**The Crane Industry Council of Australia**
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

# Heavy Vehicle National Law Review

# Consultation Regulation Impact Statement Submission

20 November 2020

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

# Contents

**1 Background** ..... 3
**2 Introduction** ..... 3
**3 Assessment** ..... 4
**3.1 Primary Duties and Responsibility** ..... 4
**3.2 Regulatory Tools** ..... 4
**3.3 Technology and data** ..... 5
**3.4 Assurance and accreditation** ..... 6
**3.5 Fatigue** ..... 6
**3.6 Access** ..... 6
**3.7 Safer vehicle design** ..... 10
**3.8 Roadworthiness** ..... 13
**Attachments** ..... 15
**1a: Tasmanian approach to SPV access** ..... 15

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

# 1 Background

The Crane Industry Council of Australia (CICA) is the national peak body for the crane industry in Australia. CICA represents over 600 member companies that are comprised of crane company owners, original equipment manufacturers, rigging equipment retailers, CraneSafe Assessors, and other industry service providers. CICA has branches that operate in each state or territory.

**CICA Mission: The Authority for the Crane Industry**
**CICA Vision: A Safe and Progressive Crane Industry**

CICA members have actively volunteered their cranes to assist with road safety studies with NHVR, TMR, RMS, VicRoads, DSG, DPTI, and Main Roads WA. Consistently, CICA has publicly supported the inception and implementation of the National Heavy Vehicle Regulator to improve consistencies and efficiencies in road access for the crane industry.

Since 2012, CICA has developed a strong and productive relationship with the NHVR. CICA continues to show support through participation in the Industry Reference Forum and Crane Industry Operations Group.

# 2 Introduction

This submission is a response to the Heavy Vehicle National Law (HVNL) Review Consultation Regulation Impact Statement released by the National Transport Commission (NTC) in June 2020.

The most serious issues for the Crane Industry are associated with road access. CICA has for many years been working with regulators and jurisdictions to improve road access arrangements for our members. We remain hopeful that the proposed changes to the HVNL will result in substantial improvements to both the safety and operational environments.

We appreciate the opportunity to contribute to the HVNL review process and stand ready to provide any additional information of clarification where required.

Feedback on the sections relevant to the Crane Industry is provided.

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

# 3 Assessment

## 3.1 Primary Duties and Responsibility

***Option 4.1: Expand application of the primary duty to parties who influence the safety of transport activities***

The three options (4.1, 4.1b, hybrid option between 4.1 and 4.1b) to expand application of the primary duty to parties who influence the safety of transport activities have the potential to drive an increase in compliance costs for industry. For example, if the manufacturers, repairers are included in this, there may be audit costs for them that could be transferred to the industry. Crane design, manufacture and repair are already bound by International and National design standards. The suggested additional parties are already sufficiently incentivised to proactively act in ways that do not impact on the safety of crane transport activities. It's unnecessary to extend primary duties to these parties.

***Option 4.2: Apply the primary duty (s 26C) to drivers***
***Option 4.3: Establish separate driver duty that substantially replicates the duty of workers under s 18 of the model WHS Laws***

Driver duties should be captured in the HVNL as drivers are at the front line to manage and control risks. Option 4.2 is relatively straightforward in terms of implications as our industry has already been operated under the WHS law for the various areas of our operations, companies would already have a system in place to manage worker responsibilities, cost to adopt this system is lower compared to option 4.3.

***Option 4.4: Amend primary duty to clarify driver competency and driver fitness to work***

CICA supports this option as it could reduce the risk of heavy vehicle crashes due to improved driver competency and fitness to work. Driver competency shouldn't be just about paper works, it should be verified to industry specific standards. One way for CoR parties to comply with this for their primary duty would be adopting an industry recognised verification system.

## 3.2 Regulatory Tools

***Option 5.1 Establish a code of practice mechanism in the HVNL***
***Option 5.2. Establish a safety standards mechanism in the HVNL***

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

Option 5.1 and 5.1b would simplify the administrative process for updating the HVNL law. The options would increase the level of government oversight over industry developed COPs.

Minimum expectations of practice should be set out for industry sectors to assist them develop COP specific for their industry's operation. Industry specific COPs would better assist the individual industry to comply with the HVNL law requirement.

Similar comments for option 5.2

***Option 5.3. Establish a remote area zone***

Option 5.3 is for enable risk based regulatory approaches to be developed in remote zones. For example, flexible work and rest hours. As we are in the process of seeking work and rest hour exemptions for our industry, this would not affect our operations.

***Option 5.4 Expressly enable sharing of data with the NHVR***

CICA would like to explore options to better understand how the sharing of data collected on or by industry, can be used to improve access and safety outcomes for SPV's. The availability and use of aggregated deidentified data is of particular interest to CICA with regard to road access, and is of relevance to the majority of local road managers. CICA is open to discussion and to provide feedback on any proposed process improvements.

## 3.3 Technology and data

***Option 6.1: Establish an overarching technology and data certifier under the HVNL***

Broadly speaking CICA supports a clear and consistent approach to the management of data under the law. There are many efficiencies to be realized by better harnessing the collection and analysis of data to better inform regulatory and other functions.

The fact that the HVNL does not currently recognise commercial systems already being used by industry to manage risk as part of their safety management system is an issue to be resolved. Under this option the HVNL should recognise commercial systems already in use. This would mean operators would not be required to go out and purchase new equipment to meet their regulatory obligations. The data and technology framework should recognise the role that unaccredited technology can play in risk management and underpinning compliance.

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

With regard to the entities identified, CICA does not have a preference, however it is important to note that issues such as data assurance, data handling, privacy provisions, roles and responsibilities need to be sufficiently addressed as part of the development of this option.

***Option 6.2a: Ability to carry and produce electronic documentation***
***Option 6.2b: Documentation to be produced in a specified period***

In principal, CICA supports the provision and allowance for electronic or web-based compliance paperwork (permits and Gazette notices) in the cranes as opposed to hardcopy requirements. The allowance to grant 24 -48 hours to produce such evidence is sufficient for industry requirements. It is also worth noting that given the low numbers of machines this is not the biggest issue the Crane Industry is currently facing.

## 3.4 Assurance and accreditation

In broad terms CICA supports improvements in this space. CICA remains available for further discussion on this section of the law as the complexity of issues could be better explored in alternate communication forums.

## 3.5 Fatigue

In broad terms CICA supports improvements in this space. CICA remains available for further discussion on this section of the law as the complexity of issues could be better explored in alternate communication forums.

***Option 8.7: Right to stop if a driver is deemed not fit for duty***
***Option 8.8: Driver self-assessment and declaration of fitness to work***

These options would increase administrative costs for industry. Options 8.7 and 8.8 rely on drivers providing accurate information or acting on their fatigue levels. The impact of these options on heavy vehicle road trauma is likely to be beneficial, but there exists a lack of certainty about the size of the improvement as it is currently not clear whether the options provide sufficient incentive for drivers to be truthful.

## 3.6 Access

Broadly speaking CICA agrees that there are three broad problems the current access arrangements:

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

- While heavy vehicles have become safer over time, this has not been reflected in increased general as-of-right access.
- The current process for obtaining access imposes excessive compliance costs on road managers and delay costs on industry.
- The current decision-making framework does not provide the best possible balance between the costs and benefits of providing access.

For many years CICA has been working closely with the NHVR and the various jurisdictions on potential improvements to the road access approval process on behalf of our members. Access considerations are by far the most pressing issues for crane owners in the current environment. CICA strongly believes that substantial improvements to the road access process are required including addressing the 28 day permit application timeframe which *does not* reflect the access needs of industry.

CICA agrees that improved data collection and analysis should be used to better inform access decisions, and the utlisiation of risk-based approaches to access management should be implemented.

With regard to ideal states of crane access CICA recognises that the crane access system that has been deployed in Tasmania is Best practice in Australia. CICA believes this system should be made available nationally and is currently working with the NHVR and state-based jurisdictions to enable these changes to occur. **1a: Tasmanian approach to SPV access** briefly outlines the Tasmanian approach. CICA is happy to provide additional detail and feedback as requested.

The options identified in 9.1 relate specifically to trucks and therefore do not require comment from CICA.

***Option 9.2a: Recognise precedent and expand expedited process for equivalent / lower risk applications***

CICA supports the recognition of precent and risk in the access decision making process. CICA supports an expansion of the current expedited process to include equivalent or lower risk applications and fast track consents via the NHVR. This would allow permits to be renewed prior to expiration or re-applied for on an equivalent or lower risk basis.

***Option 9.2b: Allow for an opt in road manager delegation***

CICA supports an option to enable road mangers to delegate their access decision making powers to alleviate some of the resourcing and expertise issues that local road (and third party) managers face. Delegations could occur on;

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

- A case by case basis
- Grouped applications
- Network wide access decisions

***Option 9.2c: Geospatial map given authority in the law***

CICA broadly supports the idea of a 'single source of truth' for road access, it is reasonable that this could take the form of a map. The crane industry would appreciate opportunities to further contribute on this issue as it has real impacts on industry operations. Ideally the 'turn by turn' functionality would be fast tracked and made available to industry as soon as is possible.

***Option 9.2d: A risk-based approach to vehicle classes***

- ***Option 1: Freight and passenger OSOM***
- ***Option 2: Existing authorisation category, exemption categories***

CICA agrees that a simplification of the vehicle categorisation process should deliver efficiency benefits.

***Option 9.2e: Amendment to third party consent requirements***

CICA members experience significant delays and inefficiencies when dealing with third party consents. These organisations are often slow to respond, charge the industry for bridge assessments, adopt conservative positions to access and lack the expertise to quickly and efficiently respond to access requests.

- ***Option 1: Remove third party consents***

An option to remove third party consents would be ideal for industry assuming that there was certainty of access for SPV types.

- ***Option 2: Capture third parties in access decision making***

Option 2 is perhaps the most realistic approach to third party consents. It would be desirable to hold third party road managers accountable to the timeframe, (28 days is too long) and encourage the use of instruments such as gazettal or notices to preapprove access to these assets, expediting the permit application process.

***Option 9.2f: Amendment to access decision criteria to allow access decisions to include whole-of-network impacts and strategic network management***

Consideration of the network wide impacts of access decision making is a concept that CICA supports. Considering the effects of 'fleets' of vehicles in the context of SPV's

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

could facilitate approvals based on vehicle 'types' facilitating a simpler approach to SPV access.

***9.3a: Statutory timeframe, deemed referral and refusal for nil response***

The requirement for intervention in this space further emphasises the need for higher levels of pre-approved access as the 28-day response time is not realistic with regard to day to day operations for SPV vehicles. An expedited approval process is required to allow 'urgent' access requests to be processed in a more timely manner. The use of external review instruments may assist in resolving unreasonably slow or refused access requests.

***9.3b: External review of access decisions***

CICA recommends that stronger mechanisms are available to industry to review access decisions.

- ***Option 1: Independent review panel***

Any process that increases the transparency and accountability of road access decisions is welcomed by CICA. An independent review panel would appear to be an appropriate option. In the absence of additional detail, CICA broadly supports a facility within the law to better understand the access decisions made by road managers.

- ***Option 2: Referral to an existing tribunal or court***

Considering pervious comments, if there was an option to change the access decision as the result a jurisdictional tribunal or court review, CICA would support this option in the interests of transparency and accountability.

***Option 9.4: Move access decision making process from primary legislation to regulations or standards***

Broadly speaking CICA supports increasing and improving the responsiveness of access decision making. The reforms outlined in chapter 5 appear to facilitate a more flexible approach to implementing changes moving forward, an approach that the crane industry supports.

***Option 9.5a: National scheme – single tiered pilot and escort accreditation***

A nationally harmonised pilot and escort accreditation scheme would be supported by CICA. Current issues with the absence of formal arrangements to recognise driver accreditation when crossing borders need to be resolved. The OSOM review

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

recommendations relevant to this section of the HVNL are reasonable and should be implemented.

***Option 9.5b National scheme – dual tiered pilot and escort accreditation***

The establishment of a nationally harmonised duel-tiered pilot and escort accreditation scheme is supported by CICA. Harmonisation across jurisdictions will facilitate lower compliance costs and improved compliance through the simplification of the approach.

## 3.7 Safer vehicle design

***Option 10.1: Streamlining the PBS approval process***

The current PBS scheme is not currently utilised significantly by the crane industry however we support the principal of this option. If PBS is expanded to cover specific Special Purpose Vehicles such as cranes, it would be beneficial to have a more streamlined approval process to use as the basis.

***Option 10.2: PBS technology standard***

Like Option 10.1, this would set a useful precedent if PBS is expanded to cover Special Purpose Vehicles such as cranes (possibly under alternate metrics.) One example that would be relevant for the crane industry is the use of hydro-pneumatic suspension as a means to comply with certain road-wear and bridge loading requirements.

Due to constant improvement in the industry, the technology included for conformance in PBS should be regularly updated and a proper channel should exist that allows suggestions to be submitted and evaluated.

***Option 10.3: Increased vehicle width***

CICA *strongly* supports the adoption of international standards regarding width. This will provide greater opportunities to import purpose-built vehicles providing industry greater operational efficiency, productivity and flexibility.

Over recent years it has become clear that the PBS scheme has not kept pace with current international standards. Unfortunately approved vehicles must still comply with smaller width dimension limits than permitted by international standards, limiting the use of safety equipment designed for these wider vehicles.

In Australia width is limited to 2.50m, while in the USA this is 2.60m and in Europe maximum vehicle width is 2.55m for general freight vehicles and 2.60m for refrigerated trucks and trailers. The current dimensional limits must be amended. As it stands

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

currently some heavy vehicles built to European or US width standards cannot be directly imported into Australia.

CICA supports the submission from Hyva Pacific, excerpt included below.

For a system where PBS assessment/approval is required to exceed a vehicle width of 2500 mm, the inclusion of an exemption is requested for Vehicle Loading Crane (VLC) vehicles that are wider than 2500 mm up to a maximum vehicle width of 2550 mm. VLCs mounted on vehicles only exceed 2500 mm in width when certain options are included. These options are mostly related to the stabilizer options and are safer and provide an increased level of crane stability, OH&S and productivity.

*Example1: Larger cranes require wider stabilizer legs to remain stable depending on the vehicle type, wheelbase, axle configuration and the position of the VLC on the vehicle (Rear / Front mounted). To achieve a wider stabilizer spread the stabilizer beam often has 2 instead of 1 outrigger beams, which increases the overall width of the crane slightly, but still stays within the 2550 mm.*

*Example2: With the introduction of EuroV and VI and the limited amount of space on the vehicles side, the requirements for swing up stabilizer legs on VLC's has become standard over optional. Given the weight of these legs on larger cranes, the manufacturers have applied systems in place to make it lighter for operators to turn the stabilizer. This could be manually assisted (with gas struts), or automatic turning (mechanically or hydraulic). These options often require a little bit more space either side of the VLC.*

**Figure 1** shows a layout drawing of a 28tm Ferrari crane. This crane in its standard configuration complies to the 2500 mm. With the safety options of extra wide stabilizer legs and automatic turning stabilizers it is impossible to meet this requirement.

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

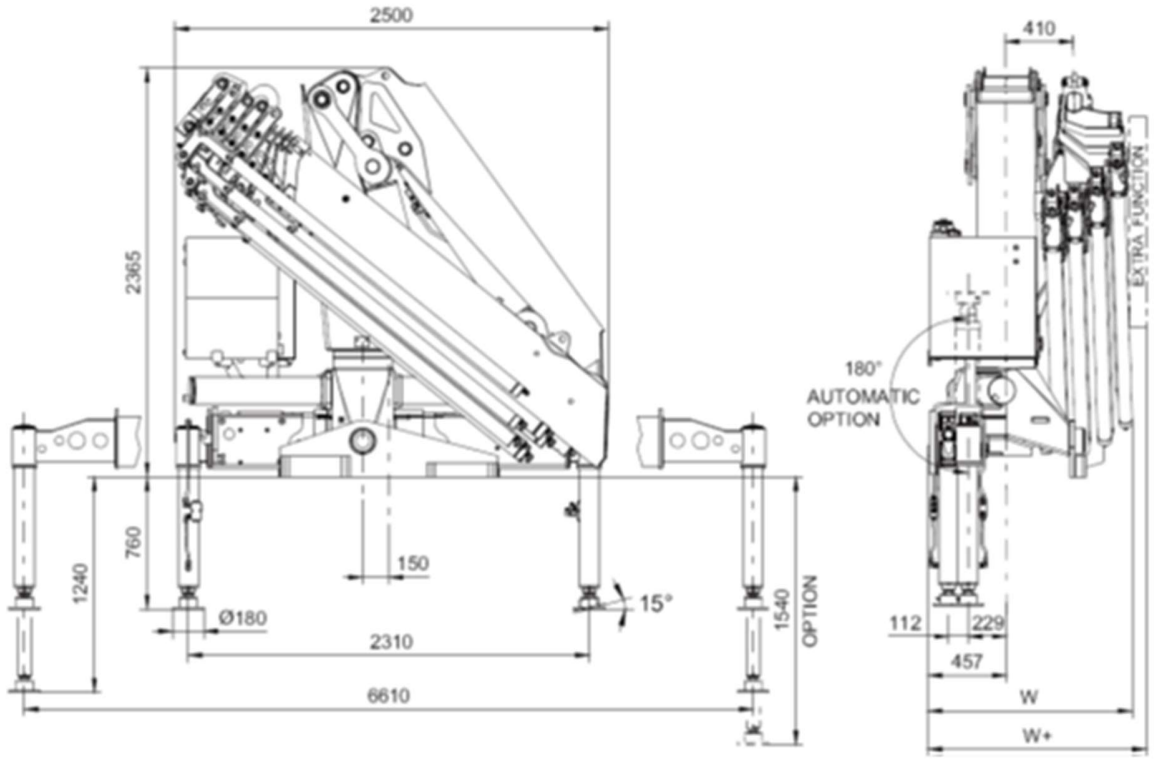



*Figure 1: Layout drawing of a 28tm Ferrari Crane*

Exempting VLC vehicles up to a vehicle width of 2550 mm would have the following benefits:

- A reduction in the number of vehicles requiring PBS approval will significantly reduce regulatory admin costs.
- Improved operator safety, well being and productivity.
- The exclusion will save owners the investment in money, time and effort to go through Level 1 PBS for their vehicle with VLC. Even with just straight-line tracking being assessed, the cost and time for PBS assessment and approval is significant. A significant portion of time in current PBS assessments is spent building an accurate vehicle model in the simulation environment (for numerical modelling based PBS assessments) and setting up the physical test environment (for physical testing based PBS assessments). It is likely that this work will still need to be conducted even if just one safety standard (Tracking Ability on a Straight Path) is assessed.
- The exclusion will benefit all VLC manufacturers and distributors around the country.
- There are no Australian manufacturers of VLC's that might be disadvantaged by this exclusion.

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

## 3.8 Roadworthiness

***Option 11.1: Standardised maintenance / roadworthy assessment***

CICA agrees that, by recognising the NHVIM in law, could increase consistency in enforcement between jurisdictions and enforcement agencies. This option would remove ambiguity from the current definition of unsafe and defective vehicles as a vehicle which does not comply with the standards outlined in the NHVIM is an unsafe vehicle and/or a defective vehicle.

This could reduce regulator costs and industry costs if it results in fewer spurious defect notices. There may also be an increase in regulator administrative costs for training inspectors in the NHVIM, both an initial one-off cost and then an ongoing cost to keep capability current.

By enabling self-clearing of non-safety defects and limiting defect clearance to the specified identified defects will remove the need for follow up inspections for non-safety issues and prevent a vehicle being subjected to a full inspection in order to have a defect cleared

In addition to reducing costs associated with these inspections this option will also reduce defect clearance time and hence the time in which a vehicle is off the road. This will improve operational efficiency in the industry.

***Option 11.2: Risk based inspection scheme***

CICA supports this option because in theory, interventions that focus inspections (be they scheduled or on-road) on vehicles that have a higher risk of defects will likely deliver more benefits in terms of reduced defects and therefore reduced crash risk.

This is due to two effects:

- Successful targeting of inspections on higher defect-risk vehicles will detect more defects which presumably will be subsequently rectified, reducing the crash risk.
- Successful targeting also encourages operators to comply by creating an incentive to avoid being ‘targeted’ — operators who use heavy vehicles with a higher risk of defects will be more likely to be caught and issued with fines or defect notices.

While the regulator would incur costs to establish and maintain the risk-based approach, the specific impact on the number and type of inspections (and therefore costs associated with these) is unclear.

The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

That said, assuming this option means the same number of inspections is undertaken but they are more targeted on vehicles and operators with a higher risk of defects, then this option should improve the effectiveness and efficiency of the inspection regime.

The result of this should be more proportionate compliance and enforcement activity and ultimately improved road safety outcomes.

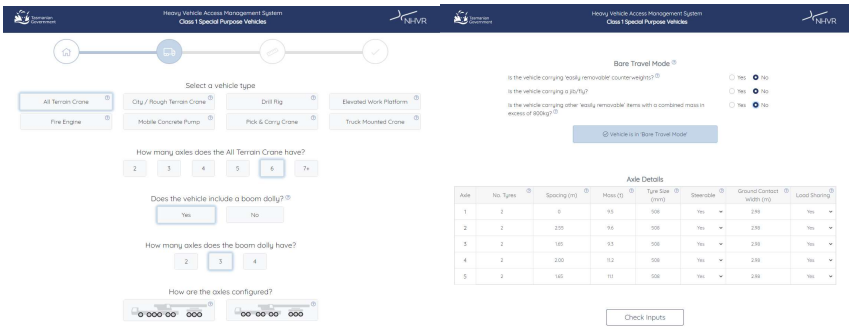
The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

# Attachments

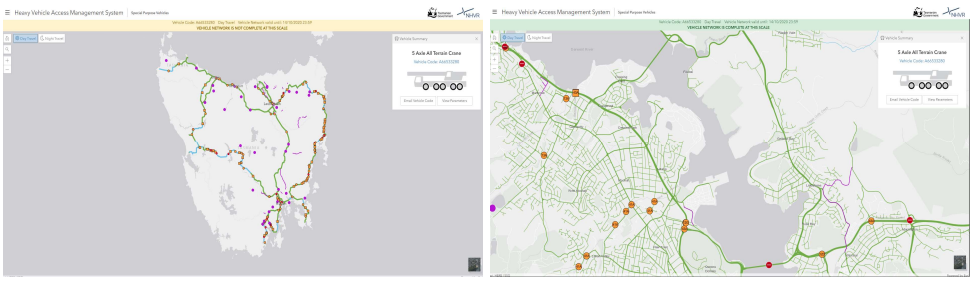
## 1a: Tasmanian approach to SPV access

As part of this submission CICA would like to take the opportunity to highlight the benefits of the most innovative approach to SPV access in Australia. This short summary outlines the best practice approach to access which has resulted in substantial operational and safety improvements to road access.

The Department of State Growth, in collaboration with Tasmanian Local Governments have developed an approach that operates on the basis of customised bridge load effects based on the exact dimensions of individual cranes. The commonly agreed methodology of road and bridge assessments was critical in the delivery of a workable access map that clearly identifies network access on a crane specific basis. The collaborative nature of the work, involving all levels of government and industry facilitated an opportunity to adopt a progressive bridge assessment strategy that deviated from the existing bridge code.




The system allows crane owners to adopt the most efficient configurations, most suitable for the lifting task and allows owners to better understand where and why restrictions are in place across the network.



The Crane Industry Council of Australia
PO Box 136
Mt Waverley, Victoria 3149
(03) 9501 0078
www.cica.com.au
ABN 73 002 565 773
Lifting Industry Standards

The system delivers access certainty for crane owners, safer more efficient heavy vehicle operations for the community, and a more transparent mechanism for compliance and enforcement for road managers.

CICA recommends the NHVR further investigate this approach with a view to national adoption as soon as is possible.

Additional details on the approach are available from CICA on request or by contacting Simon Buxton, Department of State Growth, (03) 6166 3389