

**NTC Issues Paper 2:
Effective fatigue management**

**NTC Issues Paper 3:
Easy access to suitable routes**

**NTC Issues Paper 4:
Safe people and practices**

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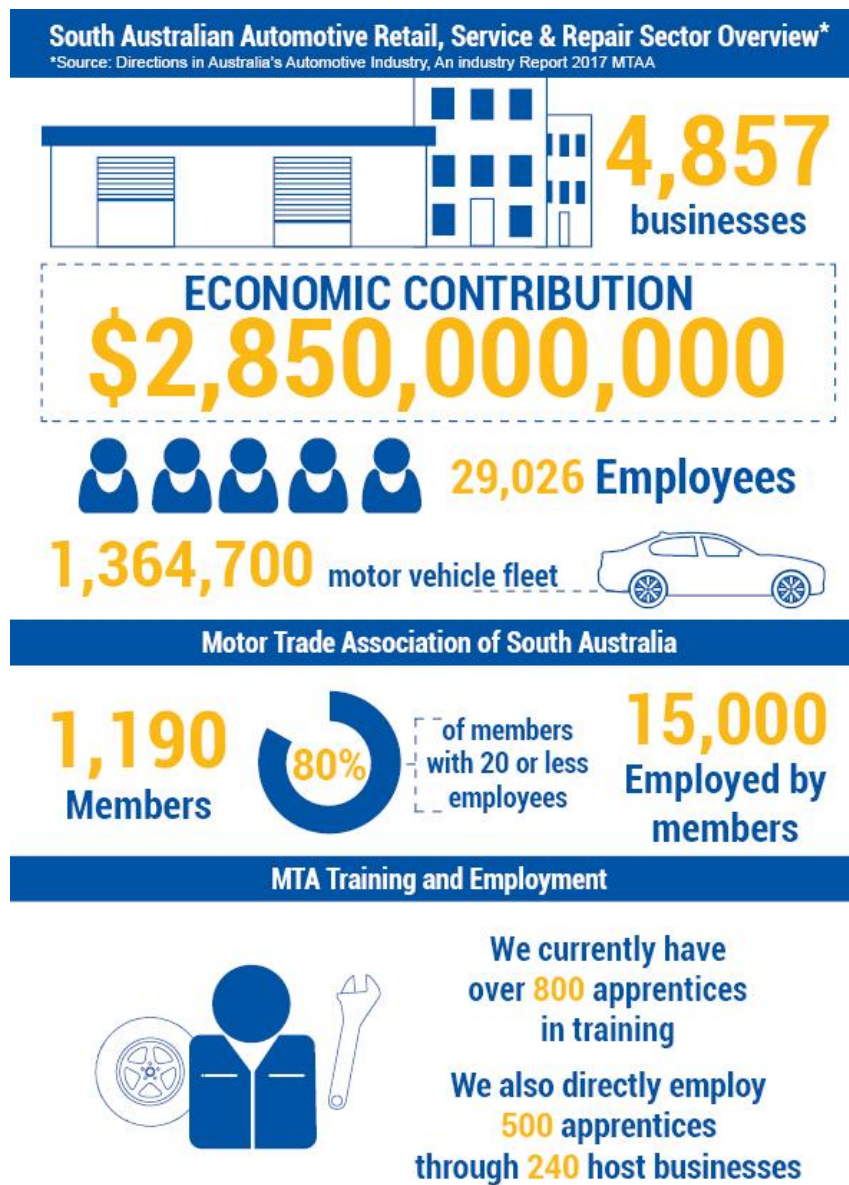
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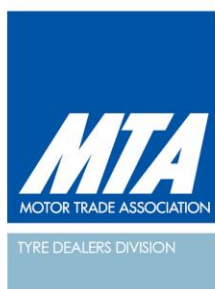
2. About Us

The Motor Trade Association of South Australia is the only employer organisation representing the interests of automotive retail, service and repair businesses in the state.

The MTA Training and Employment Centre comprises of both our Registered Training and Group Training Organisations. It is the automotive industry's training provider of choice and is the largest employer of automotive apprentices in South Australia.



DIVISIONS



3. Industry Consultation

This submission summarises the views of the MTA's members. In developing this submission, the MTA has consulted with members in the bus and coach, and heavy vehicle sales, repair and transport sectors.

4. Introduction

The MTA will use this Submission to provide a response to the following National Transport Commission (NTC) Issues Papers:

- Issues Paper 2: Effective fatigue management
- Issues Paper 3: Easy access to suitable routes
- Issues Paper 4: Safe people and practices

The MTA notes that the NTC wishes to provide everyone affected by the current Heavy Vehicle National Law (HVNL) with an opportunity to have a say on the development of a new HVNL; seeks advice on the problems identified in the Issues Papers; and seeks comment on whether the NTC has accurately and comprehensively covered the key issues.

The MTA's consultation with industry has revealed a broad support for the apparent intent of the NTC's review of the HVNL, that is, to enable more flexibility in the interpretation of the HVNL and to move away from prescriptive language.

Without flexibility, it is the MTA's observation that operators can be unduly restricted and, in some cases, the law can have the perverse effect of causing less safe decision-making.

The MTA's consultation has shown that industry supports legislation that makes the heavy vehicle industry a safer industry in which to operate. Transport operators have unreservedly expressed the view that safety is a paramount consideration in how they manage their business.

The heavy vehicle industry incorporates a wide range of operator types: including long haul transport, tow truck operators, transporters of livestock, refrigerated products transport, and bus and coach operators.

Accordingly, it is imperative that the HVNL review takes into account the unique circumstances of each type of operator and their management of safety. There needs to be the flexibility to address the differing environments in which the heavy vehicle industry operates.

5. Issues Paper 2: Effective fatigue management

The MTA notes the NTC's high-level vision for effective fatigue management in a future HVNL. In particular, the six draft regulatory principles to guide development of the new law:

- safer outcomes
- effective fatigue risk management
- continuous improvement in risk controls
- a harmonised approach, not a uniform one
- simple and flexible compliance options
- efficient enforcement and proportional sanctions

The MTA applauds the NTC's observation that the current HVNL does not have the flexibility needed to regulate the diversity of freight types and tasks and differing compliance capacities of operators.

For example, the MTA observes that it might be satisfactory for a driver transporting furniture nearing the end of their maximum hours period to stop anywhere on the side of the road to commence a rest period. However, if a driver was transporting people on a coach tour, it would be completely unsatisfactory to stop when thirty minutes down the road there is a suitable rest stop, where the passengers can also alight and utilise the rest stop's amenities.

Issues Paper 2 identifies that the HVNL is not stopping people impaired by fatigue from driving heavy vehicles. However, as observed above, the HVNL operates in an inflexible way, so as to prevent a perfectly capable, unfatigued, coach driver from continuing to drive for an extra thirty minutes, for the comfort of their passengers, without the risk of heavy penalties.

In this regard, the MTA is pleased to note that Issues Paper 2 identifies a number of specific restrictions produced by the complex and prescriptive nature of the current law.

The NTC's findings in Issues Paper 2 reinforces the MTA's view that, to have a truly flexible outlook when developing the new HVNL, serious and concerted consultation with industry will be required to deliver real life insights into what is required to follow safety protocols for each heavy vehicle transport type, while still completing transport tasks in a demanding and competitive industry.

The MTA supports the paper's view that the new HVNL should nurture a safety culture among heavy vehicle operators, with a view to continuous improvement. The MTA is well placed to provide support and advice to its Members in regards to safe practices.

6. Issues Paper 3: Easy access to suitable routes

The MTA notes the NTC's high-level vision to improve heavy vehicle access in a future HVNL. In particular, the four draft regulatory principles to guide development of the new law:

- access arrangements that optimise the use of infrastructure, vehicle and resources
- access decisions that apply as broadly as possible
- quicker, simpler access decision-making
- clear responsibility and accountability

The MTA consulted with its Members regarding improving heavy vehicle access, and a clear priority identified was that the requirements to be met when applying for a permit be reduced. MTA Members have requested that permits under a new HVNL be broad, standardised and easier to obtain. Furthermore, it is desired that permits be more readily available via a streamlined approval process.

The MTA applauds the Issues Paper's recognition that the current decision-making process regarding the provision of permits is prescriptive and inflexible, and that there are many opportunities for road managers to lose sight of, or delay, a permit application.

In consulting with members, the MTA also observes that some heavy vehicle operators experience difficulties in obtaining a permit in a timely manner, impacting on the lawful operation of their business. For example, tow truck operators, unlike transport companies that can plan their routes well in advance, must be available to drive anywhere, at any time, to retrieve a vehicle that has been involved in an accident or break down. In the event that this occurs outside of standard business hours, without the ability to obtain a permit immediately, tow truck operators face the dilemma of abiding by the law or risking heavy penalties to provide a service to a member of the public in need.

Members have also sought more consistency with regard to decision making around the provision of permits. For example, the MTA is aware of circumstances in which one coach operator has been issued with a permit for a certain location for a period of six months, whereas his direct competitor enjoys a permit for the same location, and with the same type of vehicle, for three years. The MTA is unaware of the reason for the varying length of permit, under the same operating conditions, but notes the unfair consequence that one operator will have to go through the difficult and time consuming process of obtaining a permit within a few months, while the competitor will not. Furthermore, the MTA understands that both operators in this example paid the same permit fee.

MTA Members have also advised that the provision of automatic renewals when the details or conditions of an access permit have not changed would be beneficial to their business operations.

The MTA is of the view that industry needs to be more involved in the National Heavy Vehicle Regulator's (NHVR) processes, including being consulted with for technical and operational issues. For example, MTA Members have advised that technical specifications for buses are set on metropolitan buses not coaches that travel the countryside. This is a clear example of when industry should be consulted when setting requirements under the HVNL.

Additionally, moving forward, MTA Members are of the view that more regular reviews of the legislation are required to keep up with advances in technology, at least on an annual basis. For example, the manoeuvrability of buses has seen major changes due to technological advancements improving their turning circle, yet there are still restrictions that mean a bus needs a permit when they probably do not require one.

The pervading view of industry is that heavy vehicle operators have a broad and valuable technical understanding which, particularly in relation to technology and restrictions, should be utilised by the NHVR via increased industry consultation.

7. Issues Paper 4: Safe people and practices

The MTA notes the NTC's high-level vision for managing safe people and practices in a future HVNL. In particular, the ten draft regulatory principles to guide development of the new law:

- better safety outcomes
- a cohesive legislative environment
- accountability at the point of influence
- improved driver skills
- suitable health and fitness management
- practical and sustainable heavy vehicle driver licensing
- managing drugs and alcohol
- safe on-road practices
- balancing safety management systems with certainty
- supporting the safety culture

Whilst industry consultation identified that safety is of paramount importance to our Members, there is a generally held concern that the HVNL does not provide options for a diverse range of operators. Rather, as identified in the Issues Paper, the law forces all operators and regulated parties to comply with the same requirements. Irrespective of size, operators are subject to the same prescriptive requirements and performance-based or safety assurance requirements.

With regard to managing safe people and practices, MTA Members are desirous of an industry code of practice that encompasses distinct sector regulations, whilst meeting the objectives of the HVNL.

MTA Members have identified that adopting a more flexible, less prescriptive way of regulating safe practices could fix the following issues currently experienced by heavy vehicle operators:

- Members have identified that technology sometimes negatively impacts safe practices. For example, speed limiters limit the speed of a heavy vehicle to 100km/h. This can severely impact the time it takes for a heavy vehicle to overtake another vehicle. The ability to increase speed to 110km/h in this instance would be a safer alternative.
- As previously identified in relation to fatigue management under the HVNL, a driver should be able to drive an additional short period of time to ensure that they stop in a proper rest stop instead of on the side of the road. This prescriptive requirement to take a rest period forces some heavy vehicle operators, who for operational reasons choose not to stop, to run the risk of non-compliance under the HVNL, even though the act of continuing on may be generally considered the safer option.

Whilst not specifically discussed in the Issues Paper, the condition of the roads upon which heavy vehicle operators drive was raised by our Members as a safety issue. It was also identified that there are many legislative inconsistencies between the States and Territories with regard to, for example, road rules, regulations on flashing lights for emergency vehicles and licence requirements.

The MTA is of the view that driver/skills shortages in the heavy vehicle industry can be attributed to over regulation and a general lack of flexibility in the current HVNL. Members advise that increased red tape, regulations and restrictions create barriers to employing a quality workforce.

Members report that a lack of flexibility is forcing more experienced drivers out of the industry and with growing competition in the labour market as a whole, it is becoming increasingly difficult to encourage younger workers into the industry.

The MTA would welcome the opportunity to provide further input into an automotive industry Code of Practice encompassing distinct sector regulations that would meet the objectives of the HVNL.

8. Next Steps

The MTA is available to provide further information in relation to this submission and to clarify any aspect of it.

This includes meeting with agency representatives and facilitating further consultations with industry on proposed changes.

9. Submission Contact

For further information relating to this submission please contact:

Nathan Groves
Industry Engagement Specialist
ngroves@mtaofsa.com.au
08 8291 2000