



EASY ACCESS TO SUITABLE ROUTES HVNL REVIEW ISSUES PAPER

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 16 AUGUST 2019

1. About the Australian Trucking Association

The Australian Trucking Association and its member associations collectively represent 50,000 businesses and 200,000 people in the Australian trucking industry. Together we are committed to safety, professionalism and viability.

2. Introduction

In June 2019 the National Transport Commission released the access issues paper for the Heavy Vehicle National Law (HVNL) review, *Easy access to suitable routes*.

More productive heavy vehicle access is a critical public policy goal that would benefit Australian consumers and businesses. Better access lowers freight costs, which ultimately means more local jobs.

Modelling from Deloitte Access Economics shows that trucking contributes to the cost of everyday consumer goods. For example, trucking makes up 4.4 per cent of the cost of a beer, 4.1 per cent of the cost of fruit and vegetables and 2 per cent of the cost of personal electronics.¹

The modelling also shows that cost savings to the trucking industry could directly reduce the costs faced by other industries. Potential savings include an annual \$80 million for wholesale trade, \$70 million for construction services and \$40 million for retail trade.²

Governments need to deliver more productive heavy vehicle access to lower costs and boost local jobs. Reforms to deliver these gains for the community should include:

- Delivering parallel and integrated reforms to improve the access network and supply-side road funding decisions.
- Faster access decisions that underpin the need to enable freight deliveries in a modern, on-demand economy.
- Reducing the number of permits for access decisions, with the priority for access decisions to be provided in clear, accessible as-of-right networks.
- Ensuring access decisions are consistent, justified and subject to external review.
- Fixing the disconnect between land use planning and providing productive heavy vehicle access.

The ATA developed this submission following detailed consultation with our members. The **Tasmanian Transport Association** has asked that this submission be taken as its own.

¹ Deloitte Access Economics, March 2019, [Economic benefits of improved regulation in the Australian trucking industry](#), 46.

² Ibid, 45.

3. What's wrong with access decisions under the HVNL?

At the NTC's Brisbane workshop on access, one of the views expressed was that there is not actually a problem. It was said that the legislation with regard to access does not need to change.

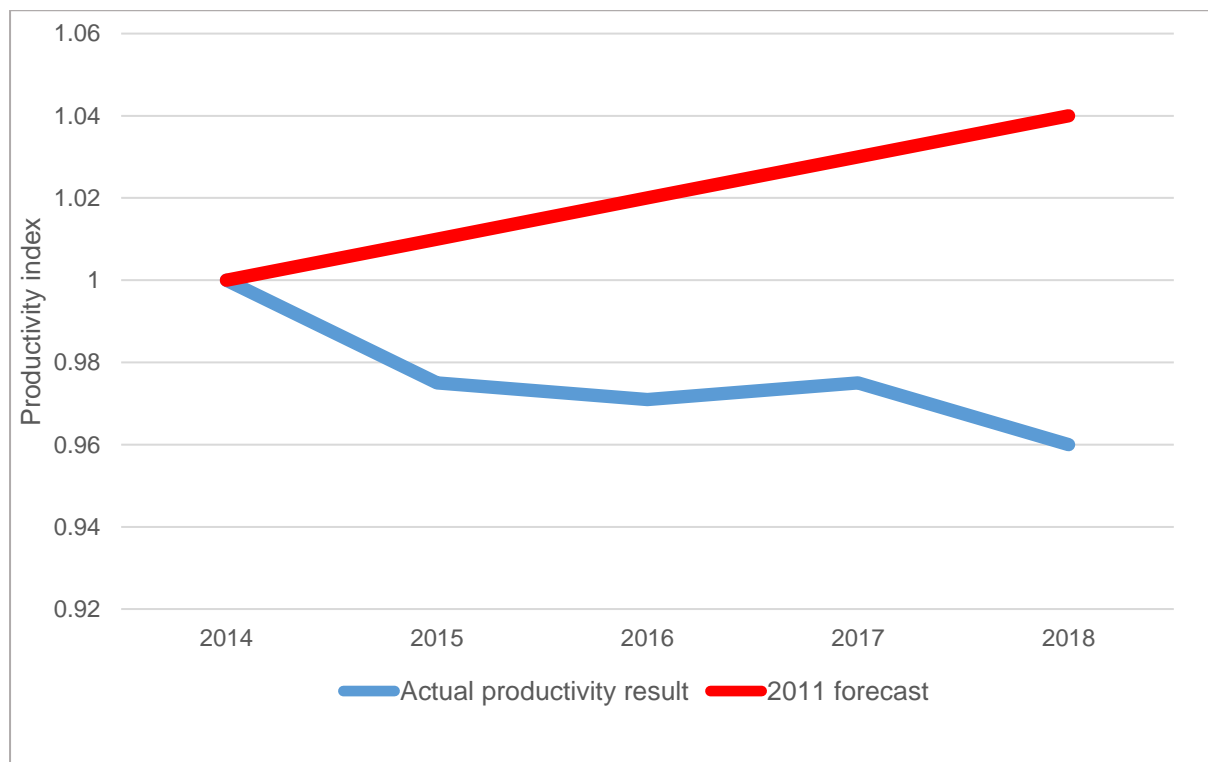
Whilst this was ultimately a minority viewpoint, it does warrant a key question. **If the HVNL legislation has been a success in relation to access, where are the economic gains that were envisioned?**

In 2011, the HVNL was predicted to deliver up to \$12.4 billion in economic benefits. Most of the benefits were to be made in gains from harmonising restricted access vehicles, higher mass limits and intelligent access program regulation.³

As stated by the NTC at the time, implicit in the benefit calculation was the assumption that the new decision-making framework would promote access.⁴

However, the results have fallen significantly short of these commendable objectives. The productivity of the transport, postal and warehousing sector has fallen steadily since the law came into force in 2014.⁵

Figure 1: forecast and actual changes to industry productivity, 2014-2018



Source: Deloitte Access Economics.

³ Deloitte Access Economics, March 2019, [Economic benefits of improved regulation in the Australian trucking industry](#), 17.

⁴ NTC, September 2011, [HVNL Regulation Impact Statement](#), 57.

⁵ Deloitte Access Economics, *ibid*, 21.

The legislation has failed to deliver what was intended. It can hardly be described as a success.

The NTC issues paper also summarises a number of key issues with the current system, including:

- The current system results in too many permits, delays for operators and inconsistent outcomes
- Even when journeys are low risk or routes pre-approved, where risks are already known, operators still need to apply for permits
- Matching vehicle classes to networks for access is complicated. Road managers do not necessarily have expertise with heavy vehicle classifications, which can complicate and protract access decisions
- The decision-making process is prescriptive and inflexible. There are many opportunities for parties to lose sight of or delay a permit application
- The access decision-making process challenges road manager resources and they are unable to delegate this role
- Only the NHVR's access decisions are subject to external review. There is no provision for external review of decisions made by road managers.
- There are challenges outside the HVNL, including slow third-party approvals and inconsistent pilot and escort arrangements.⁶

The ATA recommends that access decisions under the HVNL should be reformed, having failed to deliver the intended economic gains that were projected in 2011 assessment of the new laws.

⁶ NTC, June 2019, [HVNL review issues paper: Easy access to suitable routes](#), 37.

4. A national reform program – more productive heavy vehicle access and enabling the modern Australian economy

The National Freight and Supply Chain Strategy, which has been endorsed by the Australian and state and territory governments, identifies that Australia's freight system is the lifeblood of our economy and way of life.⁷ Road transport is the dominant form of freight for the majority of commodities produced and/or consumed in Australia.⁸

Road freight is an enabler of opportunity, allowing businesses to reach domestic and international markets, consumers to purchase goods, farms to sell their produce, and construction materials to enable new developments.

More efficient and competitive supply chains enable increased economic output for other sectors. The Competition Policy Review (Harper Review) found that in relation to road transport:

Even small changes in productivity in this sector can cascade through the economy, boosting productivity and output in other sectors. Also, given the size of the road transport sector, enhanced productivity in road transport can deliver large gains to the economy.⁹

The 2019 Australian Infrastructure Audit reports that our transport networks are vital to our collective economy and productivity, as well as to the quality and cost of living we experience as individuals.¹⁰ It also reports that the World Bank has found that Australia's international trade costs are higher than comparable countries.¹¹

The economic gains from better, more productive heavy vehicle access are well known. Although not achieved, they were a clear rationale for the introduction of the HVNL. They are also cited as a clear aim of Heavy Vehicle Road Reform (HVRR).

HVRR is a joint reform process of the Australian, state and territory governments through the Transport and Infrastructure Council (TIC). The stated aim of HVRR is to turn the provision of heavy vehicle road infrastructure into an economic service, where feasible. It is intended to provide clear links between the needs of users, the charges they pay and the services they receive.¹²

An assessment by Deloitte of the estimated net benefits from HVRR were in the range of \$8.5 billion to \$17.4 billion, assuming a 20-year timeframe.¹³ The analysis identifies that the realisation of the net benefit from each potential HVRR end state reform option rests heavily on the assumption that supply-side reforms to the provision of roads are implemented across state and territory jurisdictions.¹⁴

⁷ Transport and Infrastructure Council, August 2019, National Freight and Supply Chain Strategy, 9.

⁸ Ibid, 10.

⁹ Harper, Anderson, McCluskey, O'Bryan, March 2015, [Competition Policy Review Final Report](#), 38.

¹⁰ Infrastructure Australia, August 2019, [2019 Australian Infrastructure Audit](#), 260.

¹¹ Ibid, 351, 323 & 331.

¹² Australian Government, July 2018, [Heavy Vehicle Road Reform Changes to heavy vehicle road delivery: Background paper](#), 6.

¹³ Marsden Jacob Associates, July 2018, Consultation Regulation Impact Statement: HVRR Phase 2: Independent price regulation of heavy vehicle charges, 9.

¹⁴ Deloitte Access Economics, June 2017, [Economic analysis of potential end-states for heavy vehicle road reform](#), xvii

Access under the HVNL and proposed HVRR reforms are intending to deliver the same outcome – economic gains from more productive heavy vehicle access – but the reform programs are disconnected from each other and disconnected from local road manager decision makers.

A national reform program to deliver a modern, more productive and better-connected road freight network

Governments need to implement a reform program committed to achieving more productive heavy vehicle access to lower freight costs and boost local jobs.

The national agenda for more productive road freight should include reforms to access under the HVNL and reforms to the supply-side provision of roads. There should be one (or clearly linked) reform agenda. The policies encompassed in the reform process can then be properly assessed. What is needed is for an independent assessment of the costs and benefits from an agreed reform agenda to be undertaken, an agenda that enhances heavy vehicle access.

Governments must address the structural challenges that are holding back more productive heavy vehicle access.

Infrastructure Australia reports that despite the benefits from using High Productivity Freight Vehicles (HPFVs), that their use has been limited. Restricted use of HPFVs will lock in high freight costs for businesses and consumers, and limit benefits to road safety, air pollution and amenity.¹⁵

Ultimately the best framework, legislation and process can be established for improving access, but decision makers need to commit to broaden the as-of-right network to deliver the economic gains for the Australian economy.

The experience of the HVNL illustrates this point strongly, where anticipated gains based on improved access have not been delivered as anticipated.

As an example, the existing HVNL allows for road authorities in participating jurisdictions to step in if needed on access decisions.¹⁶ The access issues paper states that jurisdictions can over-ride local government access decisions, or step in when decisions are made. Despite this ability, road authorities are reluctant to exercise the power.¹⁷

The issues paper identifies the need for road managers to make proactive access decisions. This includes using current and planned land use data, transport analysis and strategy, with a view to pre-conditioning routes for access.¹⁸

¹⁵ Infrastructure Australia, August 2019, [2019 Australian Infrastructure Audit](#), 344, 345.

¹⁶ NTC, June 2019, [HVNL review issues paper: Easy access to suitable routes](#), 48.

¹⁷ Ibid, 48.

¹⁸ Ibid, 62.

Refocusing Heavy Vehicle Road Reform and supply side road funding reform to improve the provision of road infrastructure

A hesitation for local road managers to grant access can be based on the wear and tear of roads resulting from heavy vehicle traffic. An attempt to manage, and potentially prolong the need for maintenance results in a lack of access.

However, heavy vehicles pay for their use of the road network through the fuel-based road user charge and registration charges. That this funding is disconnected from local roads is a problem with the supply of road funding.

Defining, cataloguing and delivering national road service standards would be complementary to proactively identifying, planning and delivering a more productive road network.

It would assist in providing the right road infrastructure in the right places, as funding could be directed to rectifying gaps in the network that proscribe heavy vehicle access.

Service level standards should also be linked to access and funding. Identification of a route at a particular service level standard should be tied with as-of-right access for an appropriate heavy vehicle combination and funding to the road manager for maintenance to that standard. Considering the need to expand as-of-right access in the network, implementation of service level standards is a critical reform.

Implementation of this reform would likely need to be phased in, for example, starting with the National Land Transport Network.¹⁹ It would also need to include a principle where the new access standards could not be lower than existing access approvals.

The ATA recommends that the Heavy Vehicle Road Reform agenda should be refocused with a stronger focus on increasing productivity by improving the provision of roads. This should include:

- Setting clear and measurable service level standards.
- Ensuring revenue from heavy vehicle charges is allocated to the provision of service level standards that benefit heavy vehicle road users.
- Improving the selection, assessment and planning of road funding projects with a focus on delivering national service level standards.
- Establishing an independent economic regulator for setting heavy vehicle charges, including toll road and landside port charges.
- Continuing to set charges on a consistent network basis that does not set different charges for different roads, to ensure the entire road network and regional areas are appropriately funded.

On reforming charging and potential future decisions for a distance-based charging mechanism, the ATA notes that the Australian Government is currently in the early stages of piloting a different charging mechanism, to inform future policy decisions.

¹⁹ [The National Land Transport Network](#) includes nationally important roads and is determined in *The National Land Transport Network Determination 2014* under the *National Land Transport Act 2014*.

The new HVNL should not create unnecessary obstacles for a potential new charging framework. Instead, provisions such as the ATA's recommended notification network could be designed to allow future integration.

However, the ATA also notes that the net benefit to operators in changing the charging system has not yet been demonstrated. **As part of the wider reform agenda for a more productive road freight network, the costs and benefits of changing the heavy vehicle charges structure will need to be independently assessed in a transparent manner.**

A national, productive road freight network

As part of this national reform agenda, the end state for the new HVNL should enable a network where productive heavy vehicle access is provided as-of-right, as part of the service level standards of the road network.

The future heavy vehicle access system will need to focus on the exceptions to this system and identify where there are conditions or restrictions on access, within a wider network of access approved as-of-right.

Connecting land use and transport planning with heavy vehicle access

Operators experience the disconnect between land use planning, transport planning and heavy vehicle access as an additional cost of doing business.

New industrial and logistics areas are not always connected with investments in road infrastructure to access those precincts, and even if they are, proactive decisions to gazette as-of-right heavy vehicle access to these zones are often not a priority.

Local governments have to meet a number of existing planning obligations. As an example, NSW local governments have legislated responsibilities to produce local strategic planning statements, which set out a vision for land use over 20 years, the character and values that are to be preserved and how change will be managed. The statements implement actions in regional and district plans and the council's own priorities developed under local government legislation. Ultimately, the statements are intended to shape how development controls evolve over time.²⁰

However existing planning instruments are effectively incomplete, as they fail to link and fail to plan the connections between land use and heavy vehicle access.

As part of their wider land use planning obligations, local government and road managers should be required to produce a heavy vehicle access strategy. These strategies should link land use with providing better, more productive heavy vehicle access, and how road managers will proactively plan and invest to enable the productive delivery of Australia's freight task.

²⁰ NSW Department of Planning and Environment, [Guide to the updated Environmental Planning and Assessment Act 1979: Part 3 – Strategic Planning](#), accessed 13 August 2019.

Failure to plan for heavy vehicle access risks increases in vehicle movements and associated impacts on local communities. These are issues that are managed through the land use planning system.

Responsibility for implementation and measuring progress of access reforms

The national reform agenda for a modern, more productive and better-connected road freight network will also need to be measured, to ensure it is delivered.

With the projected growth in freight and congestion over coming years, and Australia's already high international trade costs, we cannot afford in five years' time to again be discussing what happened to the projected economic gains from better access.

Infrastructure Australia finds that governments and service providers do not always adequately measure and report on access, quality and costs for infrastructure users.²¹ This is the case for heavy vehicle access and undermines the reform goal of achieving better and more productive road access.

As part of developing road service level standards, governments need to transparently report on access and set objectives for improving these outcomes.

²¹ Infrastructure Australia, August 2019, [2019 Australian Infrastructure Audit](#), 39.

5. Regulatory principles for the new HVNL

Under the HVNL review terms of reference, the purpose of the review is to deliver – from a first principles perspective – a modern, outcome focused law that will support increased economic productivity and simplify the administration of the HVNL.²²

For access approvals, this should include a modernised focus on what the law should deliver, without being limited by an attempt to make incremental changes to the current law.

As such, the ATA supports the NTC's draft regulatory principles with the following amendments (amendments are highlighted):

Draft regulatory principle 1: The fundamental goal of the new HVNL access arrangements should be to make the best, most productive and efficient use of infrastructure, vehicles and resources so we can:

- productively and efficiently deliver Australia's freight task
- ensure the freight task is delivered safely and sustainably
- underpin our domestic services and a modern, on-demand economy
- enable economic opportunity for Australian businesses and consumers
- reduce the impacts of moving the freight task by encouraging the use of more productive vehicles
- promote competitiveness in international trade.

The ATA strongly recommends the revised draft regulatory principle 1 to be incorporated as the fundamental goal of access decisions in the new HVNL. Ultimately access is about the task of moving the freight task and enabling economic opportunity and underpins the ability of Australians to purchase and export goods in a global marketplace.

This objective should be embedded in the legislation and guide the establishment of more detailed guidelines in lower tiered legislative instruments.

Ultimately, access decisions are not just about what type of heavy vehicle combination uses a particular route, but also how many heavy vehicles will be needed to move the freight task and the nature of the task.

The principle should also recognise productivity as well as efficiency. The difference between productivity and efficiency is the difference between the productivity commission and the auditor-general's office. The first is about maximising the output from a given set of resources; the second is about avoiding waste.

Additionally, improving the productivity focus of HVNL access decisions is likely to assist in reducing the differences between the HVNL and WA/NT.

Draft regulatory principle 2: Access decisions should apply as broadly as possible, so they're needed less often. Decisions should be implemented using the most appropriate instrument, with a proactive focus on reducing the regulatory burden on operators.

²² NTC, January 2019, [Terms of reference: Heavy Vehicle National Law Review](#), 1.

Draft regulatory principle 3: Access decision-making should be simple, consistent, fair and transparent. The priority should be on proactive provision of gazetted, as-of-right networks, and decisions in response to a request should enable a modern, on-demand economy.

The new HVNL should seek the reduction in the number of permits and time taken to process permits as a fundamental goal.

New draft regulatory principle 3B: Access decisions should be subject to external review, and decision-makers exercising access powers under the HVNL should comply with consistent and transparent responsibilities.

Decision-makers have a responsibility to deliver justified, consistent decisions in line with the objectives of the new HVNL. There are too many instances of operators having to navigate lengthy timelines or inconsistent refusals which appear to be linked to issues with the decision-maker, such as lack of resourcing and lack of understanding of the application of heavy vehicle combinations and their impact on infrastructure.

Where a local road manager cannot perform access decision-making in line with the responsibilities of performing the role, then the HVNL should include a mechanism to transfer decision making to another body.

Draft regulatory principle 4: Access decision-makers, beneficiaries, facilitators and enforcement should have clear responsibilities and accountabilities.

New draft regulatory principle 5: Access decisions should recognise that an access refusal impacts the road network beyond a single road manager, the freight task and the wider economy by increasing the number of vehicles needed to move the freight task, increasing costs and undermining the aims of draft regulatory principle 1.

Ultimately road manager access decisions do not exist on an isolated road network.

The issues paper points out that the trucks don't stop if access for more productive vehicles is denied. Instead, the same amount of freight moves through the same route, on more trucks, at higher cost, higher safety risk and with higher environmental and amenity impacts.²³

Whilst it should be acknowledged that the level of freight may slightly decrease, due to increased costs reducing the competitiveness of this economic activity, the broad principle is an important one.

As a consequence, a local government refusing access can impact other parts of the road network (beyond the roads they specifically manage) with more trucks, higher cost, higher safety risk and higher environmental and amenity impacts. The decision to protect amenity in one location may cost it in another.

²³ NTC, June 2019, [HVNL review issues paper: Easy access to suitable routes](#), 59.

New draft regulatory principle 6: Access approval controls should not be the default policy mechanism for measuring road use.

There are a number of mechanisms to measure road use. Decision-makers should commit to selecting the right policy mechanism for achieving the intended public policy goal.

Knowledge on light traffic volumes, critical to planning road upgrades is also not managed by capping and managing individual vehicle movements. Such an approach would be a blunt, outdated and unfair approach to public policy.

Other policy mechanisms for measuring road use include:

- a denser network of fixed counting devices to provide aggregate truck movements for infrastructure planning
- road use surveys
- accessing mobile phone location data and maps
- voluntary telematics programs, noting that these should not be mandatory.

6. Responses to issue paper questions

Within the framework of the draft regulatory principles, **the ATA recommends that the HVNL access system should include:**

- Enforceable standards and orders
- External review
- Ability for local government to delegate their access decision-making role
- Acknowledging precedents in access decisions
- Extending the period and applicability of authorisation
- Process improvements and reduced processing timeframes
- Expanding as-of-right access
- Creation of a notification network
- Not mandating technology to improve access
- Not duplicating bridge assessments
- Further reforms to improve OSOM and PBS access
- Further reforms to improve farm gate / low volume access.

These key issues are expanded in response to relevant issue paper questions. The ATA response to the issue paper questions groups a number of relevant and related questions.

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

Central to industry's concerns about the decision-making process is the application of inconsistent decisions and route assessments and the lengthy timeframes that apply for some permit applications. Inconsistent decision-making processes directly lead to inconsistent decision timeframes.

The issues paper identifies no consistent route assessment process applied by road managers, with use of the *Restricted Access Vehicle Route Assessment Tool* not mandatory and inconsistent criteria used when assessing routes.²⁴

The NHVR's *Approved Guidelines for Granting Access* are also not used consistently.²⁵ Even though road managers are required, by law, to have regard to the guidelines, they are not available on the NHVR website (as of the end of July 2019).

The reasons for access refusal also illustrate deficiencies with the system. Independent reports have found:

²⁴ Ibid, 45.

²⁵ Ibid, 49.

- Consent decisions from local government road managers often lack evidence of risks to infrastructure.²⁶
- Road managers can use grounds in the HVNL without compelling reasons, such as refusing access for risks to safety without specifying or substantiating what those risks are.
- Statements do not always include what access is available if risk-mitigation conditions were applied; for example, if reduced mass or a route variation would be accepted. Instead, operators need to make multiple applications to guess what would be acceptable.²⁷ Road managers should not make assumptions about what the applicant would or would not agree to in terms of conditions.

Oversize Overmass permits

There are significant delays with permit applications for OSOM vehicles which are enabled by the HVNL access decision framework. In contrast, operators report much quicker timeframes for OSOM applications in WA and the NT. These can be granted within a couple of hours, are often granted within 48 hours, and at worst are usually at two to three days.

For OSOM applications, Deloitte Access Economics report that:

- The process for OSOM vehicles is inconsistent across HVNL jurisdictions, with decisions lacking timeliness and transparency
- Local road managers often have few resources and limited technical OSOM knowledge
- The general need for pilot/escort vehicle approvals, utility clearances, bridge assessments and rail crossing approvals creates delays, especially where the relevant bodies have not coordinated with each other or there is no mechanism to facilitate this coordination
- Pilot and escort training and accreditation requirements continue to differ across HVNL jurisdictions.²⁸

OSOM issues are discussed further in response to questions 8, 9 and 10.

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?

Question 4: What are the challenges road managers face under the HVNL access decision-making framework? Which road managers do it well, and why not? Why are some road managers struggling with access?

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?

²⁶ Queensland Audit Office, June 2016, [Heavy vehicle road access reforms, Report 20: 2015-16](#), 4.

²⁷ Austroads, February 2018, Local road access for High Productivity Freight Vehicles, 31, 70.

²⁸ Deloitte Access Economics, March 2019, [Economic benefits of improved regulation in the Australian trucking industry](#), 31, 32.

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?

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

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

The HVNL jurisdictions cannot afford to run approximately 380 separate heavy vehicle access decision processes.²⁹ It would undermine the intent of the HVNL and having a national law and it undermines the economy and the ability of the HVNL to deliver its intended economic gains.

Ultimately, creation of a single free market was a foundational goal and intent of the Australian federation. Running over 380 different systems for how to determine access to move goods within that single and free market would undermine the intent and working of this foundational Australian objective.

That is to say, it is not possible or reasonable for local government inconsistencies on access decisions to continue.

Enforceable standards and orders

The ATA proposes that the new HVNL should incorporate a new three-tier structure. The third tier would be a new tier of orders and standards, which would be made by the regulator. Current guidelines, such as the NHVR's *Approved Guidelines for Granting Access* would be remade as legislative instruments in this tier.³⁰ The orders and standards would generally be disallowable. All persons exercising powers under the HVNL (including local governments) would be required to comply with them. The guidelines would need to be recast, following formal consultation, in light of this new legal status.

As this submission has already stated, local government access decisions have an impact beyond their own road network, impacting other road networks, the economy and the ability to freely move goods about within the wider Australian community.

As such, it is reasonable to impose enforceable standards on granting access on the role of local government decision-makers as their decisions have ramifications beyond their own road network.

²⁹ Based on local government association figures, there are 537 local governments in Australia (see page 45 of the NTC issues paper), with 138 in WA (see [WA Local Government Association](#)) and 9 in the NT (see [Local Government Association of the Northern Territory](#)), leaving approximately 381 local governments in the HVNL jurisdictions.

³⁰ Deloitte Access Economics recommended mandating the use of the NHVR's *Approved Guidelines for Granting Access*. Deloitte Access Economics, March 2019, [Economic benefits of improved regulation in the Australian trucking industry](#), iv.

Consistency of conditions

This new legislative approach and responsibility on decision-makers to operate within legislative guidelines will also need to deliver greater consistency and commonality in conditions that are attached to road access approvals.

Process improvements

The process of permit applications should be improved to deliver:

- Visibility for operators about the status of their application.
- A single online mapping resource for route planning. This will require a shift in the legal mapping resource that operators can rely on from individual jurisdictions to the NHVR.
- Adoption of ARRB's RAVRAT system at all road manager levels in the assessment of restricted access vehicle permits.³¹

Reduced processing timeframes

Processing timeframes should be reduced:

- Reduced timeframes for decision making, with extensions requiring justification.³² The issues paper reports that many road managers respond consistently within seven days.³³
 - The new HVNL should seek to have most access decisions made in a timeframe that enables a modern, on-demand economy. Decisions beyond 48 hours should be rare.
- Introduction of a mechanism to resolve applications where the road manager does not respond or does not meet required timeframes.
 - Road managers should have to provide justification for an approval process that will take longer than 48 hours, with a higher threshold for justification needed beyond 7 days. The grounds for justification should be governed by a lower tiered legislative instrument.
 - Access decisions that do not receive a response within 48 hours (either an outcome or justification for longer assessment) should become the jurisdiction of a state or territory road authority or the NHVR.
- Establishing a trigger point where the NHVR must review the status of unresolved applications. This could be accompanied by the new mechanism for resolving applications where the road manager does not respond, does not meet required timeframes and/or does not meet the standards for approving access.

³¹ Deloitte Access Economics, March 2019, [Economic benefits of improved regulation in the Australian trucking industry](#), iv.

³² Deloitte Access Economics recommended amending the HVNL to implement a maximum time period in which road managers must decide consent (subject to exceptions). Deloitte Access Economics, March 2019, [Economic benefits of improved regulation in the Australian trucking industry](#), iv.

³³ NTC, June 2019, HVNL review issues paper: Easy access to suitable routes, 45.

Ability for local government to delegate their access decision-making role

At the same time as increasing the obligations on local government to make access decisions as part of a consistent, evidence-based process, the new HVNL should provide local government with the ability to delegate their role as access decision makers. Where local government may not be able to perform their role under the HVNL, there needs to be a mechanism to resolve this lack of capacity.

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?

Any changes to the current classifications would need to be considered to the extent that they would facilitate better access (changes to the classifications, if it resulted in existing vehicles losing access, would not be supported by the ATA) and if they would be nationally consistent.

Improvements that would assist in providing a quick reference for what is allowable under general access could be considered, especially if reforms provided an ongoing mechanism for including new vehicle designs, as appropriate, into general access.

Reforms could also focus on the access envelope, that is include all relevant vehicles that fit within a particular design and performance envelope. For example, if a route is suitable for a particular heavy vehicle combination, all combinations that fit within the performance and dimensions of that combination (ie the envelope) should be granted access for the same route.

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

External review

As decision makers would be bound by enforceable standards, their decisions would also need to be subject to external review to ensure they act within those standards.

The issues paper reports that reviews of road manager decisions were restricted to internal reviews only due to the concern that road managers would restrict as-of-right access rather than incur the potential cost of challenges to access decisions.³⁴ It will be important to structure the detail of the access guidelines to protect against this potential approach, such as a justification requirement for access refusals.

In the ATA's 2011 submission on the HVNL we said that in order to deliver a significantly improved decision-making framework for access, that it is absolutely critical that the decisions by road asset managers are subjected to external review.³⁵ In considering how the HVNL has failed to deliver the level of productivity gains from better access that were intended, the ATA recommendation on external review should be revisited and included in the new HVNL.

³⁴ Ibid, 48.

³⁵ ATA, May 2011, [Submission on the draft HVNL and Regulatory Impact Statement](#), 14.

Road asset manager decisions are critical decisions, and these should be transparent and accountable. Transparency would be improved if an access applicant can request a statement of reasons and request a review by an alternative decision maker. These obligations are common to Commonwealth agencies and have demonstrated enhanced decision making. Reviews should be limited to applicants, and not any party.

The ATA's previous specialist legal opinion on this issue of the 2011 RIS position of not extending decisions to external review stated that:

The justification for restricting road manager decisions to internal review only is brief with little supporting argument. The RIS states that it is not feasible at this juncture as Councils would be required to source second opinions and legal expertise likely to be outside their budgetary reach.

This is an unusual justification. There are many decisions that Councils make which, if subject to external review, would require them to source second opinions and legal expertise and which would not fall with any fixed budgetary allocation.

The opinion also stated that:

These decisions have to be based on infrastructure protection and public amenity and the RIS implies that Councils are reluctant to grant access on either ground as refusal is a safe decision..” and that “The prospect of external review is, in our view, more likely to result in better informed and careful access decisions and made in accordance with the comprehensive evaluative tools mentioned in the RIS.³⁶

The experience of the HVNL adds weight to this view. The HVNL access issues paper includes a case study experienced by the South Australian Road Transport Association (SARTA), an ATA member association.

In this case study, it appears that the local government was seeking to block an access application without having a reasonable or logical cause. The NHVR did not have the power to do anything except try and persuade the council staff, and the portal system effectively allowed the application to reach 114 days without being flagged for urgent attention.

Ultimately the council's objections were not based on defensible grounds, and the application was granted more than 200 days after the operator applied for the permit.³⁷

³⁶ 2011 advice by Special Counsel, Tony Hulett, of Lord Commercial Lawyers, as included in the ATA 2011 submission on the draft HVNL and RIS.

³⁷ South Australian case study, NTC, June 2019, HVNL review issues paper: Easy access to suitable routes, 50.

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

Technical inconsistencies of vehicle standard and access requirements

Operators report that the application of technical and dimension requirements around heavy vehicle access are inconsistent. Some heavy vehicles are effectively being denied access, or potentially receiving infringements, for having the same technical and dimensional requirements as other vehicles which are given access.

Some examples provided by operators include:

- Being over width by less than 100mm for tautliner curtains/poles, when vehicles have a greater width allowance for mirrors.
- Providing a higher height to some operators (such as livestock) and not general freight operators.
- The application of one tonne mass transfer allowances to GML but not CML or HML.

These issues impact the ability to access the road network.

Heavy Vehicle Road Reform

As raised by ATA members at the Brisbane workshop on the access issues paper, future reform of heavy vehicle charges and how roads are funded are critical, linked issues to providing better access. These issues are further considered in section 4 of this submission.

Understanding what isn't working (NSW)

Whilst the issues paper focuses on a number of issues that are not working in the access system, it does not provide a specific focus on jurisdictions and road managers where there is a problem.

For example, the road manager performance statistics indicate that NSW has a large number of road managers that are not meeting the NTC's analysis of consistently good performance for road manager processing timeframes³⁸. As a critical jurisdiction for transport operations, a better and more specific understanding of what is not working in NSW would provide a better basis from which to make decisions to fix these issues.

Loss of state jurisdiction permit teams

The issues paper has not effectively discussed the implementation of the HVNL, the replacement of what existed prior to these reforms and this implementation could have been improved. In particular, a number of jurisdictions (such as VicRoads) previously operated state-based permit approval teams within agencies, which were closed on the introduction of the HVNL.

³⁸ NTC, June 2019, HVNL review issues paper: Easy access to suitable routes, 40, 42.

Operators report that the loss of these teams was significant in terms of loss of knowledge and accessibility of decision-makers. The ATA is not proposing that these teams should be reinstated, but that understanding the impact on operators from this process is important to understanding what needs to be considered for the future access system.

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

The ATA response to this question is section 4 of this submission, on the need for a national reform program to deliver a modern, more productive and better-connected road freight network.

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?

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

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

Expanding as-of-right access

The issues paper states that the new HVNL should expand general access of the road network as far as reasonable.³⁹ Reducing the number of access decisions will lower the costs of delay and processing.

Acknowledging precedents in access decisions

The issues paper also proposes that the new HVNL should seek to maximise the applicability and scope of all access decisions and acknowledge precedents.⁴⁰

The ATA supports this intent, acknowledging that implementation would need to guard against access being refused in order to prevent the setting of a precedent.

Local government would maintain the ability to manage road assets when conditions change. The NTC points out that permits can be cancelled.⁴¹

³⁹ Ibid, 60.

⁴⁰ Ibid, 60.

⁴¹ Ibid, 42.

Extending the period and applicability of authorisation

The issues paper also proposes that authorisations should apply for longer periods, if not ongoing, and that they should apply to equivalent vehicle combinations (and not be limited to specific combinations).

The ATA agrees with this approach. Permit approvals should be granted for longer periods of authorisation.

Work by the Queensland Trucking Association with the Queensland Government illustrates the potential gains from such an approach. On 27 June 2019, it was announced that the Queensland Government would extend permit durations for Class 1 Oversize Overmass vehicles to 12 months, reducing the frequency for which operators need to apply for permits. This is estimated to save industry more than \$1 million in fees and 3,300 hours in paperwork on an annual basis.⁴²

In addition to the period of authorisations, their applicability needs to be extended. Permits should not be specific to an individual vehicle registration. Instead, any vehicle that meets the vehicle specification of the permit should be able to be used. This would reduce red tape and allow better flexibility for operators.

Transition of routes from permit approvals to as-of-right access

Acknowledging precedents and extending the period of permit authorisation could, in effect, deliver a quasi-as-of-right network. It is important the new HVNL does not introduce unnecessary complexity.

The new HVNL should include a mechanism, potentially to be held by the NHVR, where routes can be proposed for inclusion in as-of-right networks based on the history of permit approvals. This should trigger a formal consultation process involving both local road managers and operators. Whilst there would need to be grounds for rejecting such a proposal on the advice of a road manager, these should be under specific reasons.

Where a road meets the infrastructure requirements to grant as-of-right access, and in order to deliver draft regulatory principle 1 for the new HVNL, then the NHVR should have an available mechanism to initiate that process. This mechanism would not be dependent on local road manager approval to move a road to as-of-right access, but instead be dependent on if the road meets a particular set of criteria.

⁴² The Hon Mark Bailey, Minister for Transport and Main Roads, Queensland Government, 27 June 2019, [Media Release: Permit reform to boost heavy vehicle industry](#).

Replacing pre-approvals with a notification network

The NHVR has worked with road managers to develop pre-approvals for agreed routes, which reduces the administrative burden for the NHVR and relevant road managers. However, whilst this process reduces delays it still places an administrative and regulatory burden on trucking operators, requiring a permit application to authorise road access.⁴³ In these cases, road managers already know that the route is suitable but still require a permit application.

The issues paper states that notices present road managers with challenges, as there are few options to monitor road use. Permits are seen as giving greater control over access⁴⁴ and helping road managers understand what heavy vehicle movements are occurring. Access decisions are also linked to protecting public amenity, including issues of noise and congestion.⁴⁵

Pre-approved routes should be transitioned to a new notification network. Ultimately using permit approvals to understand what is moving on the road network is the wrong mechanism for the intended policy outcome.

For permit applications on the notification network, when the application is for an approved heavy vehicle combination the approval should be granted instantly through the online application system.

The issues paper also identifies an option of providing road managers with greater assurance of asset management through telematics to reduce the reliance on individual permit authorisations as a mechanism for understanding what is being moved on the local road network.

The new notification network should include a voluntary telematics option, where operators who are providing road use information through the telematics framework do not need to apply for approval to use the notification network.

This voluntary telematics framework would see operator telematics data voluntarily reported to road managers in a de-identified form. This data would then be available to road managers to inform asset management (including infrastructure and maintenance planning) and achieve instant compliance for operators with the notification network. This telematics framework should be designed to encourage integration from existing telematics solutions already in use by operators. The framework would not be used for compliance functions.

⁴³ NTC, June 2019, HVNL review issues paper: Easy access to suitable routes, 43.

⁴⁴ Ibid, 39.

⁴⁵ Ibid, 17.

Intelligence Access Program (IAP) and not mandating technology to improve access

The telematics framework to enable the notification network should not repeat the mistakes of IAP. Access should not be dependent on telematics, but telematics should instead be a tool for automating and speeding up the approval process.

Deloitte Access Economics report a number of challenges with the existing approach to IAP, including:

- Industry experience that IAP is too precise and stringent for its intended purpose
- Ongoing scope creep in the application of IAP by some road managers, contributing to significant distortions in the operation of IAP, increases in the number of non-compliance reports and additional data processing costs
- High costs of IAP for operators, reducing the incentive to use more productive vehicles
- Inconsistency in the application of IAP, leading to a highest common denominator compliance cost for operators.⁴⁶

Ultimately IAP has failed – and it has illustrated that governments should not mandate a specific technological solution. The experience with IAP also illustrates that relying on telematics to enable better access will not, on its own, achieve the gains that are sometimes attached to it.

In contrast to IAP, previous work by the Bureau of Infrastructure, Transport and Regional Economics (BITRE) on telematics data from trucking operators operated on the following core principles:

- Data provision by industry is to be voluntary
- Data is not to be used for regulatory or enforcement purposes
- Confidentiality of firm and individual data protected
- Data is only available in a de-identified, aggregate form.⁴⁷

Bridge assessments

Operators should not have to pay to have bridges assessed where there is an existing, applicable assessment.

Requiring new assessments where there is an existing, current assessment in place is an unnecessary and unreasonable cost and regulatory burden on industry.

The new HVNL should include a mechanism for providing bridge assessments to the NHVR, who would then have the responsibility for processing approvals that fit within that assessment, including, the instant-approval network.

⁴⁶ Deloitte Access Economics, March 2019, [Economic benefits of improved regulation in the Australian trucking industry](#), 29, 30.

⁴⁷ For more information, see case study 3.3 and enduring questions 5.2a and 5.3a in Department of Infrastructure and Regional Development, September 2017, [National Infrastructure Data Collection and Dissemination Plan](#)

OSOM access

After strong advocacy by industry, the ATA and its members, WSP conducted a review of oversize overmass access arrangements which reported in September 2018. The report provides a strong assessment of the problems with OSOM access and potential measures to improve access.

The report made 38 detailed recommendations, of which 13 are presently being progressed by governments (either in whole or in part).

Of the recommendations which have not yet been accepted, the ATA recommends that governments should commence work to:

- Agree to reduce permit volumes by 30% by 2020, through pre-approvals, notices or gazettal.
- Introduce a project specific permit, which allows multiple movements and configurations for the same application.
- Implement an industry-centric triaging system for bridge assessments.
- Harmonise national standards for pilot and escort vehicle arrangements.
- Harmonise inconsistencies around accreditation for pilot drivers.
- Simplify pilot and escort process to remove layers to the consent process.
- Work with Austroads to refine the proposed OSOM envelopes to establish infrastructure bridge loading limits in the standards.
- Implement an envelope approach for low-risk OSOM vehicles.
- Low risk OSOM vehicles to be provided a 48-hour turnaround time on average following the envelope approach.
- Implement flexibility to make minor changes to the application without having to resubmit.
- List multiple prime movers or trailers on permits to allow flexibility.⁴⁸

PBS access and providing access within an envelope

The productivity benefits of performance-based standards vehicles have significant potential but are often restricted by limited and highly regulated road access.

Reform needs to:

- Resolve and end situations where operators can go through the lengthy, expensive, PBS approval process for a new vehicle but then be denied road access.
- Provide PBS road access to routes where access is already granted for equivalent combinations.
- Recognise the productivity, safety and environmental benefits from PBS vehicles.
- Better enable trucking operators to access and utilise PBS vehicles where freight tasks are not predictable or have sufficient lead times for current PBS approvals (such as by providing improved as-of-right PBS access).

⁴⁸ WSP, September 2018, [Review of Oversize Overmass \(OSOM\) Access Arrangements](#), vii – xiii.

Farm gate / low volume access

Last mile access, in particular on rural and regional roads, needs a new regulatory approach. This is critical to providing better access between established freight routes and local farms and businesses.

As an example, the NSW Government is trialling the Farm Gate Access Project, developed in conjunction with the Livestock, Bulk and Rural Carriers Association. LBRCA is a member of the Australian Livestock and Rural Transporters Association (ALRTA), who are a member of the ATA.

The project introduces a road access assessment framework, including a third-party risk assessment tool. It aims to provide greater information on the road and roadside as part of the access application to assist local councils in their responsibility as road manager when considering access requests on low volume roads to farms that operate small-scale primary production activities.

The model aims to benefit local farmers, businesses, participating councils and the broader community by fostering safe and legal access for heavy vehicles.⁴⁹

Amenity

In simple terms, amenity can be described as the value of the desirability or attractiveness of a place. In terms of the interaction of amenity with transport systems, amenity can be impacted by congestion, noise, emissions and the quality and useability of urban design (such as the walkability of neighbourhoods).

The issues paper lists impacts on public amenity as one of the effects of heavy vehicles on public infrastructure that needs to be managed.

Simplistically speaking, a road manager may wish to deny access for a more productive heavy vehicle as the amenity impact may be seen as worse due to having larger vehicle dimensions. However, high productivity freight vehicles reduce the number of truck movements to move a particular freight task, and reduce impacts on emissions, noise, safety and congestion.

If amenity is to be considered in heavy vehicle access decisions, it should be with a presumption to granting access to more productive vehicle combinations.

Amenity would be better managed through local governments producing heavy vehicle access strategies that seek more productive delivery of the freight task, and not individual access decisions.

⁴⁹ NSW Government, [Farm Gate Access Project](#), accessed 13 August 2019.