



victorian**transport**association^{inc.}

Response to the National Transport Commission Easy Access to Suitable Routes

Submission Number Three

Submission on behalf of the
Victorian Transport Association

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3.0 SUMMARY



1.0 ABOUT THE VICTORIAN TRANSPORT ASSOCIATION (VTA)

1.1 Introduction

The Victorian Transport Association (VTA) has over 800 members and is dedicated to the service of members and supporters in all sectors of the transport and logistics industry.

With over 100 years' experience and a specific business focus, we possess the industry acumen, market knowledge and industry contacts that enable members to capitalise on the current commercial and regulatory environments.

Recognised as Australia's pre-eminent multimodal prime contractor and employer organisation in transport and logistics, the association works with all levels of government, the unions, statutory authorities and the industry to achieve mutually beneficial outcomes.

The VTA is committed to enhancing the image of the industry while helping improving the commercial environment for our members to operate.

2.0 VTA'S RESPONSE TO THIS ISSUES PAPER

2.1 Introduction

The Victorian Transport Association (VTA) welcomes the opportunity to respond to this '*Easy Access to Suitable Routes*' Issues Paper released in June 2019 by the National Transport Commission (NTC). The VTA will refer to this document as Submission Number Three.

The HVNL in its current form falls short of being truly national and is overly prescriptive and complicated. This review (the Review) of the HVNL will have a significant impact on the heavy vehicle industry. It will determine the shape, practices and operational standards within the industry that at times falls short of community expectations and struggles to project a positive culture.

The VTA and its members maintain that this Review must ensure that any changes to the law remain focused upon and are underpinned by three key pillars: improved efficiencies, improved productivity and improved safety outcomes.

It is vital that we confront past standards and legal structures whereby we build a new HVNL framework which addresses the current problems and short-comings and most importantly, ensures that we deliver a far more robust, purposeful and flexible framework in order to meet future industry challenges.

2.2 Approach to the VTA Response

The VTA responded to the initial March 2019 Issues Paper, titled '*A risk-based approach to regulating heavy vehicles*' (referred to as Submission Number One) and within this submission, the VTA made a concerted effort to include many of its key issues and topics for consideration for the Review.



Given the breadth, complexity and NTC's timelines associated with this Review, as well as, the number of Issues Papers involved and the need to consult with members, the VTA will provide concise submissions for this and each of the other Issues Papers.

Our responses are based upon the VTA's knowledge and thorough understanding of the transport and logistics across different sectors, jurisdictions, government bodies and agencies, as well as, the feedback from VTA members through its well-established VTA Secretariat structure.

The VTA appreciates that 'flexibility' in the new law is essential. The VTA also acknowledges getting the balance right between flexibility and certainty is paramount.

As already outlined in submission number one, the VTA reiterates the two additional principles which must be included in this Review and it underpins our position in relation to this Issues Paper. The two additional principles included:

- 1) the need for clear and consistent mandatory operational standards in the new law.
- 2) the new law must apply to all vehicles greater than 4.5 tonnes (GVM).

The current system of access to suitable routes has become a regulatory burden for most transport companies that are engaged in the regular movement of larger heavy vehicles. This issue is not confined to the Oversize and Overmass vehicle configurations but also the access to roads by the High Productivity Freight Vehicles and larger trucks used for specific purposes.

The heavy vehicle industry has been held to ransom by the convoluted regulations, the narrow perspectives taken by jurisdictions in their interpretation and the lack of respect to the nature of commercial negotiation within the business environment.

The loss of productivity and efficiency caused by the respective state road jurisdictions has not only cost the heavy vehicle industry as a whole, tens of millions of dollars over the past three years, but individual companies have either gone broke, sold their business or walked away from the industry.

The lack of accountability of the state jurisdictions has led to a belligerence towards the access process by the industry at large and the frustration from customers and heavy handedness by the jurisdictions has created dissent and mistrust.

The granting of access through the HVNL process is cumbersome, pugnacious and difficult for all parties to manage.

The current HVNL does not support an efficient and manageable process that would allow for the variations of vehicle size and dimension to be easily managed on our roads. Operators are generally, confused and disappointed when working through the current process of the granting of access.



The Victorian Transport Association endorses the creation of vehicle envelopes that would see many access applications disappear. The VTA also endorses the use of IAP as another way to reduce the number of application requests.

2.3 Specific VTA responses to the questions.

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

The VTA argues that the timeframes vary so significantly because the system is over complicated and the decision-making framework is under resourced at many levels and lacks consistency and a true commitment to the intended goals of improved productivity, safety and efficiencies.

This is clearly demonstrated whereby the current heavy vehicle access arrangements result in the need for too many permits to be granted, an unacceptable time for the permits to be granted and issued, totally unacceptable delays, and prohibitive costs for transport operators.

The current HVNL is burdened by the following: too many vehicle classifications resulting in an overcomplicated system to manage and navigate; a decision-making process which is very prescriptive and inflexible; an inability to effectively accommodate PBS heavy vehicles; too many layers of road managers involved in the decision making processes; and a system which is not thoroughly understood by many of the key stakeholders at all levels.

2.3.2 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?

Based upon the feedback from our members, the VTA would question the assertion that most road managers can grant consent within seven days. The VTA also advocates that the 28-day timeframe currently in the HVNL must be changed and a mechanism to deal with a nil response is paramount.

If most road managers grant consent within seven days, this supports the argument that there may be far too many unnecessary permits being processed and that the current system could be more effectively managed by a more systematic and seamless approach.

The VTA believes that there should be the provision for granting of longer periods of authorisation and that such authorisations should also apply to equivalent vehicle combinations and not just for specific combinations. An example of this has already been demonstrated by the work done between the Queensland Trucking Association and the Queensland Government.



The current administrative and timeliness issues associated with the issuing of permits and access are totally unacceptable, problematic and extremely costly for the industry. The current 28-day legislative consent process (section 156 of the HVNL) is a major concern and must be changed. The VTA believes that the NHVR should also be granted more power to manage the permit approval processes.

In order to address the current issues, the following changes need to be included in the new law:

- the NHVR continues to receive the application from the applicant
- the HVNR forwards application to the road manager whereby the road manager has 48 hours to respond to the request
- in the event that there is no response from the road manager within 48 hours, the NHVR will contact the road manager and the road manager then has five days to issue the application.
- if the road manager does not issue the permit within the five days, the HVNR has the legislative power to issue a permit to the applicant on behalf of the road manager.
- If the road manager cannot issue a permit in the above timeline and objects to the granting of a permit, for example, a report is required, the road manager can be granted an additional 7 days.
- There should only be provision for one extension being granted to the road manager as part of the approval process.
- Local Councils are issued a Consent notice once the permit has been issued.
- The above changes for the new law should also be extended to apply to all 3rd party road managers and contractors.
- In the event that the NHVR and road manager do not meet their obligations in issuing permits in a timely manner, a set of agreed financial penalties should be applied.

It should be noted that the above proposal changes will apply to the permit processes for Class 1, 2, 3 and Special Purpose Vehicles (SPV). These proposed changes would significantly improve productivity for many sectors of the industry not just the OSOM sector.

Based upon feedback from VTA members, the 3rd party road managers and contractors issue has become a significant and costly issue for transport operators, especially given the inconsistencies experienced with the decision making processes.

The VTA maintains that the following detail of specific issues in the current HVNL also need to be addressed as part of this Review:

1 Part 4.7 – Division 2 – Statute 166 - *Information notice for decision to refuse application because road manager did not give consent.*

- The VTA believes that the current wording does not contain enough detail. Many rejected applications do not refer to the appropriate reason for refusal and with



reasons loosely referencing road wear and tear, minor community infraction and other perspectives. This reference needs greater detail and specific reasons provided.

2 Part 4.7-Division 2- Statute 156 + 167- *Decision making by Road manager etc.*

- VTA highlights that there is currently no reference to penalties to the regulator, road manager or other parties who do not provide a formal response or decision to an access request. There needs to be a further step in the process to penalise those authorities who do not respond according to the HVNL.

The VTA maintains that greater levels of accountability are essential. The current processes and system is far too bureaucratic and lacks a real focus upon achieving efficiencies and productivity gains for all transport operators and for the customers.

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

As already stated in this submission, there are too many vehicle classifications and this needs to be simplified in the new law. Given the different stakeholders involved in decision-making framework, the current vehicle classification issue creates unnecessary complexity and confusion. It is one of the root causes for the delays being experienced by transport operators due to the lack of understanding and thorough knowledge of heavy vehicles classifications.

The matching of vehicle classes to networks is also very complicated. In many cases road managers do not have the necessary degree of expertise and knowledge about heavy vehicle classifications which results in further confusion, delay and frustration for transport operators.

The VTA maintains that the following detail of specific issues in the current HVNL also needs to be addressed as part of this Review:

1 Part 4.5- Division 1 Statute 116 (4) - *concrete pump means a vehicle with a component that can be used to transfer liquid concrete by pumping.*

- VTA believes that there is no reason to have this specific reference, therefore, it should be deleted.

2 Part 4.5- Division 1 - Statute 116 (4) (b)- *special purpose vehicle means- a concrete pump or fire truck.*

- VTA believes that there is no reason to have this specific reference, therefore, it should be deleted.

2.3.4 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?



In the recent Productivity Commission's *National Transport Regulatory Reform Issues Paper, June 2019*, it was reported that the heavy vehicle national law elevated the practical role of the local government as decision-makers.

Whilst some road managers are reported to doing their job well, the overwhelming feedback received by the VTA indicates there are many issues faced by transport operators when dealing with the road managers.

The issues include: inconsistent decisions and route assessments; significant delays and costs associated with 'bridge assessments'; lack of expertise and knowledge of many of the road managers of the systems and vehicle configurations; lack of resources and funds of local councils in dealing with access and permit processes and the decision-making framework. In the event that local councils are in doubt or unsure of a granting a permit, the default position is to not authorise a permit whereby they are granted another seven days.

2.3.5 Should the law allow for external review of access decisions?

The VTA believes that the HVNL must allow for external review of access decisions. The VTA maintains that the efficiency and effectiveness of the decision-making framework and how the law is currently structured is not open, transparent and unacceptable.

There are many opportunities whereby parties lose sight of or delay a permit application under the prescribed processes in the HVNL. The VTA supports the arguments already contained in 3.3.1 of the NTC's Issues Paper, titled *'Easy Access to Suitable Routes'* June 2019. There must be greater levels of accountability.

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

The VTA wishes to reiterate that the economic, commercial and operational impacts of the current access and permit system is very much understated and is certainly not fully appreciated by many of the respective regulators and road managers at all levels.

In preparing this submission, it was highlighted and reinforced by VTA members that the transport and logistics industry is characterised by very low margins, low barriers of entry and that it is already over regulated.

The transport and logistics industry is committed to productivity and safety. The VTA argues that the productivity factor is not being fully acknowledged and considered by the HVNR and the road managers. There needs to be greater levels of accountability and financial penalties for the decision-makers for associate delays with the granting access and permits.

The VTA strongly advocates that immediate action is required to address the current situation and cannot wait for the full review and development of the new law. The VTA



acknowledges that a number of projects are currently taking place in the quest to improve the decision-making framework but the VTA also believes there must be a greater sense of urgency to address the issues by all concerned.

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

The ultimate objective is a commitment by governments to identify, plan and deliver a more productive road freight network. As outlined in our response in 2.3.2, serious consideration should be given to dramatically reduce the involvement of road managers at local council level.

We also need to ensure that the network is further broadened, mapped and approved. In this way, we will also help address the economic productivity, efficiency and competitiveness issues which we currently face as a nation.

The VTA has carefully reviewed the current HVNL, the contents of this Issues Paper and listened to the feedback of VTA members. We totally understand that the Terms of Reference of this Review, however, it is very clear that the HVNL and the Review is focused primarily on the regulator, road managers and decision making processes.

The VTA advocates that in order for the new law to work and be more effective and efficient, the decision makers involved in the decision making processes must be far more 'customer focused' and cognisant of the significant impacts upon transport operators when decisions are delayed and poorly executed.

As stated in earlier sections of this document, little attention is given to the consequences upon the transport operators of delayed and of poor decision making processes, therefore, customer service must be on the implementation agenda in order for the for the new law to work .

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

As already mentioned in 2.3.2, there should be the provision for granting of longer periods of authorisation and that such authorisations should also apply to equivalent vehicle combinations and not just for specific combinations.

The VTA fully supports draft regulatory principle number three, that is, 'access decision-making should be simple, consistent, fair and transparent as possible. Decisions in response to a request made quickly'.

The VTA agrees with the Issues Paper whereby the HVNL should expand general access of the road network as far as reasonable. Therefore, we should expand 'as-of-right access and road, transport analysis and strategy to develop pre-condition key routes' (NTC Issues Paper). This would allow standing consents suitable HPVs in specific locations.



The VTA also agrees that decision issues and conditions should be minimised. Access decision-making should be predictable and repeatable, independent of personal subjective reasoning. The associated inconsistencies must be addressed.

Our response to time limits has already been covered in 2.3.2.

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

The VTA understands the right tools do exist but it is obvious significant improvements are required in ensuring greater inter-connectivity and inter-operational between the systems. There is a lack of data being effectively captured and retained and most importantly, not being fully utilised between the various road managers.

The VTA understands there are several projects being conducted by the NHVR in relation to this issue. From a VTA perspective, a serious commitment supported by appropriate resources and expertise must be dedicated to the establishment of an effective, efficient and accessible central data system. It must also be considered an immediate priority and cannot wait for the new law to be implemented.

2.3.10 How can the new HVNL accelerate access decisions? Is a proactive approach possible?

Building upon our response above, the new HVNL should enable an instant-approval network, where access approval is instantly approved and that a transport operator is to inform the road manager within a set time period of what vehicle movements took place on the network. Pre-approvals must also be part of this approach.

The new HVNL should enable the opportunity to utilise the telematics framework where operator telematics data is voluntarily reported in a de-identified form. This data would then be available to road managers to inform asset management and be achieve instant compliance for operators with the instant-approval network. Once again, this concept should complement the telematics already being utilised by transport operators and should be integrated with the other national and central data systems.

2.3.11 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 VTA has already made itself very clear that there needs to be far greater accountability and transparency by all decision makers involved in the permit and access framework.

The HVNR should have greater powers and not be so restricted by the unacceptable current prescribed process and that serious consideration must be given to removing



local councils in the decision-making process or at least reducing their involvement in the new law. We understand the current system is not working and must be changed.

As outlined in 2.3.2, in the event that the NHVR and road manager do not meet their obligations in issuing permits and access authorisations in a timely manner, a set of agreed financial penalties should be applied.

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

As mentioned in a number of earlier responses, the objective of reaching consistent and predictable risk based access decision making will only be achieved by: the NHVR having more powers and taking greater responsibility for the decision making processes; reducing the involvement of local councils; extending the authorisation periods; identifying, planning and delivering more agreed and productive road networks and ensuring that high levels of expertise of those involved in the decision making framework is facilitated.

The transparency and fairness issue can be significantly addressed and improved by improving the actual national central system and by increasing access to the system by transport operators.

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

The VTA response to this question is covered in 2.3.11 and 2.3.12.

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

The VTA response to this question is covered in 2.3.11. If financial penalties are incorporated into the system for the regulators and road managers, then the VTA maintains the management of 'accountability' would be certainly improved for all concerned.

3.0 SUMMARY

We welcome the opportunity to discuss this submission in more detail. The VTA believes that this Review provides an excellent opportunity to address the short comings and issues associated with the current HVNL. It also acknowledges the significant complexities involved in reviewing and changing the current HVNL and legislation.

The VTA and its members maintain that this Review must ensure that any changes to the HVNL remain focused upon three key pillars: improved efficiencies, improved productivity and improved safety outcomes.



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It is vital that we 'get it right' whereby we build a new HVNL framework that effectively addresses the current problems and short-comings and ensures that we deliver a far more robust, purposeful and flexible framework to meet future challenges of our industry.

Peter Anderson
Chief Executive Officer
Victorian Transport Association

