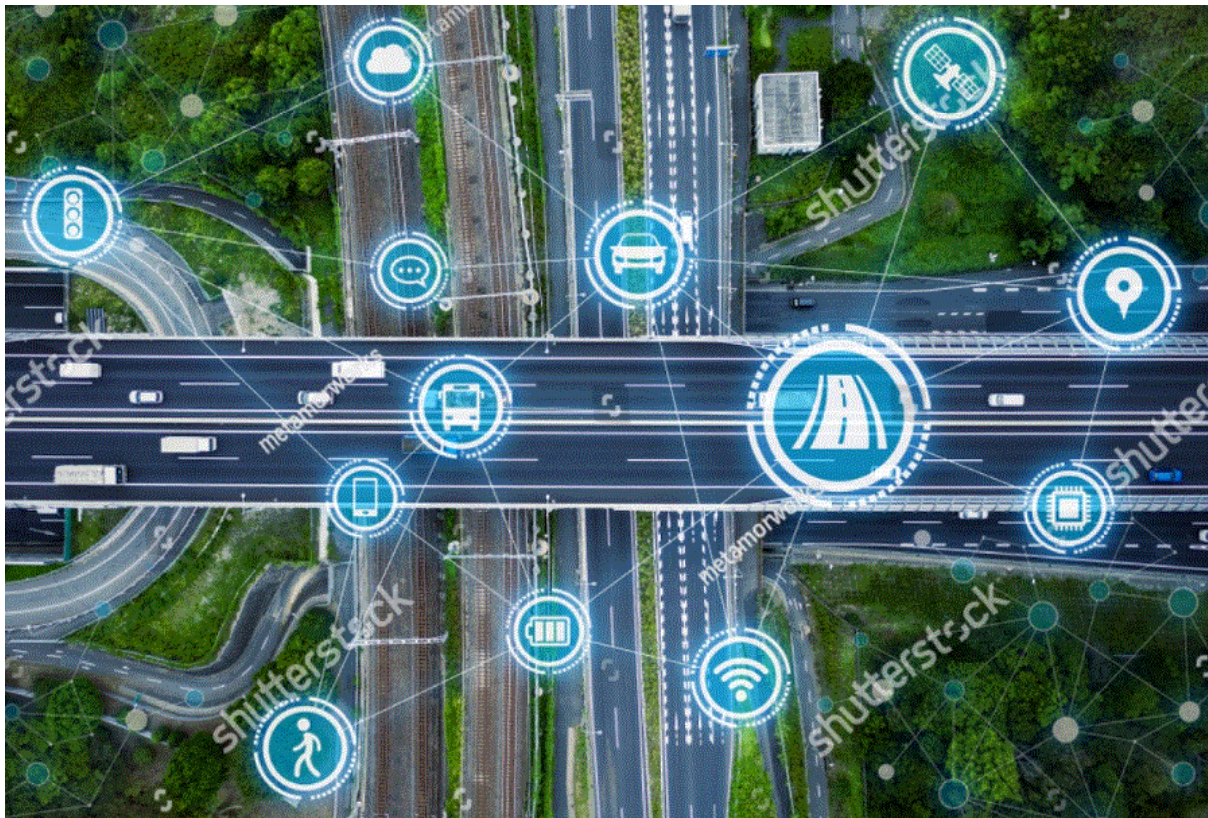


Submission to the National Transport Commission Issues Paper: *Easy access to suitable routes*



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1. Introduction

1. I welcome the opportunity to comment on the Issues Paper *Easy access to suitable routes* released by the National Transport Commission (NTC) June 2019.
2. This submission responds to the questions posed in the paper, after responding to the problems put forward by the NTC with access in the HVNL. I hope this will inform later Issues Papers and provides the impetus for the NTC to revisit its work to address significant shortfalls in the analysis presented in the current document.
3. There continues to be substantial differences in vehicle type, dimension and weights across jurisdiction. This affects those seeking access to road networks leading to utilisation of less productive vehicle combinations where access is denied. With the consequential productivity effects of increased freight journeys, increased emissions and higher consumer prices, combined with increased safety risks to infrastructure, drivers and other road users.
4. There are not only systemic issues with access to the road network but access reform policy nationally. The NHVR has been significantly hampered by jurisdictions in developing a pre-approved road network. Like the disparate approach to road safety this is mirrored in the approach to access reform and the NHVR must again be provided the authority to take decisive action in not only driving harmonisation in road access but vehicle type, dimension and weight.
5. Access to the road network has links to several interrelated issues including asset capability and use, management and ownership and the design and manufacture of vehicles. This is overlaid with one of the most contentious issues of how roads are funded. This will only become more complex with the shift to electric and autonomous vehicles. Managing the inter-dependent systems requires considerable effort to deliver the promised benefits of any review and update to access in the Heavy Vehicle National Law (HVNL).
6. Steps to introduce a more equitable user pays model will drive the requirement for jurisdictions road authorities, local government and the NHVR to develop robust systems that are able to leverage telematics. This will not only improve the making of effective and efficient access decisions but ensuring that funds flow to the assets being consumed.
7. An added benefit of these systems is as an assurance function to assist monitor and mitigate risks around non-compliance.
8. It may even obviate the need for human intervention in access decision-making should the framework be robust enough whereby the transport task can be linked to appropriate routes through the NHVRs Access Portal.
9. The significant hurdle here is access to data and the sharing of that data between all parties. Moving to open data sources and maintaining that data in useable and reusable formats is essential to not only any proposed reform of the HVNL but also the future of developing robust road access user pay models.



2. Detailed response to paper

Telematics, including the Intelligent Access Program

6. Just because the HVNL does not recognise other telematics devices does not preclude their use by industry nor the ability to gain concessions from their use. The NHVR offer many opportunities to participate in trials through the provision of exemptions, permits and notices.
7. If telematics is providing such broad benefits to industry they are poorly described in this paper and should stand on their own without requiring them to be recognised in the law. If they did operators would be investing in them regardless of any potential concessions or incentives that might be on offer. There is nothing preventing an operator or road manager from approaching the NHVR to use telematics as a condition of access whether that be IAP or any other telematics device.
8. The benefits of telematics are largely left to the reader to determine and it is not made explicitly clear how real-time tracking of vehicle type, location, mass, speed and time of day mitigates either risk to the road manager, operator, NHVR, other road users or the community.
9. Further there is no explanation as to how telematics protects road infrastructure, prevents or minimises negative effects on amenity and risks to public safety. The use of telematics simply records non-compliance (and compliant) events. Much of the benefits of telematics are not real-time but occur as a post journey/ event analysis.
10. There is no discussion of the total number of vehicles utilising IAP and what percentage these represent of the Restricted Access Vehicle fleet. This would have been particularly instructional to understand the billion-tonne-kilometres undertaken by these vehicles to assist assess the productivity and safety outcomes associated with providing access to this class of vehicles.

Review mechanisms

11. How many have been requested? How many have been undertaken? What have been the outcomes? Reviewing a declined access request simply because it was declined could adversely affect the functioning of the appeals body by unnecessarily increasing the burden on these institutions. The HVNL could be strengthened by introducing the ability to review decisions as an administrative function of the NHVR.

Heavy vehicle access in Western Australia/ Northern Territory

12. Why is there no examination of international access schemes? Why are the number of permits and notices singled out in participating jurisdictions but not non-participating? Fees for permit applications in Western Australia and the Northern Territory are not described.

Analysing access under the HVNL

13. The purported inefficiencies in the HVNL are not inherent to the law itself but the regulatory framework in which the NHVR exists. Jurisdictions and road managers are reluctant to cede control over access decision-making to the NHVR. The focus on any reform should be on determining how, when and what optimal framework should be in place to provide more efficient and effective access decision-making powers to the NHVR.



14. It would have been useful to understand where most vehicles were registered and where permits for operating them were issued to assess where the demand came from. What types of freight tasks created the primary demand for access decision-making? What were the risks and issues associated with the different types of freight tasks? By providing a comparative analysis between these tasks and their risks it will provide a framework as to how to allocate resources to address the needs of industry and parties in access decision-making.

Analysing access under the HVNL

15. There is no metric to assess what number is too many permits. What would be an acceptable number? What would be a suitable metric of days for delivering a permit? What cost would be acceptable? What types of access requests create excess work load for the NHVR regarding complexity and timing? None of these questions are answered nor placed into context by providing a comparative analysis with either another jurisdiction locally or internationally.
16. It is incumbent on the NTC to provide the ability for the reader to assess the impacts by providing evidence. Simply saying it does not make it fact. There could have been an analysis of number, timing and costs impacts pre and post the introduction of the HVNL.
17. It is not clear what the point of indicating that 96 per cent of permits are approved. Is the point that they are then able to be undertaken safely without a permit? Why? Which types of permit (period, single trip), over what period, for what freight task type? It would have been useful to indicate how many were issued with conditions and without and what risks they were mitigating through those conditions.
18. The reference to the Deloitte report is exceptionally deceptive because the report concluded that a decline in productivity was unlikely to have been caused by the introduction of the NHVR. It also makes it abundantly clear that transport was unable to be separated out from the ABS data making it difficult to make any conclusive analysis difficult.
19. The NTC fails to be objective in presenting the current state by not providing data on permits from non-participating jurisdictions.
20. The failure to provide any comparative analysis with non-participating jurisdictions or international access schemes again provides no objective analysis of the NHVR's or the HVNL's performance.
21. The NTC references low risk permits without defining what this means, nor does it indicate what might be considered high risk. What methodology is adopted to define risk?
22. If road managers are moving to the expanding class 2 notices but not achieving the desired outcome why has the NTC not discussed the barriers to achieving it?

The decision-making process is prescriptive and inflexible

23. The NTC states that local government must comply with multiple laws including local government legislation and by-laws but makes no reference to what they are and what impact they have on access decision-making.



24. The increased burden experienced by the City of Greater Dandenong after the commencement of the HVNL does provide evidence of a burden but also indicates other issues well beyond that of just increased burden.
25. Firstly, it clearly demonstrated that the City had very little visibility of the extent of the use of its road network or the risks heavy vehicles posed.
26. Secondly, it could be argued that it provided the Council with higher visibility of the demand on its road network from heavy vehicles. This would have enabled the Council to dedicate resources to mitigating the risk associated with transport demand on its roads. Otherwise they would have continued to be ignorant of the issues its network faced.
27. The suggested introduction of a review mechanism although has merits provides no assurance that either permit applications are more likely to be approved or that it will improve permit application outcomes – reduce refusals and improved timing. There is no evidence provided to support that this option will produce the sought outcomes.
28. To suggest that the lack of a review mechanism deters investment in PBS is spurious without providing any evidence to support such a statement.

Risk controls are insufficient

29. The discussion regarding in-vehicle telematics is curious given that the NTC has heavily pushed the use of technology both as providing potential productivity benefits through providing visibility as a regulatory tool and an assurance mechanism for local government.
30. It is analogous to suggest that the NTC promote technology as a mechanism to provide assurance to regulators and the community of an operator's ability to comply when one of the most purportedly robust telematics systems available produces so many errors.

Access decisions that apply as broadly as possible

31. Significant benefits could be derived from moving to access envelopes rather than continuing to issue permits and notices for specific vehicle or commodity types. These envelopes would specify the maximum permissible mass and dimension as well as specific requirements related to axle spacing and loading. All vehicles that were able to comply with the requirements and any specific conditions would have as-of-right access. The permit or notice would list the permissible vehicle types which would receive access within the envelope, network routes and list specific conditions related to that access.
32. The NHVR has undertaken considerable work to reduce and refine the number of conditions imposed on permits and notices. They have ensured that these conditions are focused on mitigating risks associated with vehicles, mass and dimension. The type of commodity being transported has very little relevance to the risk associated with the transport task – whether it be chick peas, hay, wool, steel or feathers, commodity should not determine if access is granted/denied to the road network. There are of course some commodities, dangerous goods, where other legislation and risks need to be considered and assessed appropriately.



33. Where the vehicle complies with the mass, dimension and loading requirements the creation of access envelopes will reduce regulatory burden and simplify the access process for all parties. This will remove a significant number of notices with the same routes and conditions to a single instrument that deals with highest level of risk posed by utilising the network.
34. Moving to access envelopes would simplify the system considerably for the road managers, operators and the NHVR. It is of course reliant on a significant amount of work to consolidate and assess the existing permits and notices into access envelopes. The National Highway 1 is a logical network to commence the trial of this method of classifying network access.
35. What evidence is there that telematics will be taken up to increase as-of-right access? More importantly what risks does telematics address in real-time? If the HVNL is moving to a risk and evidence-based law, it should be made very explicit what risks telematics will mitigate as well as the productivity benefits that will be derived.

3. Response to Draft Regulatory Principles

Draft regulatory principle 1

36. The principle could be improved with the addition of a dot point about the protection of infrastructure.

Draft regulatory principle 2

37. Access to appropriate route networks should be provided as-of-right irrespective of the commodity type being transported and is compliant in all other aspects – mass, dimension and loading requirements and vehicle type. This no more applicable than where access has previously been granted for one type of commodity when there is appreciable change in risk or the freight task.
38. There should be an objective methodology developed and applied to all types of routes including service level standards for roads to categorise them by their function. This must take into consideration that roads as assets deteriorate over time and if not maintained effectively access will by necessity need to vary over the lifetime of the asset.
39. The primary problem is that the capacity, capability and practices across road managers/ third-parties varies significantly and there is considerable effort (funding) required to raise the quality and consistency across the sector.

Draft regulatory principle 3

40. It is not defined as to what proactive means in the context of this principle. Does it mean to always seek to grant access?

Draft regulatory principle 4

41. Agree with this principle.



4. Response to Questions

Question 1

42. It is not the case that the HVNL inherently delays access decisions. The law provides the framework in which decisions can be made. The people, processes and systems utilised to make access decisions are what cause delay. There are complex inter-dependencies that create delays in the decision-making process and each needs to be examined individually to continue to refine access decision-making. They must then be considered in context of each other to develop a more robust access decision-making framework.

Question 2

43. There is a need to address the issue of nil response. However, it is not acceptable to make decisions on behalf of a road manager or third-party. Incentivising decision-making would be problematic. If you were to penalise a decision-maker for untimely or a nil response about access to their assets is not something many lawmakers would support.
17. The focus should be on creating more effective decision-making frameworks around routine or low risk applications. This would include developing notices or seeking pre-approved routes for these types of freight task. This is not something that would require amendment to the HVNL, but it is also not an insignificant task to undertake consultation with local government and third-parties. As significant is dealing with potential issues around undertaking safety and route assessment where these might be a stumbling block to achieving consent to either pre-approval, permit or notice.

Question 3

18. A nationally consistent vehicle and road (asset) classification system is essential to any ongoing productivity reform success. This needs to be coupled with information on the state of the current maintained network.

Question 4

19. No comment

Question 5

20. The HVNL should provide a mechanism for a review of road manager and third-party decisions. There is however no compelling argument as to why this needs to be an external review. The law can be strengthened to adequately undertake such reviews internally.

Question 6

21. It would be useful to understand how other jurisdictions internationally deal with the issue of access to their road network.

Question 7

22. Refer to answer to question 3.

Question 8

23. Refer to answer to question 3.



24. The issue of providing as-of-right access is not inherent to the HVNL as a regulatory instrument. The HVNL has various powers to provide access to heavy vehicles without requiring it to be prescribed further in law. This provides flexibility and the ability to adapt to the needs of operators, road managers and third-parties.
25. Notices should be the preferred method to provide access to the road network as they provide the most effective and efficient method of granting access. Where necessary effort should be made to include types of vehicle in the HVNL, examples are where a vehicle becomes ubiquitous across the industry and accepted by the community – an example is PBS truck and dog combinations.
26. As-of-right access is primarily dependant on the quality of the level of service of road assets. The availability of a harmonised road and vehicle classification would be beneficial as well as data on the maintained state of the road network.

Question 9

27. No comment.

Question 10

28. Acceleration in access decisions does not require a change in the HVNL. The law currently caters sufficiently for access decision-making. A refocus on efforts to developed pre-approved routes for key freight routes and first and last mile bottle necks to provide industry with immediate productivity benefits based on a risk and evidence-based assessment of needs.
29. Efforts to identify funding sources in collaboration with local government and third-parties where assessments highlight issues related to safety and infrastructure that inhibit granting access is required.
30. Without providing a detailed explanation of what is proposed it is difficult to assess. There is considerable investment required in developing and providing access to appropriate data. This is a significant issue in any attempt to not only improve access decisions and their timeliness but for any future automation of access decisions linked to user pay models. It will also be valuable in developing appropriate compliance and assurance models to provide regulatory oversight of delivery of safety and productivity benefits.

Question 11

31. The HVNL should be strengthened regarding the supply of road network and asset data. This should extend to the NHVR providing access decision meta-data to provide transparency of permit approval and decisions.

Question 12

32. Refer to answer to question 2, 3, 5 and 10.

Question 13

33. No comment.



Question 14

34. The issue of access decision making needs to be separated from compliance and enforcement. Decisions to grant access can have severe consequences for many parties and the risks must be adequately framed and mitigated through the decision-making process.
35. Publishing data on granted and declined permits would improve transparency and accountability. There are a variety of issues that need to be considered but it also provides opportunities for the information to be consumed in a variety of different ways and by different stakeholders. This can lead to innovation and potential business opportunities.