



NATIONAL ROAD TRANSPORT ASSOCIATION

Submission to the National Transport Commission

HVNL Review: Consultation Regulation Impact Statement: Vehicle Design

9 November 2020

Introduction

1. The National Road Transport Association (NatRoad) is pleased to make comments on the *HVNL Review Consultation Regulation Impact Statement (CRIS)*¹ prepared by Frontier Economics and published by the National Transport Commission (NTC) on 25 June 2020. This is the seventh submission in a series of submissions.
2. We also note the publication of the NTC document *HVNL 2.0 A Better Law Scenario*.² (Better Law) That document sets out one possible scenario for a future law. We commend the straightforward summary of the options derived from Chapter 10 set out in Better Law.³
3. NatRoad is Australia's largest national representative road freight transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators, general freight, road trains, livestock, tippers, car carriers, as well as tankers and refrigerated freight operators.
4. This submission responds to the issues raised in Chapter 10 entitled *Safer Vehicle Design*. In essence, this chapter does not traverse all aspects of safer heavy vehicle design but touches on proposed changes to the Performance Based Standards (PBS) scheme. As one member who commented on an earlier draft of this submissions said:

Surely under the heading of Vehicle Design there is more to be reviewed than a vague discussion about a nominal increase in vehicle width and even more vague discussion of some modifications to the clunky PBS system?

PBS regulation: general comments

5. As NatRoad made clear in the submission lodged with the NTC on heavy vehicle standards⁴ (Submission) in the earlier stages of the review, one of the identified priorities with changing the Heavy Vehicle National Law (HVNL) is to make the PBS scheme more efficient. We noted in detail problems with the PBS scheme's lack of timeliness and the opacity in its administrative outworking. The views there expressed have not changed and are reflected in this submission given that two of the three options in the chapter relate to the PBS scheme.
6. NatRoad also notes that the National Heavy Vehicle Regulator (NHVR) in its recently published heavy vehicle productivity plan⁵ (Plan) has addressed issues pertinent to feedback on Chapter 10 about the PBS scheme. NTC should have regard to the Plan in the next stages of the current review.
7. Similarly, the Productivity Commission's report *National Transport Regulatory Reform*⁶ contains an extensive analysis of the PBS scheme, inclusive of a recommendation that,

¹ https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.ntc-hvnlawreview.files/5715/9304/9833/HVNL_RIS_25_June.pdf

² <https://www.ntc.gov.au/sites/default/files/assets/files/HVNL-2.0.pdf>

³ Id at p 17

⁴ https://www.ntc.gov.au/submission_data/575

⁵ *Heavy Vehicle Productivity Plan 2020-2025* August 2020 <https://www.nhvr.gov.au/files/202008-1171-heavy-vehicle-productivity-plan-2020-2025.pdf>

⁶ <https://www.pc.gov.au/inquiries/completed/transport/report>

amongst other things, stipulates expanding gazetted access networks for vehicles approved through the PBS scheme (including PBS B-doubles, A-doubles and B-triples), at least to match the networks for the equivalent non-PBS vehicles.⁷ NatRoad supports this recommendation. It is capable of adoption ahead of the more fundamental reforms that the current review foreshadows.

PBS regulation: Option 10.1 streamlined PBS approval process

8. This option contains five elements. The first is “NHVR is given the authority to assess and approve applications.” This is a somewhat misleading proposition. At present approval rests with the NHVR. That organisation processes a design approval application and sends the application to the PBS Review Panel (PRP) for advice. It appears that it is this step in the NHVR process that would be modified but not “in all instances.”⁸ One example is given of where the PRP need not be involved: “when the design is within certain limits of previously approved designs.”⁹ The CRIS unhelpfully says that “the specifics of these arrangements would need to be worked through.”¹⁰ Also the sentence which relates to a reference to a panel seems to imply that there will be a “jurisdictional panel” that would replace the PRP but that is unclear. NatRoad cannot offer support or otherwise to this amorphous element of the proposal but reiterates agreement with a streamlined process that would not mandate PRP involvement.
9. The second element is “linking access permissions to design.” This option proposes linking access permissions to approved PBS designs. That is supported by NatRoad. Presently, vehicles are often idle whilst access considerations are sorted out, with problematic outcomes for productivity. But how the proposed linkage would occur in practice is not clarified in the CRIS.
10. The third element is that “manufacturers self-certify that the build is as per the design.” The CRIS says that this step would mean that an independent certifier would not be needed for each PBS variant, a cost saving NatRoad would support. The Better Law document succinctly summarises this element and as such is supported:

PBS manufacturers would be authorised to self-certify that the vehicles they build comply with the design, as they do for vehicles that comply with the Australian Design Rules (ADRs).¹¹

11. The fourth element is “type approval of component vehicles.” This is summed up in the Better Law document as: “PBS combinations could substitute component vehicles that meet the same design and build specifications.”¹² The NatRoad proposal made in the Submission would be a better reform. The current proposal would require an assessment of whether the substituted vehicle was of the same design. This appears to somewhat defeat the

⁷ Id Recommendation 7.5 at p224

⁸ Above note 1 at p161

⁹ Ibid

¹⁰ Ibid

¹¹ Above note 2 at p17

¹² Ibid

reform objective. The NatRoad solution is for PBS type approval to be issued for individual units rather than a nominated combination and for those units to be able to be interchanged, so they could be split and reconfigured in multiple ways. We retain that position as a more practical reform.

12. The fifth element is to “allow transfer of approvals with sale of a PBS vehicle.” Put simply, as in Better Law, the proposal is “approvals and access permits follow the vehicle, from vendor to purchaser.”¹³ This is supported as a reform that would improve efficiency.
13. The costing of the final proposals against costs of the current PBS system would be an instructive exercise. That exercise should be aimed at reducing both regulator and industry members’ costs. The proposal in the Submission should also be part of the mix of reform: we there mentioned that, to date, no PBS vehicles have transitioned into the prescriptive heavy vehicle fleet.¹⁴ As this was a fundamental basis on which the PBS scheme was founded, further facilitation of that process with a mandated requirement on the NHVR to commence that process should be part of the new HVNL.

PBS Technology Standard: Option 10.2

14. This option is succinctly summarised in the Better Law document: “technology could be an alternative means of complying with certain PBS scheme standards; for example electronic stability control / anti-rollover technology may allow a vehicle to meet the static rollover standard.”¹⁵ NatRoad would support the development of technology which enabled an alternative means of complying with the PBS scheme’s standards.

Increased Vehicle Width: Option 10.3

15. This topic was explored at length in the Submission.¹⁶ The position there outlined remains NatRoad policy.
16. Hence, we support this option, again as better expressed in Better Law than in the CRIS:

The HVNL could establish a fast-tracked PBS approval for heavy vehicles built with safety features (such as side underrun protection, blind-spot sensors, electronic stability control, anti-lock brakes) to allow a maximum vehicle width of up to 2.6 metres as-of-right access to the road network. The wider vehicle would need to meet the relevant PBS straight-line tracking standard and non-width-related ADRs.¹⁷

17. Whilst we support this being fast tracked as part of the PBS scheme, we return to the position argued in the Submission. For the reasons there outlined we advocated and continue to do so as follows:

¹³ Above note 2 at p17

¹⁴ Above note 4 para 63

¹⁵ Above note 2 at p17

¹⁶ Above note 4 paras 27-42

¹⁷ Above note 2 at p 17

Vehicle width should be permitted to be 2550mm rather than the current maximum of 2500mm, with refrigerated vehicles being permitted to have a width of 2600mm. Governments should grant general access to heavy vehicles with these widths under the Heavy Vehicle (Mass, Dimension and Loading) National Regulation 2013 or the subsequent instrument governing this subject after the HVNL review is completed.¹⁸

Conclusion

18. The Submission anticipated that alongside the current review Government was otherwise investigating issues associated with making regulations about heavy vehicle design more responsive and up-to-date. We cited the following report of work underway:

All parties will examine current regulatory requirements, as well as network capacity for vehicles of different size and mass, where the roadway can safely accommodate such vehicles and minimise crashes. Subject to this assessment, the Commonwealth will release a discussion paper, ahead of a regulatory package for any agreed changes to heavy freight vehicle width and any other dimensions, and axle transitional mass, in the Australian Design Rules.¹⁹

19. Consideration of the matters emanating from this detailed examination should be made alongside the CRIS and the subject of public consultation so that the revised law takes into account the outcome of this separate analysis. The NTC analysis related to improving the PBS scheme should not substitute for a “deep dive” into the consideration of all heavy vehicle dimensions, their ongoing applicability and any necessary changes to the Australian Design Rules.

¹⁸ Above note 4 para 28

¹⁹ https://www.roadsafety.gov.au/action-plan/2018-2020/critical_action_L.aspx