



HVNL 2.0

# A better law scenario

# Foreword



**The National Transport Commission (NTC) is conducting a first-principles review of the Heavy Vehicle National Law (HVNL) on behalf of the Transport and Infrastructure Council. The goal is to deliver a modern, outcome-focused law for regulating heavy vehicle transport in Australia.**

**Over the past 18 months we have worked with jurisdictions, industry and others to identify the most significant problems with the law and to develop workable policy solutions.**

These potential solutions are based on hundreds of submissions, engagement with stakeholders in every state and territory, as well as close collaboration with governments, the industry Expert Panel and the National Heavy Vehicle Regulator (NHVR).

The NTC has found that the scope of the HVNL – what it regulates – is largely fit for purpose. For the most part the law regulates the right things. However, the HVNL's regulatory approach – the way it regulates heavy vehicles – needs significant improvement.

The HVNL is overly prescriptive, inflexible and complex. It uses a one-size-fits-all approach despite the diversity of industry and operators. It doesn't properly support the use of data and technology. Work and rest hours under the HVNL aren't well-linked to scientific evidence and perversely, often discourage drivers from resting

when fatigued. Industry in particular is concerned about the regulatory burden associated with managing fatigue and access decision-making. And the HVNL does not recognise the maturity of the NHVR as a regulator. The HVNL needs to change.

We seek your views on policy options for the future HVNL. With Frontier Economics we've developed a [consultation regulation impact statement \(RIS\)](#) that analyses policy options – good and bad. For a complex review like this one, a RIS can be large and complex.

We've produced this document to complement the RIS. It's designed to give you an overview of a workable set of reform options and how they can operate together. It does not canvass all options in the RIS but gives one scenario – a possible future HVNL.

Thank you to everyone who has contributed to the HVNL Review to date: jurisdictional and industry representatives, the industry Expert Panel, police, the NHVR and others. We know that getting involved takes time and comes at a cost, but your input is valuable and we hope for your continued involvement during this important stage.

We hope to receive formal submissions to the RIS, but we also invite informal comments through the website and welcome the opportunity to meet with you online or face-to-face. We want everyone affected by the HVNL to have their say before we take a finalised set of recommendations to ministers early in 2021.

We have before us an exciting opportunity to deliver meaningful reform – a new law that helps industry do what it does best – operate safely and efficiently. This is our chance to develop a law that better supports the regulator in focusing its efforts where they are needed most. It's our chance to deliver safer roads and lower cost freight, passenger and specialised vehicle movements.

**Dr Gillian Miles**  
Chief Executive  
Officer and  
Commissioner

**Paul Davies**  
Executive Leader,  
Productivity

# Let's get started

## How to use this document

***HVNL 2.0* is designed to be read alongside the consultation regulation impact statement (RIS) as a short-form description of one possible scenario for the future law.**

This scenario is not a set of preferred options – it's just one example of how options in the RIS can work together as a system. The RIS covers more reform options for the HVNL, all of which will be considered for the future HVNL.

Reading *HVNL 2.0* will make it easier for you to understand the RIS. By showing how one suite of options can fit together, our goal is to demonstrate how the broader suite of options will make sense as a system. Of course we can't describe every possible system combination in full; there are many ways to bring together a new law.

The RIS also presents the problems each option strives to address and analyses the likely impacts of each policy option. *HVNL 2.0* just describes the option for clarity.

*HVNL 2.0* is a relatively quick way to understand what a future HVNL might look like, while the RIS is designed to tell a fuller story.

## Where have the policy options come from?

**The NTC has consistently presented a vision of a future HVNL that manages risks and harms, supports efficiency and innovation, and meets the current and emerging needs of Australians.**

The policy options presented in the RIS and in *HVNL 2.0* have been developed by the NTC based on hundreds of submissions to our dedicated HVNL Review website and in response to a range of issues papers we published in 2019.

The NTC met a range of stakeholders in each state and territory and asked them what they thought the problems were with the current HVNL, and how we might fix them.

We developed the policy options in the RIS and in this document with government and industry representatives, the police, the regulator and many others.

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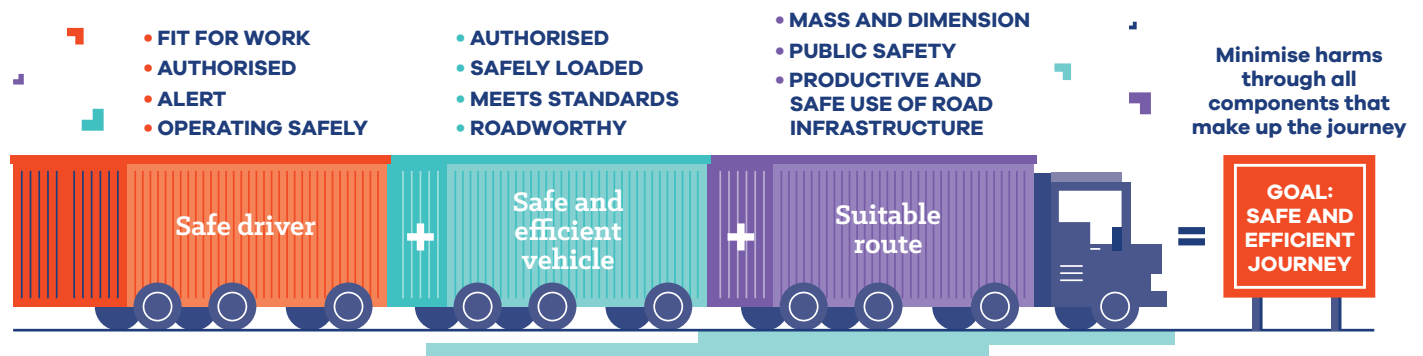
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# A vision for a better law

The purpose of the HVNL can be described as supporting a safe and efficient heavy vehicle journey. This includes a safe driver, a safe and efficient vehicle, and a suitable route.

## The future Heavy Vehicle National Law (HVNL) will:

- be a modern law that provides a flexible, risk-based regulatory framework to ensure the safe and efficient operation of heavy vehicles on Australian roads
- empower industry and government to take advantage of future innovation and technology opportunities
- improve safety and reduce costs to benefit the community, industry and governments.



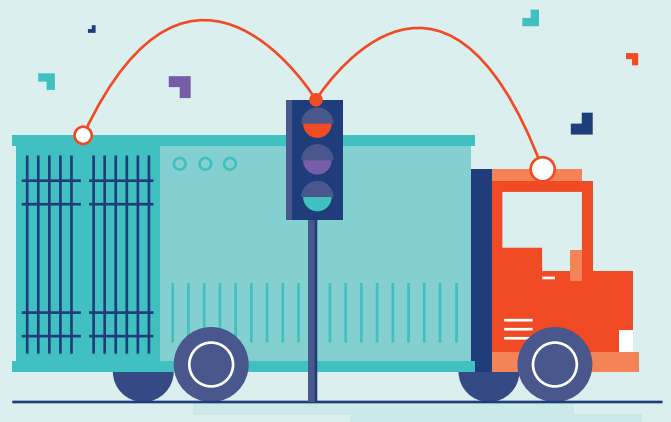
## A new, risk-based approach to regulation

**HVNL 2.0** presents options focused on minimising harms while encouraging efficiency.

A framework for multiple levels of assurance is the backbone for this approach. While all parties must comply with fundamental duties under the primary law, compliance options for heavy vehicle operators are increasingly flexible with higher levels of assurance.

These options are designed to deliver:

- simplicity and surety of prescriptive rules for those who want it
- flexibility of performance linking to regulator assurance of an operator's capacity to collaborate in managing risks
- regulatory tools for the NHVR to better target enforcement according to risk.



## The scope of the law

**The NTC has used the elements of a safe and efficient heavy vehicle journey as a framework for the Review. These elements cover *what* the law regulates – the scope of the HVNL.**

During consultation we asked whether the scope of the law is right. Most stakeholders told us that what the law regulates should remain largely the same in the broader regulatory context, and that the problems with the HVNL relate to the methods of the law – how it regulates heavy vehicles.

## Making better use of new technology, data and information

**Technology, data and information are key enablers for a risk-based approach to regulation.**

*HVNL 2.0* sets out options for robust assurance of technology and data used for prosecution or other evidentiary purposes. The framework presented also supports other technology and the easy flow of other information that doesn't need formal assurance. Under the framework, operators and drivers are expressly provided rights and protections regarding data collected and used by authorities.

## Driving reform in tandem with other reviews

**The NTC acknowledges the progress and outcomes of related and important reviews and research.**

These inform and influence the HVNL Review:

- the Productivity Commission's Inquiry into National Transport Regulatory Reform
- the Transport and Infrastructure Council's Heavy Vehicle Road Reform
- the Commonwealth's Review of Oversize Overmass Access Arrangements, Inquiry into National Freight and Supply Chain Priorities and the *National Freight and Supply Chain Strategy*
- the NHVR's Review of Heavy Vehicle Accreditation Systems
- Transport Certification Australia's improvements to the Intelligent Access Program
- the Alertness CRC's Heavy Vehicle Fatigue Data Research Project.

## The objects of the law

The objects of the law cover public safety, public amenity, environmental and infrastructure impacts, productivity, efficiency and innovation. During the review some stakeholders told us that safety should be specified as the primary object.

Options for changing the objects of the law are generally considered outside the RIS process once substantive parts of the law have been decided. They are a matter for parliamentary drafters to advise on because they affect the way the law is interpreted.

*HVNL 2.0* presents options that relate to safety and productivity, and the role of the National Heavy Vehicle Regulator (NHVR) as a safety enforcer and industry productivity partner.

## Policy options outside the HVNL Review

**During consultation we identified opportunities for policy reform outside of the HVNL, including:**

- **Mutual recognition** arrangements for assurance schemes, and potentially regulatory obligations, would help reduce the burden on operators who operate across borders or participate in multiple assurance schemes (such as National Heavy Vehicle Accreditation Scheme (NHVAS) and TruckSafe).
- **Non-regulatory improvements to access** arrangements through measures such as the Heavy Vehicle Access Policy Framework developed by New South Wales and the highly co-operative approach applied in Tasmania. As a matter of principle, efforts should be made to use notices (or other as-of-right authorisations) wherever possible and reserve permits for special cases.

# The big picture



**The NTC developed the HVNL system design on the following page to show one scenario of how the future law might work. We describe this system as though it is in train but stress there was no recommended option or settled ministerial resolution at the time of publishing this document.**

The possible future HVNL presented here is based on multiple levels of assurance. Some operators prefer simple compliance options spelled out by the law. Others may strive to take a greater share of the risk management role. Assurance is about confidence – of regulators and governments – to allow broader and more flexible compliance options to operators who can demonstrate their capacity to manage risks.

Most options in the RIS fit neatly into an assurance-based law, such as the system presented on the next page. RIS option 7.2, however outlines a new HVNL based only on performance standards. Most other RIS options can be framed in terms of performance standards, but some options – where operators take on much of the risk management role – cannot. We've presented the assurance-based law to show you more of the potential policy options covered in the RIS.



# System design for the future HVNL

	Drivers	COR parties	Heavy vehicle operators by level of assurance				Road managers	
Levels of assurance			Operators not enrolled	Enrolled operators	Certified operators (modular)	Certified operators (SMS)		
Duties	WHS style duty on drivers to take reasonable care	Apply the primary duty to parties who influence safety of transport activities						
		Clarify that the primary duty includes ensuring drivers are competent and fit for duty						
		Auditing protections for operators						
Safe people and practices	Duty to manage fatigue							
	Fatigue management requirements for higher fatigue risk drivers of all heavy vehicles							
	Simpler work and rest hours - linked to the risks and based on evidence							
	Flexibility in schedules to manage work and rest in the context of on-road practical challenges							
	Simplified record keeping			Simplified record keeping for operators				
				Regulator-approved alternative schedules				
				Performance-based fatigue management options				
				Regulator-approved fatigue management system				
				Regulator-approved safety management system				
		Drivers' right to stop if deemed not fit to work						
				National driver health assessment standard for certified operators				
Safer and more productive vehicles	Offences for breaching mass and dimension requirements							
				Standardised maintenance and roadworthy assessments				
				A national risk-based inspection regime under the NHVR				
				One metre sleeper cabin allowance				
				Higher vehicle mass limits for PBS vehicles				
				PBS process improvements				
Suitable routes				National pilot and escort scheme				
				Move RAV access decision-making process from law to business rules				
				Improvements to the RAV access decision-making process				
				Reviewability of RAV access decisions				
				Expanded access for RAVs based on data-sharing			Road managers make RAV access decisions	
				Enhanced general access for vehicles with safety features				
				General access				
Primary lead for risk management role	Oversight role						NHVR	
	Risk identification							Regulated parties
	Risk treatment							
	Implementing controls							



# The foundations

## A responsive law supporting risk-based regulation

The future HVNL should be able to respond to change as it needs to, whether that be changes to context, technologies, knowledge or practices. The regulator and industry are adaptable – the law that serves them should be too.

### RIS option 5.2

#### Allow standards to be made under the HVNL

This will add a more responsive mechanism to the structure of the HVNL.

Most standards would be made by the NHVR, but other government agencies could also make standards. Consultation may still be required. Generally, if a standard applies it must be complied with.

While amendments to the primary law and regulations must go through the Queensland Parliament, a standard could come into effect as soon as it is signed off by ministers – which means a more up-to-date law.

##### What could standards cover?



**OPERATOR  
ASSURANCE**



**WORK AND  
REST HOURS**



**MASS,  
DIMENSION  
+ LOADING**



**VEHICLE  
STANDARDS**



**TRANSPORTING  
LIVESTOCK**

### RIS option 5.1

#### Allow codes of practice to be made under the HVNL

A code of practice (CoP) makes obligations clearer and easier to follow.

Most CoPs might be made by the NHVR, but government agencies could also develop CoPs. Consultation on CoPs would be required. CoPs would be signed off by ministers before taking effect.

Compliance with a CoP is not mandatory, but CoPs set minimum expectations of practice. Regulated parties are still free to develop better, more efficient ways of managing risk.

##### What could codes of practice cover?



**FITNESS  
TO WORK**



**DRIVER  
COMPETENCY**



**VEHICLE  
MAINTENANCE**



**LOAD  
RESTRAINT**



**CRANE  
INDUSTRY  
BEST-PRACTICE**

### RIS section 3.9.3

#### Better manage emergencies

Australia has had a lot of recent experience with emergencies, and that experience highlights the fact that transport is an essential service.

The future law ought to better support transport operators to support our community during times of emergency.

Authorised officers, including police, can already give alternative directions to heavy vehicle drivers and operators during emergencies. The future law

could make this clearer and allow the NHVR to issue emergency notices to temporarily relax certain requirements – within limits – while taking a balanced approach to risk. These notices would only be available when a state of emergency has been declared.



# Duties for better safety outcomes

The future HVNL should place responsibilities for managing risks with those most able to do so and cater to an evolving supply chain. The law should encourage all influential parties to take a proactive approach to managing safety, including drivers.



## System design

Duties establish fundamental safety obligations for all relevant parties. Duties generally sit in the primary law. Regulations, standards and CoPs may set out options for complying with overarching duties.

RIS option 4.1. See also RIS option 4.1b

### Apply the primary duty to parties who influence heavy vehicle safety

An extra category may be added to the chain of responsibility (CoR) list, in effect applying the primary duty to all parties with *influence on heavy vehicle safety*.

This would ensure the CoR recognises parties to the extent of their influence and applies the same duties to them as are applied to specific CoR parties. The reform would give flexibility to accommodate emerging business models without losing the clarity of the specified members of the CoR.

RIS option 4.4

### Clarify that primary duty covers driver competency and fitness for duty

The primary duty might clearly include ensuring, so far as is reasonably practicable, the competency and fitness for work of drivers. It could even cover drug and alcohol management plans.

As is the case now, the level of responsibility under the primary duty is determined by the extent of a CoR party's control and influence.

RIS option 4.2.

See also alternative RIS option 4.3

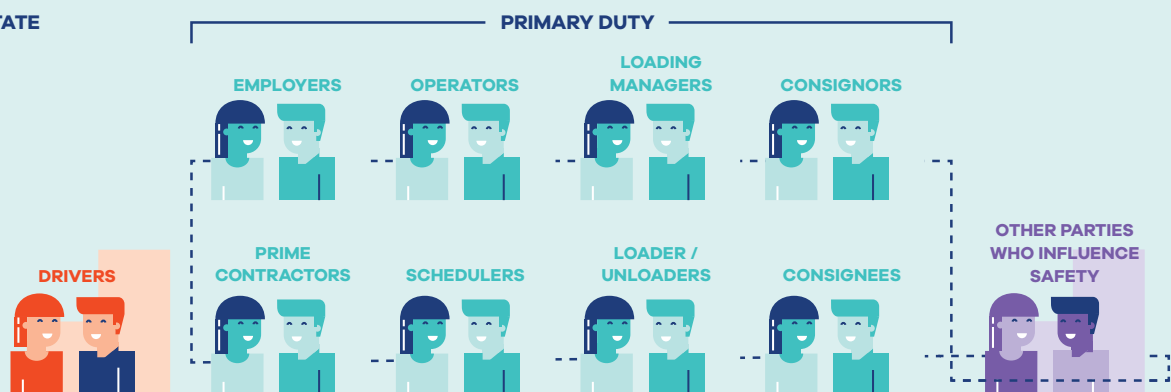
### Driver safety duty to take reasonable care

Drivers may have a duty under the HVNL to take reasonable care of their own safety and the safety of others.

This matches the duty drivers already have under WHS laws, meaning there would be no new obligation on drivers. The option would enable HVNL authorised officers to enforce the duty if needed.

## Duties under the future HVNL

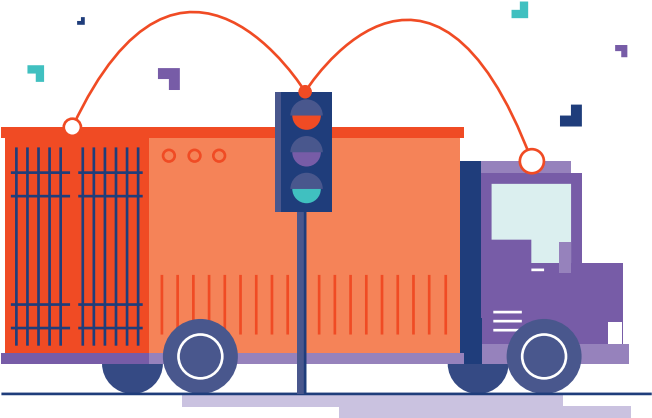
### CURRENT STATE



### POSSIBLE FUTURE STATE



# Robust assurance



The future HVNL should recognise the diversity of heavy vehicle operations and heavy vehicle operators.

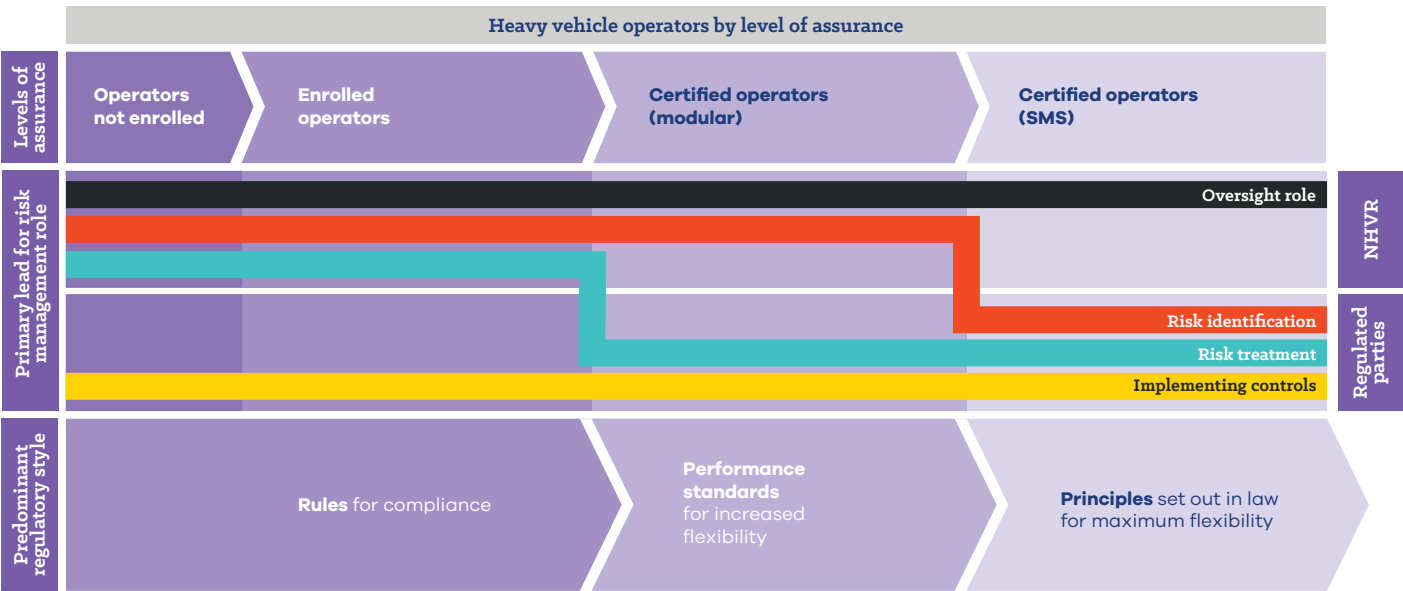
It needs to provide simplicity and certainty for those who want it and open the door to other operators who wish to use alternative and innovative ways to better manage risks.

The future HVNL should encourage operators to create and use safety management systems, and raise confidence in their ability to operate safely.

HVNL 2.0 sets out a new assurance framework designed to:

- set robust and consistent standards
- encourage use of safety management systems
- reduce auditing of heavy vehicle operators.

Assurance is about giving the Regulator and other parties confidence that an operator has suitable systems in place to identify and manage risk. Higher levels of assurance open up broader and more flexible compliance options for complying with the law.



#### RIS option 7.1a.

See also alternative RIS options 7.1b, 7.1c and 7.1d

## Voluntary heavy vehicle operator enrolment

**Operators may be able to enrol to give the NHVR better visibility of who they regulate, build a risk profile of industry and better engage with operators.**

Enrolment involves providing a high-level picture of the operator's business – it does not involve specific auditing or meeting performance standards. That is, enrolment is not the same as a licence would be, and it is only the most basic level of assurance.

Enrolment would not be compulsory for operators but would be a prerequisite for assurance certification or accessing certain provisions of the law, such as access permits and applying for a new Performance-Based Standards (PBS) vehicle certification. New options such as regulator schedules relating to fatigue (see page 15) may be available only to enrolled operators. Operators who do not want access to these provisions could still choose to enrol to better collaborate with the regulator on their shared goals of productivity and safety.

#### RIS option 7.3.

See also alternative RIS options 7.2 and 7.4

## An enhanced certification scheme for heavy vehicle operators

**The HVNL could make better use of an expanded and enhanced assurance scheme. In a similar way to the current NHVAS (administered by the NHVR), under a new assurance scheme certified heavy vehicle operators could have access to alternative regulatory compliance options, such as more sophisticated fatigue management options or increased mass allowances.**

To the extent they address common records and practice, audits for assurance schemes outside of the current law (such as the Western Australia Heavy Vehicle Accreditation Scheme or the Australian Trucking Association's *TruckSafe*) may be able to be recognised as satisfying audit requirements under the new HVNL assurance scheme, reducing effort and costs for operators certified under multiple schemes.

Ministers could have standards-setting roles, giving governments confidence that operators certified under the new scheme ought to have access to alternative regulatory compliance options under the law.

#### RIS options 7.3 and 7.4

## Auditing protections for operators

**Here the HVNL might explicitly provide that customers can rely on an operator's certification as part of their compliance with the primary duty.**



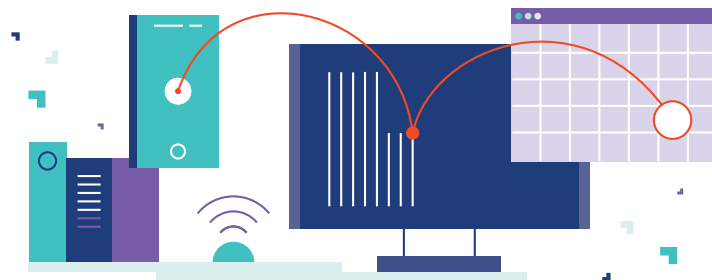
### Example:

**'Jo's Trucking' is certified under the new assurance scheme's fatigue management module, enabling Jo's Trucking to access alternative fatigue management compliance options (such as a fatigue management system using fatigue and distraction detection technology).**

A customer can be confident Jo's Trucking has safe systems for managing fatigue. The customer would be entitled to rely on assurance scheme certification, removing any value in auditing Jo's Trucking further on the matter. The customer can instead focus on their own obligations. They wouldn't need to audit an operator for risks they are already audited for under the assurance scheme.

Certification doesn't deem Jo's Trucking compliant with the law – it just means the assurance scheme audits remove any need for multiple and duplicative third-party audits.

# Technology, data and information



**The future HVNL should recognise technology and data that can deliver safety and efficiency benefits.**

RIS options 5.4 and 6.1

## A technology and data framework to support risk-based regulation

**The framework could cover technology and data assurance, as well as data collection, handling and sharing requirements.**

The HVNL could recognise a standard setter and assurance provider for telematics technologies and associated data, not just one for the Intelligent Access Program (IAP). This role will only be needed for technology and data requiring high levels of assurance – for example, where it could be used for prosecution or where data aggregation should be undertaken ‘at arm’s length’ from the regulator.

The NHVR would be explicitly empowered to recognise technology and data in many other ways, whether for industry development, industry or operator profiling and risk-targeting, road manager performance or opt-in record keeping (such as electronic work diaries).

The HVNL may explicitly enable data sharing between jurisdictional agencies and the NHVR for purposes associated with regulating heavy vehicles, such as traffic offence data or information about transporting dangerous goods. Currently this information can only be shared via specific agreements as the HVNL only enables the NHVR to request information related to administering the HVNL.

The framework might also support sharing non-regulatory data (for information and advice) between parties. Strict rules around data handling and using personal information would apply, including under an operator assurance scheme. Essentially the protective principles currently applying to the IAP would apply more broadly. This would help protect drivers and operators who share data and, therefore, encourage data sharing to deliver broad benefits.

It should provide for safe data sharing where it is valuable to do so, not just sharing data because it exists. Technology options must consider emerging heavy vehicle road reform directions, to minimise the costs and complexity for operators.

The future law should enable data to drive risk-based regulation and inform governments on matters such as road investment decisions while protecting drivers’ and operators’ rights.

RIS option 6.2a.

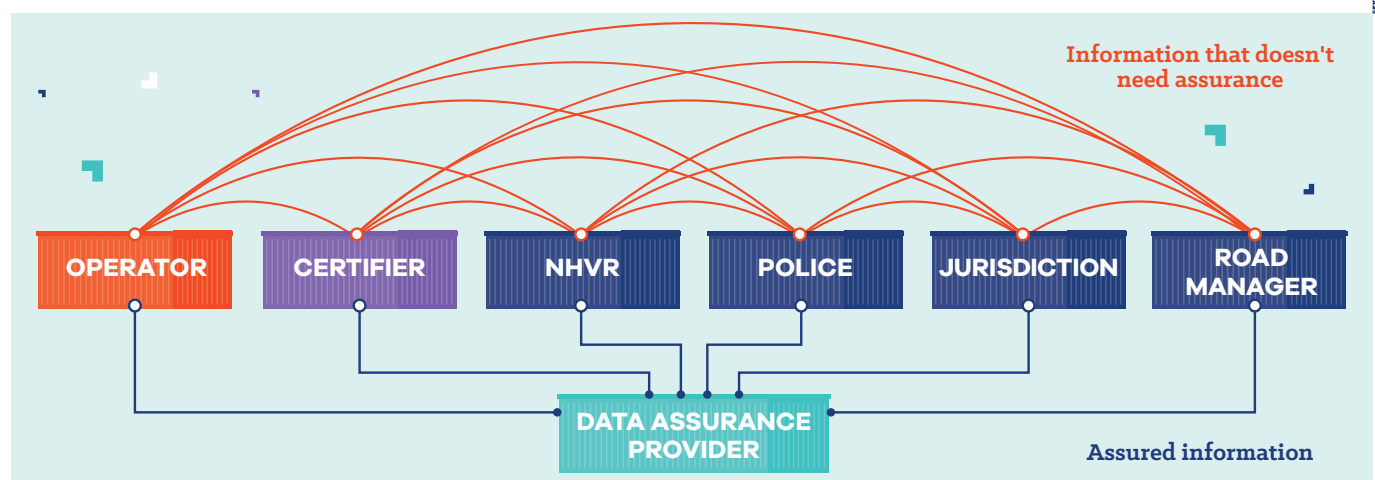
See also alternative RIS option 6.2b

## Modernising documentation

**The new law would allow all authorising documents to be produced electronically, whether by carrying an electronic document on a device or via an online link.**

The new law would add flexibility: operators will still be able to carry paper-form documents if they prefer.

Electronic documents should be accessible and legible for drivers, operators, the NHVR and roadside enforcement, much like paper documents are today.



# Safe people and practices

## Better fatigue management



**Fatigue management under the current HVNL is highly prescriptive, overly administrative and hard to understand. It's also inflexible. It applies strict work and rest rules to drivers of fatigue-regulated heavy vehicles without accounting for the varied risks and needs across operators, tasks and regions.**

Fatigue management rules vary based on the type of heavy vehicle and the distance from its base – even though fatigue risk depends on the driver and how rested they are.

While the rules for work and rest time do not override the duty to not drive fatigued, industry has said the rules make it difficult and complex to manage drivers' fatigue.

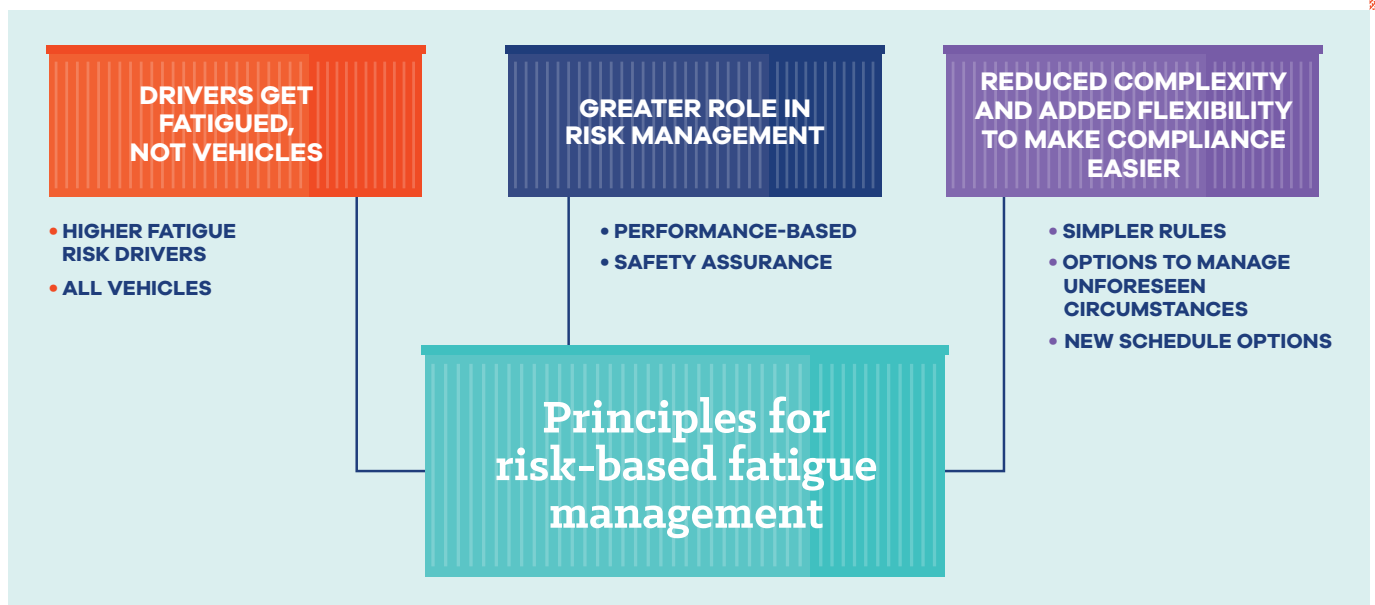
Basic Fatigue Management (BFM) under the NHVAS was intended to provide more flexible options, however it is still prescriptive and only offers limited flexibility to some operators.

Advanced Fatigue Management (AFM) is the most flexible option for managing fatigue, but it too has requirements for work and rest and it doesn't incentivise investment in fatigue management technology.

The future HVNL needs a new approach to managing fatigue that:

- better aligns fatigue management with fatigue risk
- makes managing fatigue simpler through easier-to-understand rules
- reduces administration and paperwork
- delivers flexibility to manage real-world delays and unforeseeable events
- caters to diverse operators, operations and environments
- provides valuable alternative compliance options to certified operators.

Below is a big-picture view of options we are suggesting for this new system of fatigue management. It explains one scenario for fatigue management under the future HVNL.



# Fatigue management – scope and records



## The future HVNL should enable a risk-based approach to managing fatigue.

RIS options 8.3a and 8.3b. See also alternative RIS option 8.3c

### Fatigue management based on drivers, not vehicles

In the future HVNL, certain fatigue management requirements could apply to *higher fatigue risk drivers*. These include anyone who drives a heavy vehicle who works either:

- more than 60 hours per week
- more than once per week for more than 10 hours between substantive rests, or
- more than once per week between midnight and 5am.

The onus would be on drivers and operators to comply, or show they are not higher fatigue risk drivers.

Fatigue risks exist for all heavy vehicle drivers, not just those driving vehicles larger than 12 tonnes or far from home.

Fatigue records should be easy to produce and inspect, and record-keeping requirements should be as simple as possible. The focus should be on minimising harm, not administration. That means simpler rules, clear links to safety and not penalising administrative errors.

This is similar to the approach in Western Australia.

Drivers of any heavy vehicle regulated under the future HVNL will be covered by the fatigue management provisions.

RIS option 8.4. See also alternative RIS option 8.5

### Simplified record keeping for drivers and operators

Fatigue management increasingly relies on advanced fatigue monitoring technologies.

A simplified version of the existing national written work diary, or an approved electronic work diary, may be the base requirement for higher fatigue risk drivers who do not make use of fatigue monitoring technology.

The diary would be easier to fill in and interpret, because it is based on simplified work and rest hour and counting time requirements.

The diary would record work and rest hours for all higher fatigue risk drivers who comply with fatigue management requirements based on work and rest schedules. Other drivers may elect to use a diary to demonstrate they are not higher fatigue risk drivers, but have the flexibility to use alternative records to do so.

Higher fatigue risk drivers may be exempted from using the diary if they work for a certified heavy vehicle operator that has an approved and applicable fatigue management system that does not rely on schedules.



# Fatigue management – easy and effective hours

**Prescriptive work and rest hours under the future HVNL should be easier to apply and better tied to rest. Drivers should be supported to stop if they feel unwell or otherwise not fit to work.**

RIS option 8.1b.

See also alternative RIS option 8.1a

## Simpler work and rest hours linked to scientific evidence

**Counting time under the HVNL should be simpler. Avoiding overlapping 24-hour periods and reducing rules on how to manage rest may help.**

Total daily driving time could be the same as 'standard hours' under the current HVNL, but the driving task would be broken up more and better linked to time elapsed since sleep.

This new general schedule could include options to manage unforeseeable events, such as split rest breaks and single extended days. It could prevent perverse outcomes such as disincentivising safety checks, risky backward shift rotations or cumulative schedule delays.



RIS option 8.1

## Regulator-approved schedules based on risk

**The HVNL might allow the NHVR to approve schedules that are equivalent or lower risk than the general schedule.**

Risk assessments may consider remote operations and may be limited to certified operators to help mitigate risk.

Outer driving time limits would likely be set in the HVNL. Schedules could be developed by the NHVR, or by operators and put to the NHVR for approval.

### Example:

**A mine service driver may drive for three hours and work another five hours each day, for 14 consecutive days, followed by seven days off.**

Despite the shorter driving time this would not comply with the general schedule because there is no weekly rest. Here the NHVR could approve a more appropriate schedule based on risk.

# Fatigue management – options for advanced operators

**The HVNL should recognise the valuable role of fatigue and distraction detection technology (FDDT). Operators who use this technology should not be unnecessarily constrained by prescriptive rules.**

RIS option 8.2

## Enhanced fatigue management

**Operators meeting a certain level of assurance could be able to operate under NHVR-approved schedules that have conditions (eg. FDDT, driver training or medicals). This approach is similar to BFM.**

These operators might also be able to use certified bespoke schedules, tailored to technology, systems, operations and drivers. This is similar to AFM.

RIS option 8.2

## Safety management system for managing fatigue

**The HVNL may provide additional compliance options for operators with the highest level of assurance.**

For these operators fatigue would be managed through a comprehensive SMS certified under the assurance framework.

Schedules and record-keeping would not necessarily be required, but outer limits on driving hours would likely still apply.



# Fitness to work



**The future HVNL should support driver health and fitness – for the safety of drivers and others on the road. Drivers should also be supported to stop if they feel unwell or otherwise not fit to work.**

**RIS option 8.6. See also RIS option 8.8**

## Driver medical standard

**Drawing from the same medical base as Assessing Fitness to Drive, a driver medical standard would apply a medical fitness monitoring regime in a manner similar to that applied in rail.**

This would, at least initially, apply to drivers working for certified heavy vehicle operators and form part of their risk management approach.

A standard could specify:

- criteria and testing for periodic health assessments
- criteria and testing for triggered health assessments
- options to manage medical and health conditions of drivers to reduce risks.

**RIS option 8.7.**

**See also RIS options 8.6 and 8.8**

## Right to stop if not fit to work

Drivers would have a right, protected in law, to stop at the soonest safe opportunity if they are not fit to work - for example, if they become fatigued or unwell while driving.



### System design

The options presented here align with the multiple levels of assurance presented on page 10.



**A code of practice or safety standard may be used to help drivers understand when they are not fit to work (see page 8).**

# Safer and more productive vehicles

## Bringing the best vehicles into the fleet and keeping them roadworthy

**The future HVNL should encourage the fleet introduction and use of vehicles that perform to higher safety standards and deliver productivity benefits.**

The new law should also adopt a risk-based approach to maintaining vehicles to ensure roadworthiness and safety over their lives.

RIS options 10.1 and 10.2

### A streamlined Performance Based Standards (PBS) process

Developing a new law brings the opportunity to establish a streamlined, simpler and more flexible PBS framework, that includes:

- **Approvals:** the NHVR may have authority to assess and approve any PBS design application. It could seek technical advice from a jurisdictional panel as needed.
- **Access:** access authorisations could be granted to an approved PBS design, providing surety if the built vehicle complies with that design.
- **Self-certification:** PBS manufacturers would be authorised to self-certify that the vehicles they

build comply with the design, as they do for vehicles that comply with the Australian Design Rules (ADRs).

- **Component vehicles:** PBS combinations could substitute component vehicles that meet the same design and build specifications.
- **Transfer:** approvals and access permits follow the vehicle, from vendor to purchaser.
- **Recognising technology:** technology could be an alternative means of complying with certain PBS scheme standards; for example electronic stability control / anti-rollover technology may allow a vehicle to meet the static rollover standard.

RIS option 11.2. See also alternative RIS option 11.1

### A national risk-based inspection regime

The new law could establish a national regime of risk-based inspections managed by the NHVR.

This regime would replace existing state and territory-based schemes and allow regulatory efforts to focus on the areas of greatest risk.

The risk-based criteria would be developed by the NHVR and be approved by transport ministers. It may include vehicle age, compliance history and industry sector.

Inspections, whether on- or off-road, would assess roadworthiness by reference to the *National Heavy Vehicle Inspection Manual* (NHVIM).

RIS option 9.1d (sub-option 3)

### An extra metre for sleeper cabins

The future HVNL could provide for up to one extra metre of the otherwise allowable vehicle combination length to be used for a larger sleeper cabin.

This extra length could not be used to increase freight carriage capacity.

Larger sleeper cabins are particularly important to the health, safety and well-being of drivers operating in remote areas.

See RIS options 10.3

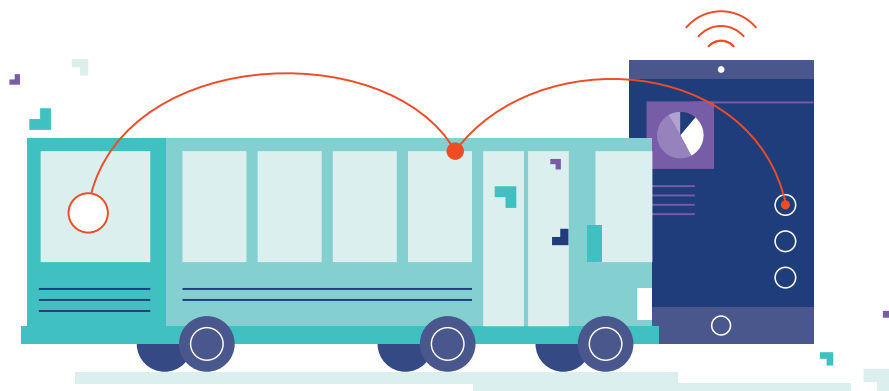
### Fast-tracked approvals for wider and safer vehicles

The HVNL could establish a fast-tracked PBS approval for heavy vehicles built with safety features (such as side underrun protection, blind-spot sensors, electronic stability control, anti-lock brakes) to allow a maximum vehicle width of up to 2.6 metres as-of-right access to the road network.

The wider vehicle would need to meet the relevant PBS straight-line tracking standard and non-width-related ADRs.

# Suitable routes

## Simpler and more-transparent access options



**The future HVNL should support quick, simple and transparent access decision-making. It should prioritise productivity – where it is safe and reasonable.**

**More data sharing between operators and road managers will help. The future law should also provide a harmonised national approach for accrediting pilots and escorts.**

Much of the challenge in improving access relates to engineering limitations, ageing infrastructure and funding constraints. The NTC recognises the potential of Transport and Infrastructure Council heavy vehicle road reform to align the incentives to optimise access and raise productivity.

**RIS option 9.1e. See also alternative RIS options 9.1a, 9.1b, 9.1c and 9.1d**

### Enhanced general access

This option would allow vehicles to operate at up to concessional mass limits (CML) and up to 20-metre lengths, provided those vehicles meet a set of criteria such as specific vehicle safety features or emissions standards.

**RIS option 9.4**

### Move the restricted access decision-making process to business rules

The access decision-making process could be moved from primary legislation to regulations or standards, allowing refinement as needed while maintaining ministerial oversight.

**RIS option 9.3b**

### Reviewability of access decision-making

**Under the future law, operators could seek a process review (not a decision-merit review) of access decision-making with either the NHVR or the relevant jurisdiction-based administrative tribunal.**

This will encourage transparency and ensure due consideration is given to access requests.

**RIS option 9.3a**

### Revised time limits for road manager and road authority consents

**The future HVNL would foster faster decision resolution with a two-stage statutory timeframe.**

Road managers would have up to seven days to advise whether a route assessment is required, and the remainder of the 28 days to make a decision on consent and conditions and advise the regulator.

If road managers do not advise the NHVR about a route assessment or an access decision within statutory timeframes,

the NHVR may deem the road manager to have referred the access decision and forward the request to the road authority.

The same timeframes would apply to road authorities: no response within the relevant timeframes results in a deemed refusal decision.

This approach shortens the time to determine whether a route assessment is required and fixes the decision-making process failure caused by a nil response.

**RIS option 9.2a**

### Expedited decision-making based on risk and precedent

**The future law could support expedited decision-making for equivalent or lower risk applications.**

The current HVNL provides an expedited process for a narrow set of access decisions, which allows a quick response. This process would not be limited to permit renewals, but applied as far as is reasonable in the future law.

#### RIS option 9.2b

### Allow road managers to delegate decision-making

**The future HVNL may allow road managers to delegate their access decision-making powers, whether on a case-by-case basis, by particular criteria (such as all oversize over-mass applications) or in entirety.**

Delegates, by mutual agreement, may be officers in road authorities, other local governments, private enterprise or the NHVR. This could assist road managers who have limited capacity or expertise to ensure decisions are made quickly and with due consideration.

**RIS option 9.2d (sub-option 2). See also alternative RIS option 9.2d (sub-option 1)**

### Focused vehicle classification

**The future law might classify vehicles by the relevant factors for a given issue (such as access authorisation needed for access decisions or mass for off-route penalties), rather than applying all possible factors to create a singular classification for each vehicle or combination.**

This approach would remove a range of perverse consequential issues in the current HVNL and make the law clearer for operators and enforcement.

#### RIS option 9.2f

### Amendments to access decision-making criteria

The future law may require road managers to consider requests for access consent regarding strategic network considerations and the impacts that could arise from fleet effects rather than just individual vehicles. This would apply in addition to current considerations.

#### RIS option 9.2c

### Consolidated and shared authorisations and access precedents

The future law may establish a 'single source of truth' geospatial map that provides authoritative information on approved routes, 'no go' zones and precedents for access decisions.

#### RIS option 9.5a.

**See also alternative RIS option 9.5b**

### National approach to accrediting pilots and escorts

**The future HVNL could establish a harmonised pilots and escort scheme, administered by NHVR.**

Pilot certification might be based on the single-tier Western Australian model. This model requires a pilot to have a driver licence, recognised pilot training qualifications and medical fitness. The approach could include exceptions for pilots moving agricultural equipment.

The future law could also allow authorised officers to have suitable traffic management powers, when undertaking escort duties. These powers would not apply at other times.

# Examples of what could change for regulated parties



## Line-haul drivers

**Seth is an owner-driver based in Albury who primarily drives between Sydney and Melbourne. He is committed to safety and driving to his allowed hours, but it can be very difficult when there are delays at distribution centres or because of traffic or roadworks.**

As much as he plans carefully, there are times when he can't make it back to base on time. That leaves him sleeping in the truck instead of at home and can mess up his entire schedule for the week.

Under the new law, Seth may be able to drive an extra hour, once per week, to complete his journey and rest at home. That means he gets a better sleep so he's well-rested (therefore safer) and can keep to his schedule.



## Transport business managers

**Vijay is a business manager for a medium-sized trucking company based in Launceston.**

His employer is always looking for ways to improve safety, increase compliance and innovate to find efficiencies in their business.

Under the future HVNL, Vijay may be able to make better use of assurance options that let his employer take on a greater share of the risk management role. Vijay might seek to roll out an improved mass, dimension and loading policy that increases productivity. This would leverage earlier policies of installing safety equipment such as underrun protection, ESC and ABS on their vehicles.

The new law could support Vijay to bring in a such a system with broad access for his vehicles at concessional mass limits and a 20-metre length. The future law could recognise the technology and systems to keep our roads safer and offset the cost to business through enhanced access.



## Bus schedulers

**Bonnie develops and manages driver schedules for a regional bus service in Queensland, including legislated record keeping.**

Most services are provided for school drop-off and pick-up. Bonnie's drivers work around eight or nine hours per day, on school days, driving for about three to four hours each day. They don't work longer days or nights.

Bonnie's records (that she keeps for driver wages) would be enough to demonstrate that her drivers are not higher fatigue risk drivers, as defined in the future law. That means some of the prescriptive requirements for managing fatigue – like driver work diaries – would no longer be mandated.

Bonnie, her drivers and others will still have a duty to ensure no one drives fatigued – that doesn't change. There would just be fewer administrative requirements that go along with it.



## Delivery drivers

**Margo delivers garden supplies in Canberra. She drives an eight-tonne tipper truck in and around the city.**

The future law may introduce a duty for Margo to take reasonable care of her own safety and the safety of other persons. This isn't really new – Margo has the same duty under WHS laws. But the future law has clarified the need for Margo and her employer to ensure she is fit to work, and the NHVR may investigate this.

Managing fatigue may also become a more front-of-mind issue for Margo's employer under the future HVNL. Margo's occasional long hours may categorise her as a higher fatigue risk driver, which brings in specific fatigue management obligations even though Margo drives a smaller vehicle.



## Primary producers

**Hugo is a market gardener near Virginia, South Australia. He often leaves very early, most weekdays, to deliver fresh produce to markets in Adelaide.**

Hugo doesn't drive long hours, or far from base, but the early starts may categorise him as a higher fatigue risk driver under a future HVNL. Hugo may choose to enrol with the NHVR and in doing so nominate an alternative schedule, perhaps originally designed for waste collection, that sets a weekday driving envelope of 4:30am to noon, rather than using work and rest hours.

This schedule may even remove the need for a specific work diary, because the time of day and day of the week makes it clear whether Hugo complies.



## Consignors

**Caitlyn manages contracts with transport operators who cart her company's consumer cleaning products.**

Caitlyn has had advice that she must audit each transport operator's maintenance records to discharge her CoR duties. She is not convinced that collecting records she's not sure anyone reads ensures transport operations are safe.

Under the future law, Caitlyn may simply verify that a transport operator is certified for vehicle maintenance. She can trust – and be protected in law – that such a transport operator has suitable systems and practices to maintain their vehicles and that the certifier is conducting a robust and meaningful auditing regime.

This doesn't mean Caitlyn or others who can influence safety no longer have a duty to do so. It just means she can stop chasing and collecting records that aren't really helping her, or the transport operators, to manage risk.



## Road managers

**Levi is an officer in a small regional council who has responsibilities for a wide range of council business, including heavy vehicle access decisions.**

Occasionally the NHVR requests access consents for oversize overmass (OSOM) journeys that Levi knows go beyond the capabilities of himself or other council staff to assess.

Under the future law, Levi and the council may be able to delegate their decision-making role to an officer in the state road authority for this type of OSOM load – someone who has the necessary skills to assess the journey plan. The Council and the operators can be assured of quick decisions that properly consider the safety and amenity of residents and the imperative to move large loads.

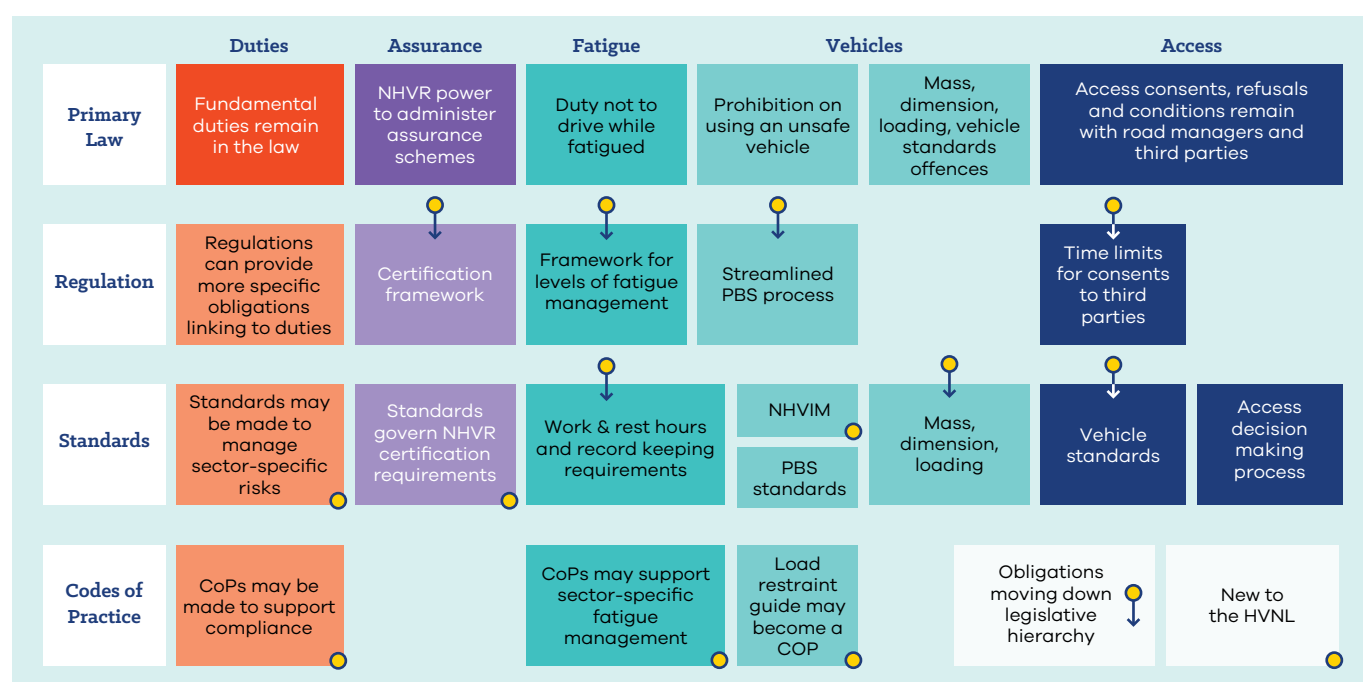
Levi is confident and competent in assessing access decisions relating to higher productivity freight vehicles, so the Council retains the decision-making role in those cases.

# A new regulatory structure and approach

## A more agile regulatory structure

Page 8 lays out options for a more agile HVNL that can be quickly adapted as the need arises.

Fundamental legislative principles determine which part of the law regulates what, and usually this is considered closer to drafting. However, the NTC has identified potential opportunities to move regulation down the legislative hierarchy to deliver a more flexible regulatory structure.



## Better-targeted enforcement

More effective information sharing paves the way for better-targeted enforcement.

The NHVR would be empowered to identify higher-risk parties and target enforcement efforts accordingly. This risk-based approach to enforcement would likely lead to increased reliance on off-road enforcement, including back-office audits and education, and less enforcement effort directed at the safest operators.

## Penalties and sanctions aligned to harms

Penalties and sanctions in the future law will have been reviewed to ensure better alignment to risk and harm.

For the most reckless and damaging offences, stricter penalties (for example, imprisonment) may be appropriate. For many administrative and minor offences, lighter sanctions (for example, warnings) will be available.



# What's next



***HVNL 2.0* outlined one possible scenario for the future HVNL. It's not the only way the HVNL could change – and it's not our recommendation. To determine the best way forward, we need to hear your views.**

To get the fuller picture, we invite you to read the [Consultation RIS](#). It outlines the problems each policy option addresses and analyses the potential effects. The RIS also covers a wider set of options, not all of which are compatible with one another.

The NTC invites formal submissions to the Consultation RIS. These are a critical part of developing a recommended set of policy options.

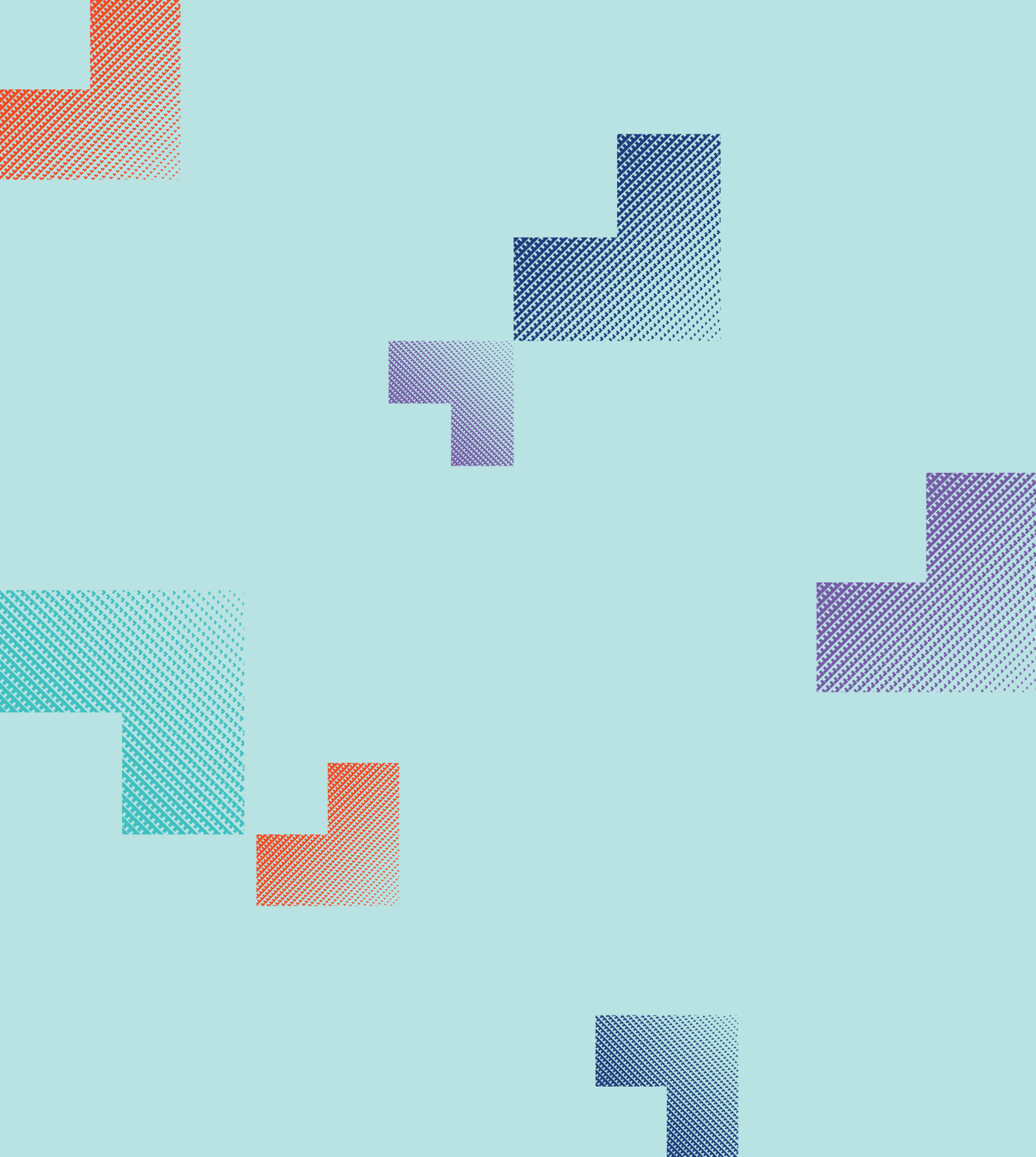
But we acknowledge not everyone affected by the law has time or capacity to make a formal submission. So we've got some other ways you can have your say:

- The [HVNL Review website](#) lets you sign up for information, respond to options and post your own ideas and comments.
- Speak to us at a consultation session.
- Write to us directly at [HVNLreview@ntc.gov.au](mailto:HVNLreview@ntc.gov.au).

The NTC will work with anyone who is interested to help finalise policy reform options. We'll be taking preferred options to transport ministers in early 2021.

If you're someone who has to work with the HVNL, have your say. Tell us what works, what doesn't and what you want to see in the future law.

**Opportunities for reform don't come around often - have your say and help us build the future HVNL.**



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