure:

- we give access and fatigue due consideration
- we include potential improvements in the future HVNL.

In October / November 2023, the NTC will release a consultation regulation impact statement. The statement will investigate relevant issues and options for access and fatigue management. It will include options to:

- Modify HVNL general mass limits. This includes the potential for general access limits to be increased to existing concessional mass limits.
- Modify general access vehicle length and height limits.
- Modify the standard driver work and rest hours schedule.
- Simplify driving hours record keeping and address administrative offences.

The approved regulatory framework recommendations in the HVNL decision RIS will impact how access and fatigue are structured in the future law. Relevant changes include:

- introducing heavy vehicle obligations and taking them out of the primary law
- giving the regulator the power to create a range of alternative compliance options to suit operators of different sizes, sophistication and transport tasks
- establishing processes for how to certify new technologies and data-sharing schemes and recognise them in the law.

Further information on the NTC work program to progress access and fatigue management will be published on the [**NTC website**](#).

⁶ That is, the recommendations in the report by Ken Kanofski.

