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**SOUTH AUSTRALIAN**

**STATE EMERGENCY SERVICE**

Heavy Vehicle National Law Review Consultation Regulation Impact Statement

20 November 2020

The South Australian State Emergency Service (SES) is a volunteer-based organisation that responds to a wide range of emergencies and rescues across the state 24-hours a day, seven days a week, 365-days a year. The SES operates a number of heavy vehicles in responding to requests for assistance and emergency operations as a control agency and supporting agency for other services. Operations conducted by the SES are unpredictable due to the nature of emergency work and flexibility is a key requirement of the organization, being able to respond to tasks in a timely manner.

The South Australian State Emergency Services (SES) provides the following comments for the Review of the *Heavy Vehicle National Law*.

The HVNL is currently prescriptive in nature and the SES supports the move towards a more risk-based approach, where the appropriate level of guidance and supportive frameworks are provided.

The HVNL is currently too restrictive for niche access requirements, such as unique requirements for activities undertaken by the emergency sector. While the majority of day to day activities fall within the scope of general access vehicles, there are times where common sense for access is hindered by the red tape of legislation.

***Duties & Responsibilities***

* Drivers are an important part of the service’s ability to provide a response capability to the community. The SES is supportive in ensuring that the driver responsibilities under the law are clear.
* Ensuring that the HVNL outlines the responsibilities of all parties is important, however replicating other legislation (option 4.2) within the HVNL is not supported. This is due to potential conflicts if one or the other is updated or the separate driver safety duty is not adopted in full.
* Expanding the Chain of Responsibility (CoR) scope to include all potential parties who influence transport safety is important and preferable to defining specific lists, as the risk is that potential parties are not included.
* Drivers of heavy vehicles already are required to meet a number of legislated requirements including understanding the Australian Road Rules, Road Traffic Act, their licensing requirements and associated medical requirements.
* Clarifying driver competency and fitness to work is supported in that specific duties related to these duties are identified and could cover options 4.2 & 4.3 without replicating WHS laws

***Regulatory Tools***

* The SES is supportive of the development of a code of practice for the NHVL. This would provide clarity and guidance for heavy vehicle operations. Industry is already familiar with code of practices as established under WHS laws
* Option 5.2 would not be required if a Code of Practice is developed
* The option of establishing a remote zone is supported in principle however more information would be required. As the SES operates state-wide the application of a remote zone may provide efficiencies.
* Data sharing should be focused on ensuring safety for all road users and not solely for enforcement activities. Caution is also required to mandate a burden on agencies to supply / share data, where it may create additional cost pressures.

***Technology and data options***

* Any future regulatory environment should provide opportunities for more adaptive take up technology in its various forms.
* As SES, and other emergency services, look at implementing automatic vehicle location (AVL) technologies, there may be opportunities to utilise such systems for enhanced assurance. Depending on the frameworks around data sharing and personal information, AVL systems could be used to provide a heightened level of assurance around access, especially during emergencies.
* Technology and data can deliver safety and efficiency benefits, however, there needs to be flexibility. Technology advancements often outpace legislative reform and the revised HVNL will need to be agile enough to respond to the advancements or flexible to enable it to be responsive to changes.

**Assurance**

* The SES is supportive of option 7.1a with voluntary enrolment with the NHVR. As a volunteer organisation operating in mostly emergency operations, the risk-based approach is preferred.
* The SES is supportive of having an assurance process that is flexible for different operators based on a risk approach and the use of regulator approved safety management systems

***Fatigue***

* SES believes future reforms needs to allow greater flexibility for sectors where driving a heavy vehicle is not undertaken day-to-day such as volunteer emergency services
* Flexibility in relation to work diaries due to the unpredictability around volunteer work patterns
* SES acknowledges that there is an exemption within the *Heavy Vehicle National Law* (s265) that allows exemptions in relation to work times and rest times for emergency services when responding to and returning from an emergency, allowing flexibility and the management of fatigue.
* SES acknowledges that there is an exemption from work diary exemptions for emergency services which covers work diary requirements, however, does not provide an exemption from record keeping.
* Emergency Services should continue to have the ability to manage fatigue of their drivers though a dynamic risk assessment and in line with agency policies as they undertake their activities for operational, logistical and training purposes. This would be incorporated in the agency’s safety management system, which would be regulatory approved.
* When undertaking the provision of logistical support to other services, drivers generally do not have control over when requests for assistance are received and therefore have little or no control over their schedule.

***Access***

* The current legislation is somewhat inflexible and prescriptive which does not allow access to be provided without considerable red tape and administrative burden. This is inconsistent with emergency services’ operating models where often the emergency services are looking for practical and just in time access.
  + As an example, the SES has worked with the Department for Infrastructure and Transport and the National Heavy Vehicle Regulator in relation to the transport of its emergency accommodation system (Humannihuts), which due to minor modifications to enable it to be transported by a number of different vehicle types meant that at times it was not within prescribed height.
  + An interim arrangement was determined to allow its movement, until the NHVR in May 2020, reached a position that repurposed freight containers were not ‘freight containers’ and were able to be transported under a Class 1 mass or dimension exemption (refer to the NHVR’s [Repurposed Freight Container – Information Sheet](https://www.nhvr.gov.au/files/202005-1148-repurposed-freight-containers-info-sheet.pdf)).
* The NHVR and road managers should consider the use of heavy vehicle envelopes rather than access by individual load type. This would provide greater opportunity for the movement of emergency vehicles and associated equipment without the need for an exemption. For example, until the release of the updated *SA Class 1 Transport of Indivisible Items and Agricultural Vehicles Dimension Exemption Notic*e in 2019, the transport of some marine rescue vessels was required under an exemption, in certain circumstances.
* SES recommends increasing the prescribed height to 4.6m high. This would allow the transport of a number of items, including the emergency accommodation (Humannihuts) without the need for an exemption (now covered under a notice, but required permits previously).
* Further consideration in relation to interactions between the *Heavy Vehicle National Law* with other legislation such as the *Emergency Management Act* *2004* (SA) are required in order to reduce duplication remove inconsistencies that cause confusion during emergency situations.
* Further to the notes above, the SES supports option 9.2d in relation to consideration of the risk-based approach to vehicle classes. Whilst the majority of activity undertaken by the SES is covered by general access vehicles, the ability for low risk access requests should be able to be considered effectively and efficiently.

**Roadworthiness**

* The SES is supportive of consistency with vehicle inspections and the use of self-clearing defects to reduce administrative burden and costs
* The SES is supportive of option 11.2 in principle, being a risk-based inspection scheme, however more details would be required as to the criteria.

For further information relating to this submission, please contact

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