

Local Government Association of Tasmania

Submission to

Heavy Vehicle National Law Review
Issues Paper 3: Easy Access to Suitable Routes

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Introduction

About us and Tasmanian Local Government

The Local Government Association of Tasmania (LGAT) is the representative body of Local Government in Tasmania. Established in 1911, LGAT is incorporated under the *Local Government Act 1993* with membership comprising all 29 Tasmanian councils. The core purpose¹ of the Association is to:

- Protect and represent the interest and rights of Councils in Tasmania;
- Promote an efficient and effective system of Local Government in Tasmania; and
- Provide services to Members, Councillors and employees of Councils.

In turn, our members' functions² are to:

- Provide for the health, safety and welfare of the community;
- Represent and promote the interests of the community;
- Provide for the peace, order and good government of the municipal area.

LGAT executes its role to support Tasmanian councils' functions within our communities.

Heavy Vehicle National Law Review

LGAT welcomes the opportunity to provide a submission to the National Transport Commission's (NTC) Heavy Vehicle National Law (HVNL) review, *Issues Paper 3: Easy Access to Suitable Routes*³.

The NTC's HVNL review was originally planned for 2020-2021 but has been brought forward by two years, which we understand to be a response to concerns and advocacy from some transport industry operators and their associations arising from issues experienced in certain locations and jurisdictions.

The issues being reported by industry are important and must be acknowledged and addressed to keep Australia's economy as competitive as possible. Both industry and road managers have a critical role in achieving this. However, it is important to note that the issues being reported are not ubiquitous in extent or intensity and are steadily being addressed in all HVNL jurisdictions. As a result, the intensity of these issues is reducing in most, if not all, jurisdictions, although at different rates. This is because the work required to match the significant range of vehicles (masses, configurations and combinations) with a vast and diverse national network of road infrastructure (different pavements, alignments, bridges, etc) managed by a diverse network of road management authorities with different resourcing capabilities and budgets, takes time and effort. Heavy vehicles (HV) represent the most extreme vehicles to access our road network and so represent the most extreme risk of impacts to roads and local areas.

¹ Section 328: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-095#GS328@EN>

² Section 20: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-095#GS20@EN>

³ Source: <https://www.ntc.gov.au/current-projects/heavy-vehicle-national-law-review/>

Consequently, the root cause of the issues reported are not the result of the HVNL itself, but in its implementation nationally, within each jurisdiction, and within each road management organisation. LGAT believes that much more can be achieved in addressing industry concerns through targeted action that works collaboratively with industry and road managers in accelerating HVNL implementation, rather than a sweeping overhaul to legislation that risks adversely impacting the most resource constrained road managers and still requiring the intricate work of matching transport tasks to suitable routes at the end of it. LGAT therefore asks the NTC to focus resources and effort on the ongoing body of work underneath the HVNL to improve HV access.

Tasmanian councils are proud of the work they have done to assess road infrastructure tolerances to broaden HV access to industry and reduce permitting burden, while protecting the roads they manage on behalf of their communities. However, it has taken time, effort and capital expenditure and they could not have achieved this had they approached the task in isolation from other road managers. Instead, Tasmanian councils have been assisted by a centralised and collaborative approach from the Tasmanian Government that has recognised the critical role councils play in road management and the vital importance of bringing together State and Local road management decision making to deliver complete trips to transport operators. This collaboration between State and Local road managers is critical for delivering whole-of-road network solutions that all road users, including the transport industry, need. It is suggested a critical role exists for the NTC in implementing the HVNL by supporting the resourcing of such collaborative work on a national level.

To illustrate the importance of State and Local road managers working effectively together, we provide the following comments from a Tasmanian local road manager. This sentiment is also reflected in other comments we have received:

We are very satisfied with how HV access is working for [our council]. The number of permit requests has reduced significantly from when the HVNL first came into effect. We also have a reasonably thorough understanding of our assets/infrastructure, so we are able to issue access consents very quickly, usually within 1 day.

We are extremely satisfied with the collaboration between Department of State Growth and Council/s. It has greatly decreased the number of permit requests (through the creation of Access Notices), and it has increased our knowledge of our assets, making our decision-making on permit requests much easier and quicker. Any recommendations of the HVNL Review must protect the improvements made as part of this collaboration.

We have no issues with the HVNL in Tasmania. We recommend continuing with the reduction of the permit processing burden, [above].

We note that most of the issues identified in Issues Paper 3 do not apply to HV access in Tasmania, as they have generally been resolved by the collaboration [between State and Local Government]. Our only comment would therefore be to reiterate that the improvements made through this collaboration need to be protected.

Local Government is not homogenous

Issues Paper 3: Easy Access to Suitable Routes argues that permit processing and decision making across and within jurisdictions is inconsistent. We expect this to be true, however the paper also uncritically adopts some very imprecise and sweeping accusations made by some stakeholders that target Local Government as a whole and unfairly generalise the sector. This is risky and incorrect. In addition to lumping a diverse range of organisations into an indistinguishable mass, it carries the completely false implication that Local Government is all one thing and the same across the nation and that any reported performance issues of some organisations can be applied to all others, regardless of actual performance. Most importantly, it prejudices analysis of the problem and consequently how solutions are developed and implemented. Broadscale responses to the reported problems in some locations risk not properly addressing the issues and could create unintended consequences.

To be clear, Tasmanian councils are not all the same, let alone councils nationally, Tasmanian road managers (State or Local) are not all the same and the road management task they have is not the same. Road managers have different networks, different budgets, different communities and expectations. All of these play a role in HV access decisions.

Heavy vehicle access decisions are more challenging for councils

Virtually everything about HV access decision making is more challenging for councils than for state jurisdictions.

In Tasmania, the State Government manages 3,700km or 20%⁴ of the road network, including 1200 bridges, culverts and similar structures. These roads and bridges are 100% sealed, are of a higher construction standard and can better tolerate higher masses and impacts from HV. State roads are also typically arterial in nature with smoother alignments, providing higher throughput per length but actually underperforming in providing property access, servicing perhaps less than 5% of properties and land uses.

In contrast, Local Government manages the lion's share of Tasmania's road network at 14,400km or 80%, including over 3000 bridges, culverts and similar structures. These roads and bridges are generally of a more variable and lower construction standard, with only 52% sealed and 48% unsealed, and tend to be more sensitive to higher masses and HV impacts. Local roads are typically non-trunk/capillary in nature with finer alignment variability, providing slower networks and lower throughput per length but servicing more than 95% of properties, so essential for completed transport tasks.

State road management is also consolidated and centralised into a single organisation with more personnel, more specialist expertise and a significantly larger budget. In contrast, Local road management is distributed across 29 Local Government areas, with different personnel and budgets. Indeed, Local Government revenue is not linked to road management burden, with some Tasmanian

⁴ Excluding forestry and utility roads

councils having 30 times less general revenue per road length to work with than others⁵, an enormous difference in road management capability.

So in making HV access decisions, the State assesses applications over a smaller road network of infrastructure more robust to HV impacts with more personnel, more specialised expertise and a greater budget within a single organisation. In comparison, Local Government assesses applications over a much larger, more variable road network that is more sensitive to HV impacts across multiple, diverse and independent organisations with fewer personnel, less specialised expertise and fewer resources. In the absence of targeted resourcing and support to balance these, differences in operating performance are a natural and unavoidable outcome of these conditions.

Responses to Issues Paper Questions

Question 1: Why do access decision timeframes vary so significantly? To what extent does the HVNL cause or allow access decision delays?

As discussed above, access decisions depend heavily on the resourcing, priorities and values of each decision-making organisation, as well as the nature of the network they manage.

Question 2: Most road managers can grant consent within seven days. Given this is the case, should we reduce the 28-day timeframe currently in the HVNL? Should we introduce a mechanism to deal with a nil response?

Acknowledging that most road managers grant consent within seven days supports our contention that the issues being reported are not ubiquitous issues demanding legislative change, but are specific, so require specific responses, and relate to implementation.

It also must be noted that if delays are due to operational discipline of road managers, then tighter timeframes may help. However, if delays are due to resourcing issues, shortages in personnel or expertise, uncertainty/incomplete knowledge of infrastructure and tolerances, or poorly made applications, all of which we suspect, then these issues need to be addressed specifically and tighter timeframes will be useless and a symbolic gesture to industry only.

As most Tasmanian road managers provide responses well within the 28-day timeframe, this is not expected to have a major impact on the majority of road managers and the majority of applications. However, it should be noted that Tasmania has undertaken significant work to reduce permitting load on operators and road managers alike by facilitating HV trips under notice (permit not necessary). These are typically the less risky and easier to assess trips, meaning that as road managers expand the permit-free trips, the trips requiring assessment become dominated by the more difficult and time-consuming applications. Provided mechanisms to extend the timeframe are retained, our objection to reducing assessment time is moderate. We would prefer to demonstrate to industry that we are responding to their needs by delivering actual faster permit turnaround or more permit-free trips under notice rather than constraining road managers with reduced timeframes.

⁵ Sourced from the Tasmanian Local Government Consolidated Data Collection:
<http://listdata.thelist.tas.gov.au/opendata/>

Some mechanism to deal with a nil response is sensible and supported. What this mechanism should be is another matter and requires development. Road managers would prefer a default no to access, but that does not incentivise swift processing. Transport operators would favour a default yes to access, but this carries significant risks and may not achieve the incentivisation expected. Who carries that risk is another problem. We ask that the NTC further develop an understanding of the cause of delays and develop options for incentivising swift application processing.

Question 3: Is vehicle classification useful? Does the new HVNL need a vehicle classification system and, if so, should it be different from the current system?

In the absence of automated vehicle load assessments, vehicle classification is essential to matching vehicles to roads. We encourage detailed investigation into how the current classification system can be improved to better serve road managers in providing access decisions.

Question 4: What are the challenges road managers face under the HVNL access decision-making framework? Which road managers do it well, and why? Why are some road managers struggling with access?

Uncertainty about road infrastructure tolerances or specific HV impacts is a key issue for decision-making. In Tasmania, we have been able to address this effectively by collaborating amongst the managers of different parts of the road network to undertake the work necessary to understand the HV fleet in operation, its impacts on infrastructure, and the tolerances of our infrastructure. Building a collaborative environment amongst road managers, as well as working constructively with industry to understand their fleet and needs, has been crucial to the work thus far.

In addition, understanding and communicating the benefits to road managers of seeking to maximise permit-free HV access for industry, wherever responsible and reasonable, helps progress this work. Making legal access to the road network as easy and seamless as possible assists in network management by promoting responsible road use and benefiting road managers.

Question 5: Should the law allow for external review of access decisions?

Appeal or review of access decisions may assist in providing applicants with a sense of accountability and recourse for an adverse decision. However, if road managers are required to devote resources to defending their decisions, we may see this disproportionately impacting the most resource constrained councils, impact permit processing performance and ultimately creating other problems. Wherever possible, new legislative mechanisms should seek to mitigate their resourcing burden on road managers as road manager resourcing should be devoted to maintaining and improving road infrastructure, rather than maintaining legislative processes and responding to appeals to defend decisions.

Question 6: Have we covered the issues with access under the current HVNL accurately and comprehensively? If not, what else should we consider?

No. The issue has been cast as a problem with legislation that can be solved by review. We disagree and argue that the problem is in how the law has been implemented, thus far, in each jurisdiction.

The Issues Paper also quite uncritically adopts a view promulgated by some stakeholders that targets Local Government as a whole and does not adequately explore the nature of different road management authorities, their resources and interests and the different road networks they manage. This prejudices the development of proposed solutions and risks inadequate fixes or unintended consequences. LGAT warns the NTC that this is a significant risk to the success of its work in resolving HV access issues.

Question 7: How can the new HVNL work, most likely with other reforms, to best support optimised use of our transport assets and vehicles?

Again, we see the most gains to be made through collaborative assessment work between State and Local road managers to maximise permit free access. This work should also identify constrained or problematic routes or infrastructure, which will allow road managers to clearly communicate to prospective applicants (to save them time) that their proposed route is unsuitable and an application would be refused. Understanding network constraints also helps to inform infrastructure upgrade and investment decisions.

All of this requires implementation work under the HVNL and does not require legislative change.

Question 8: How can the new HVNL expand as-of-right access and generalise access authorisations? Can we remove time limits for notices, for example?

This should be a central focus of work under the current HVNL and any future iteration. Maximising reasonable and responsible permit-free access (and communicating that effectively) benefits both industry and road managers in reducing permit processing burden.

Removing road management tools and mechanisms from the legislation, such as a blanket removal of time limits for notices, only hinders road managers and will make them more wary and hesitate to contribute to developing notices. Instead, notices should be developed by road managers with the intent of providing as open and unfettered access as is reasonable and responsible for the vehicle type and the network. Again, this is another example of where many of the gains to be had are not in changing the legislation itself, but in undertaking the work of implement it.

The implementation of the HVNL must move toward an increasingly harmonised national system, whilst preserving individual road manager's ability to manage their road network and road management budget.

Question 9: Do we have the right tools to implement access decisions? How can we modernise the tools for access authorisations?

We believe we have the right tools in the HVNL to implement access decisions. In addition, the Tasmanian Government is developing new tools for the assessment of vehicles and communication of suitable routes. Moving toward modern technology, such as map-based permits and telematics, should be the objective of all stakeholders.

Question 10: How can the new HVNL accelerate access decisions? Is a proactive approach possible?

Again, we contend that a new HVNL cannot make significant gains to accelerate access decisions as most of the gains to be had are in implementation. Focus and resources should be devoted to this implementation work on infrastructure and vehicle assessments and upgrades to facilitate broader access and economic flow.

Question 11: How should the new HVNL implement access decision-making? Should it specify process and roles? What role is there for the operator? What improvements to access decision-making can be made?

The HVNL should provide appropriate legislative tools for transport operators and road managers to achieve the HVNL objectives. Specifying roles may help, as long as these roles align with the broader interests and objectives of each party. There is a role for the operator in providing accurate, high quality information about their vehicles and routes, so that road managers can support their access objectives.

Question 12: How do we reach consistent and predictable risk-based access decision-making? How can we make sure decision-making is transparent and fair?

The best way to reach consistent and predictable risk-based decision-making is through consistent collaboration to jointly deliver continually improving access within the objectives of the HVNL. When road managers collaborate to provide network access, they can see and understand the risks and justification of their colleagues in their decision. Our road networks are connected, and industry is seeking complete trips, not portions, so our access and road management decisions should not be made in isolation.

Question 13: How do we best share the risk management responsibilities between parties with a role in heavy vehicle access?

As stated elsewhere, network access decisions shouldn't be made in isolation from the larger network. Road managers need support and collaboration to undertake the extensive work required to understand the tolerances of their road network and make access decisions cognisant of their neighbours. Proactively working to reduce permit processing load needs to be encouraged and facilitated.

We ask that the NTC facilitate targeted responses that assist both those operators / vehicle types / transport tasks most needed by the economy and those road managers suffering from the most critical resourcing constraints that mutually achieves industry access objectives and road managers' responsibilities to their communities.

Question 14: How do we manage the accountability of parties with a role in heavy vehicle access?

Legislation needs mechanisms to incentivise the ideal behaviour and operation of the system. Access should be improved for operators that work constructively with road managers. Infrastructure investment should incentivise road assessment work that informs high quality, HV access decisions that are easy to navigate, understand and comply with.

Conclusion

At the heart of our submission is our assertion that the key to HV access is the detailed and resource-hungry work necessarily takes time and effort, requiring all road managers to:

1. Assess the enormous variety of heavy vehicle types and combinations (masses, axels, distribution, load effects, etc.) against the enormous variety of road conditions (pavements, alignments, structures and crossings, etc.);
2. Develop a policy position on each that reflects an organisation's broader responsibilities to their community; and then
3. Choose a legislative mechanism to respond to it (permit, pre-approval, notice, etc).

This is time and effort in addition to a road manager's broader responsibilities to their community and is not resourced by the HVNL system. In addition, because the networks each authority manages are incomplete and part of the broader, interconnected national road network that serves all road users, these decisions and the assessment work they are based on should not be undertaken in isolation, and access demand should be responded to in collaboration with neighbours on the network. As such, the real gains to be made in delivering optimised heavy vehicle access are in implementation of heavy vehicle regulation.

In contrast, a review of the HVNL can only achieve so much and in fact could significantly worsen road management conditions, for example:

- The introduction of review or appeal processes could cause road managers to divert limited resources away from improving access through infrastructure assessments or improvements and toward defending HV access decisions – a perverse outcome; or
- To shortcut HV access, the balance of the object of the HVNL could be skewed heavily away from its public safety, environment, road infrastructure and public amenity protection goals; or
- Compromising infrastructure protection goals to shortcut HV access could substantially impact road management resourcing and deliver another critical cut into Local Government financial sustainability.

Therefore, to deliver the greatest gains to industry and the economy, LGAT urges the NTC that resources currently provided to address HV access should be redirected away from legislative review (wherever reasonably prudent and practical) and directed instead toward HVNL implementation work. Such work should be focused toward the following:

1. Matching vehicles to existing infrastructure (assessment work);
2. Matching infrastructure to HV route demand (infrastructure investment decisions);
3. Improving collaboration and reducing isolation between road managers at all levels, enhancing:
 - a. Road manager awareness of the effect of their decision on the overall network;
 - b. Road manager awareness of the assessment approach, risk tolerance and decision justifications of colleagues, whilst also preserving an individual road manager's

authority to make independent decisions to manage their road network and road management budget;

4. Improving the visibility of the available network for transport operators, such as with interactive, map-based permitting and conditioning;
5. Improving the visibility of network usage and demand for road managers, such as with telematics, for the purpose of road management and infrastructure investment work; and
6. Reducing the permit processing load on road managers and transport operators alike by:
 - a. Progressing permit applications for vehicle-route combinations that are going to be approved again and again from permits to map-based notices for simplified access; and
 - b. Clearly communicating to HV road users problematic and unsuitable routes.

Finally, and consistent with the clear appeals from Tasmanian councils, LGAT urges the NTC not to make any legislative changes that adversely impacts the strong State-Local Government collaborative relationship that has been created in Tasmania, nor the excellent achievements made to date in delivering substantial heavy vehicle access improvements to our transport industry and economy.