

20 November 2020

National Transport Commission  
Level 3  
600 Bourke Street  
Melbourne VIC 3000

## **Response to HVNL Review – Consultation Regulation Impact Statement (CRIS)**

Dear HVNL review team,

Thank you for the opportunity to put forward a response to the Consultation Regulation Impact Statement (CRIS). Grain Producers Australia is the national representative voice for grain producers on all grain policy issues. Through our state farming organisation members, we have a strong, representative, grass roots farmer base which guides our policies on key issues for grain producers. We are an appointed Representative Organisation for the Grains Research and Development Corporation (GRDC) and grains industry member of Plant Health Australia and signatory to the Emergency Plant Pest Response Deed (EPPRD).

GPA and its member State Farming Organisations (SFOs) have been involved in a number of the past NHVL submissions processes and recognises the complexity of the issues being examined as part of the regulation development and review process.

Flexibility is key to an efficient grain supply chain. Unfortunately, there are many examples of significant costs being imposed on the grains and broader agricultural industries. Burdensome, non-risk based, and impractical regulatory impositions such as chain of responsibility requirements and other easy target regulatory imposts are adversely impacting profitability and productivity. GPA recognises and supports the work HVNL is doing to prioritise regulatory changes with the goal of improving consistency, productivity and effective risk reduction focused regulation.

GPA specifically supports the following policies with relation to HVNL priorities:

### **Improved access**

Access remains the greatest challenge for agriculture freight.

It is crucial that access decisions as broadly as possible to reduce regulatory burden and that greater onus on road managers to provide evidence as to why heavy vehicle access has been denied and the ability of decisions to be externally reviewed.

### **Increased harmonisation**


GPA supports the work to achieve increased harmonisation across jurisdictions, however this must not reduce the efficiency or productivity, or disadvantage growers that current have access to and benefit from exemptions that provide greater benefit than the proposals under the NHVR.


GPA supports the development of national harvest mass management systems subject to the support and involvement of State Farming Organisations in each state.

### **Flexibility and risk-based regulation**

As acknowledged in the issues paper flexibility is vital and risk-based evidence should be the basis of regulation, however, GPA wants to acknowledge moving away from a prescriptive approach can reduce certainty about what acceptable compliance may look like. Introducing subjectivity and potential ambiguity, can disproportionately impact farmers and smaller trucking operators who do not

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[admin@grainproducers.com.au](mailto:admin@grainproducers.com.au)   
[www.grainproducers.com.au](http://www.grainproducers.com.au)

PO Box 370   
Braidwood, NSW 2622

have the resources to employ full time compliance staff. It is therefore critical that any shift in regulatory approach is accompanied by greater resources to communicate the changes and assist with compliance prior to an enforcement focus.

The recent changes to Chain of Responsibility laws demonstrated the potential issues and failings that can arise in trying to adopt harmonised 'one size fits all' risk-based regulation. This process highlighted the diversity of practices, equipment and geography within agriculture that ultimately necessitated the National Heavy Vehicle Regulator (NHVR) to develop agriculture specific resources for farmers.

### **Technology**

While GPA is broadly supportive of innovative technologies, it is crucial that HNVL remains technology neutral and does not force the adoption of technologies upon primary producers and small operators. Many technological innovations will not be suitable for the majority of primary producers and other owner operators who may use their vehicles infrequently.

### **Realistic and practical enforcement activities**

GPA supports exploring alternative regulatory approaches to national heavy vehicle law especially where the current prescriptive approach often leads to farmers being penalised on minor technicalities that have little or no safety implications. For example, many of our members have cited examples of being penalised for minor infringements such as worn out seat covers or 100ml dimension breaches that have no demonstrable bearing on safety.

Australian owned and operated transport companies with transparent permanent driver (Australian citizen or at least equivalently trained) employment practices and owner operated heavy vehicles are not given the recognition or support they have earned. The seeming lack of action against complicated "phoenix" style companies who sub-contract sub-contractor drivers within opaque company structures is a concern.

The employment of contracted agencies to undertake enforcement activities is also a concern as their processes lack the transparency and parliamentary oversight that a statutory regulatory body does. There is also concern that performance bonus systems or other contracted rewards systems based on enforcement activities can have significant perverse outcomes for freight utilising industries, without any commensurate improvement in overall road safety.

GPA is aware of recent HVNL enforcement action in Queensland relating to axle group mass limits on grain trucks and a proposed Improvement Notice issued to GrainCorp. The Improvement Notice requires the underloading of grain trucks to reduce the risk of exceeding axle group mass limits. Based on GrainCorp' estimates, a 10% under-loading would be required to minimise the risk of breaching these limits.

Across the Australian grain industry, axle group measuring technology is extremely rare. Given that the HVNL applies to the whole supply chain, competitive implications of underloading trucks means that other grain companies that are unable to accurately measure axle group mass limits would need to take the same underloading measure.

Under the scenario of an industry-wide application of a 10% underloading, the implications for the grain industry would be significant. It would reduce supply chain efficiencies, add unnecessary cost, and reduce Australia's competitiveness in international markets. The bulk of the impact would be felt by the grain grower.

Australian grain growers have already faced significant challenges in recent years, including drought, tariffs on major commodities, and COVID-19.

Based on GrainCorp's assumptions, a 10% underloading extrapolated across the eastern Australian grain industry, applied retrospectively from 2011 to 2020, would have had the following impact:

- An additional \$4.63/tonne in freight costs (\$800 million over 10 years or \$80 million p.a.) to transport the same volume of grain.
- An additional 770,000 truck movements (77,000 p.a.) to transport the same volume of grain; with associated safety risks, road wear, congestion etc.
- An additional 65 million tonnes of carbon emissions (6.5m tonnes p.a.) due to the increase in truck movements.

Through the HVNL Review, GPA requests that enforcement of axle group measurement requirements are given greater consideration. Particularly with regard to taking enforcement action against loaders and unloaders of grain trucks because of the following;

- Strict adherence to gross combination mass limits on arrival/exit from storage sites ensures substantial compliance;
- Given the substantial compliance with gross combination mass limits where is the evidence that minor movements of grain which can cause some deviation across axle limits is causing a significant safety risk;
- The costs and time required to ensure full and accurate compliance (if even possible) are disproportionate; and
- Truck drivers and operators themselves are best placed to ensure compliance with axle weights within realistic and practical tolerances if the focus of enforcement is truly about improving safety.

### **Improving efficiency**

The safe and efficient movement of freight must be at the heart of heavy vehicle national law

Local Government bodies have proven themselves ill-equipped to appropriately and holistically manage the road access issues which are falling in their purview. Whilst the law requires access requests to be made to the National Heavy Vehicle Regulator (NHVR), final decisions on access and any conditions on access are made by the road managers. As the road managers of local roads, local governments are therefore now responsible for the majority of Australia's total road network. This results in significant different levels of access between individual shires.

There is also inconsistency between the approach taken by State enforcement authorities. This is clearly contrary to COAG's original objective in establishing a national regulatory system of delivering 'a seamless national regulation of heavy vehicles that achieves the same outcome in the same circumstances; and consistent and streamlined administration and service provision for the regulation of heavy vehicles.

### **General considerations to support road-based transport safety and efficiency**

Safe, efficient heavy vehicle road use needs to be viewed in the context of a holistic approach towards effective safety oversight, driver (domestic and heavy vehicle) education and training, adequate and appropriate road funding and support for the economy through the efficient flow of freight. Other general considerations which need to be part of the holistic approach to determining potential barriers to achievement of road safety goals:

- **Road Funding**

Government have on a number of occasions expressed a view that the current process of raising road related funding through a crude fuel excise tax should be changed to a more measured and economically sustainable revenue raising process, such as a user-pay system. This methodology has been under review and discussion for some time within government and industry bodies.

However, no funding model will work unless the funds raised are hypothecated and reserved solely for investment in roads and improving related infrastructure.

There is a need to ensure the design of the funding model provides funds to local government to undertake assessment and improvement of local roads, bridges and other key infrastructure. There are currently insufficient funds being made available to local government to allow them to make long-term investment in key infrastructure. A “patch it and keep your fingers crossed” culture has developed which is leading to serious deterioration of Australia’s rural road network to the detriment of freight movements and general safety of road users.

The distribution of capital for road investments should be assessed and prioritised based on the comparative economic value of the infrastructure rather than a simplistic measure of population. GPA has considerable concerns regarding the increasing cost of registration and associated road costs. It is of particular concern that monies raised do not go solely back into roads and associated infrastructure.

- **Coordination of Road and Rail**

Cost benefit assessment to determine retention or cessation of rail service and infrastructure must genuinely reflect the associated road infrastructure upgrades borne by all levels of government, particularly local government.

Anecdotal evidence and local experience suggest that reducing rail freight options often results in disproportionate increases in road maintenance costs or significant unmitigated road damage.

- **Freight Flow**

Investment needs to ensure successful flow of container freight through urban areas and out through the port. This improves markets access and reduces costs to the growers and the industry. Innovation cannot be achieved without complimentary infrastructure planning and investment.

Rail connectivity, standardisation supports and enables competition between ports. Better coordination of investment in rail hubs between state and federal governments can help achieve real time efficiency.

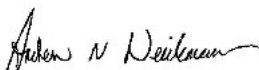
The costs, complexities and lack of information transparency regarding grain movement to port is impacting Australia competitiveness in the global market.

Government must support early access to technology, including automated facilities and transport options which include larger configurations and higher total mass limits. Higher configuration mass units will reduce overall truck movements, improving safety and congestion outcomes while improving efficiency. The newer larger trucks being built in the EU are moving towards 20m in length, despite the potential safety improvements using these trucks in Australia would be problematic under current regimes.

### **Closing Comments**

Thank you for the opportunity to make a submission. We look forward to being part of any consultation processes you are planning in the lead up to the development of the Decision RIS.

Yours sincerely,



Andrew Weidemann

Chairman  
Grain Producers Australia