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HVNL Review RIS Responses
National Transport Commission
Level 3/600 Bourke Street
Melbourne
Victoria 3000

HVNL Review Consultation Regulatory Impact Statement – RFT Response

Ron Finemore Transport (RFT) welcomes the opportunity to respond to the Heavy Vehicle National Law (HVNL) Review Consultation Regulatory Impact Statement (RIS). This is a rare opportunity to deliver improved safety and productivity outcomes with the potential to greatly assist the Australian community and national economy.

Having said that, it's important to note that such opportunities were also envisaged in the past with the creation of both the National Road Transport Commission (NRTC, now NTC) (1990's) and the National Heavy Vehicle Regulator (NHVR) (2012). In my view, due the state agencies being reluctant to let go of the past, neither have fully delivered on the promise they offered. We need a better result from this HVNL Review to ensure we move away from over regulation and over prescription to achieve agreed safety and productivity outcomes. This past approach is a hangover from when road transport was over regulated simply to diminish its ability to compete with other modes, surely that time has passed!

The RFT response to the Consultation RIS is structured in the following way:

- Firstly, I've provided a series of eight guiding principles covering the reform fundamentals that I consider need to be addressed as part of the Review process (either addressed in the RIS or not). These provide a broad framework for successful reform and underscore the importance of all parties seizing this unique opportunity to take a modern, updated and realistic approach to updating the HVNL and associated matters – if we don't get the principles and the framework right, then what follows will again be flawed.

- Secondly, I've provided feedback (in attachments) on key areas of the RIS where I believe the greatest positive change to safety and productivity can be made. Let's remember, optimising productivity is not a dirty word and if done correctly, will deliver better, not worse safety outcomes.

To restate the obvious, the current HVNL is outdated and relies too much on prescription, outdated systems and controls rather than pursuing flexibility to deliver better safety and improved productivity outcomes. The current Law inhibits rather than fosters the delivery of efficient outcomes for our most important land transport freight sector. The Australian economy and most Australian industries are far more reliant on road transport than those in other countries, so it is beholden on governments and industry to pursue a HVNL that better supports this vital service. This is especially the case for rural and regional Australia which rely on efficient road transport services and are more heavily disadvantaged if this outcome is not achieved.

This means we can't afford to simply tinker at the edges and then hope for better outcomes, we need to pursue positive fundamental changes. We cannot accept a "more of the same" outcome that will no doubt be proposed by some. As a lead bureaucrat recently said, "*we need to overcome the reluctance to move away from the incumbency*" recognising this applies to governments, industry and some third parties who have a clear conflict of interest.

I would have liked to see more concrete policy options covered in the RIS papers especially after the comprehensive process the NTC went through last year developing and seeking responses to issues papers and engaging with industry on key issues. I'm not sure the RIS provides substantive progress and sometimes I feel like we're treading water which in turn might force us into the wrong decisions (or no decision at all) simply due to "discussion fatigue". I also note that many good concepts were identified in responses to the issue papers. I have avoided simply replicating my previous comments and do hope these are not lost.

Finally, after receiving responses to the Consultation RIS, I encourage the NTC to take the time to properly engage and workshop more definitive key options (particularly how they can work in a practical sense) with industry before probable changes to the Law are further developed.

Again, I fear that the state bureaucracies and other agencies are already heading done a path that will lock us into what they want rather than necessarily delivering better outcomes that are desperately needed.

Guiding Principle One: Let the Regulator regulate – and then hold it accountable

The perception I gain from reviewing the RIS is that in some key areas it proposes a "half-way house" or "more of the same" outcome rather than deliver a strong reform base for the future. This appears to be focused on appeasing some industry participants or the state regulatory structure. We must avoid this - we can't have an each-way bet and pretend we've hit the bullseye in pursuing the opportunities the Review has provided.

Sustainable and deliverable safety and productivity gains are achievable if we:

- Allow the regulator to do the job it was set up to do and not second and third guess outcomes by diminishing its authority and ability to move in a realistic time frame to pursue improvements in the ever-changing environment in which the industry operates. We cannot afford for state agencies to continue to weaken the development of a nationally consistent approach in key areas by having the authority to develop alternative approaches and thus undermine gains.

- The Law must be framed in a way that encourages and rewards industry operators who invest in better outcomes with greater flexibility and ownership of the risk parameters. I strongly believe flexibility needs to be earned, not just granted and that it needs to be achievable for small and larger operators. In this regard, my 50 plus years of operations tell me most of the high-risk challenges lie in the prescriptive tier (of the proposed risk-based model) yet I see many examples through the RIS that propose to provide benefits to those in this tier who do not make the investment to improve outcomes.

To achieve better outcomes, it is essential that the states support the regulator in pursuing more consistent and effective outcomes. This means building better trust and cooperation. It must be clear and justifiable where states want to retain control over any aspects of the heavy vehicle freight task – and this needs to be a rare exception, not the rule. This must also be a transparent discussion with an objective consensus reached; continuing multiple approval processes and confusion for industry will remain if it is not. For example, I note it is proposed that the

development of codes of practice can be undertaken by states and the NTC as well as the regulator and that these will require the states and sometimes, Ministers, sign-off. Such an onerous approach takes us back to pre HVNL days and diminishes any benefit the new law will provide. Such things should sit in a central location with the NHVR and any state wanting to introduce a code must do it through the NHVR.

Guiding Principle Two: Delivering a better and more professional road freight sector also requires essential reform outside the HVNL including driver licensing

The HVNL doesn't work in isolation; we also need complimentary changes to other policies and systems that support the modern intent of the new law.

In particular, if we are to see the road freight sector as a safe, viable and professional career option for school leavers in the future, we must also deliver reform as soon as possible in the heavy vehicle driver licensing area.

Foremost, this needs to ensure drivers are developed and recruited based on competency rather than an age or time-related scale (which doesn't necessarily mean capable). The current system contributes to truck driving being viewed as a career of last choice; something people return to if other options fail simply because they couldn't progress as school leavers. This age discrimination needs to be removed and a more flexible arrangement put in place. Perhaps this could be trialled in the tier two or three categories of the proposed risk-based model, where companies can demonstrate they have the appropriate training and risk controls in place.

If we want a professional and safer workforce to be attracted to the industry, we also need to ensure the administrative and minor record keeping offences and the related monetary penalties that are currently applied to drivers are completely removed. No family can afford to have the main bread winner financially penalised and their licence put at risk simply because they made an administrative error. More than this, the financial disincentive has a significant impact on the mental health and wellbeing of drivers, which we know is becoming an increasing safety risk on our roads.

These changes will require a major re-think about what's high risk on the enforcement front and the appropriate changes and cultural adjustment required to be made.

Guiding Principle Three: **The highest safety risk mainly lies in the prescriptive tier – this should mean less not more flexibility**

It is important we realign the current perception of what is a high-risk operation versus low risk operation. I agree with the three-tier system provided we get the right graduation in each to reflect the greater transparency and responsibility operators are required to take. At the moment, the more transparent we are, the easier it is for enforcement to target and pursue – and unfortunately the perception is that this is what happens rather than these resources being encouraged to pursue the more difficult task of identifying those who operate under the radar and outside the Law with relative ease. This includes increasing and/or refocusing resources under the Chain of Responsibility (CoR) to identify customers who still do not work within the Law.

All the discussion about enrolment, operator licensing and accreditation may excite some in bureaucracies but not many others in my view. I fear enrolment or operator licensing schemes will simply become an added cost for those in industry doing the right thing with little benefit for government or the community. Let's keep it simple.

I'm concerned the RIS suggests more flexibility for tier one (prescriptive) operators where the biggest and highest risk actually lies. This is where we see the vast majority of operators, whether for genuine reasons of simply wanting to be told how to operate or because this is where they can operate under the radar with little chance of detection.

I understand why many do that because it would be impossible for some small operators to operate commercially if they had to put up with the bureaucratic delays we do. As an example, all our 280 plus prime movers are required to operate under a permit of some sort – this is madness. In addition, RFT has five staff just dedicated to looking back over work diaries to identify any minor errors that might have been made. Why, because this is what the enforcement authorities often focus on and it is an integral part of accreditation

The danger is that if we proceed to provide more rather than less in this first tier, the rewards that encourage investment in safety just won't be there for many. In saying that, it is also essential the three-tier framework is easy to use and encourages compliance and investment, not the opposite as we find it today.

Companies like RFT want a highly transparent, flexible and cooperative arrangement with our regulators and customers that delivers the safety and productivity outcomes we all want to deliver – this is a low risk environment.

We have made a huge investment in safety (and in doing things more productively) but receive little recognition and support for this in a regulatory sense. Two key examples of this amongst many are:

- we have seen very little interest from state agencies in working with us to maximise the benefits from fatigue and distraction detection technology which I believe is the single most important safety initiative I've seen in my career of nearly 60 years in the industry. They save lives.

- The second example relates to improving access and achieving greater productivity with new innovative vehicles. Again, we have invested heavily in design and development to recently see the latest investment in modern equipment sit idle whilst local and state agencies drag the approval chain despite successful trials.

The system doesn't support innovation. Rather than embrace it, added layers of bureaucracy creates a disincentive with the industry to pursue improved outcomes and its effectiveness stagnates.

Put simply, the enforcement and compliance efforts should be risk based, identifying and targeting those with higher safety risks and then work more cooperatively with and not against those who offer transparency and strong evidence of effort and investment.

Guiding Principle Four – The chain of responsibility (CoR) concept needs to work to deliver better safety, not against it

I've been a big supporter of CoR from its pre-birth through to today and agree further enhancements can be made.

Firstly, I agree others such as manufacturers and repairers should be specifically included. They are perceived to be responsible for some unsafe outcomes and their inclusion here will provide an avenue for recourse and perhaps encourage greater awareness that their actions have on safety outcomes, similar to what I've observed with many customers. The truck is a driver's workplace and they should have the comfort (along with other road users) in knowing that they are working in a safe and reliable operating environment.

I also believe drivers need to be held more accountable (along with others in the chain) for safety outcomes. Specifically, greater focus should be placed on drivers taking more accountability for fitness for duty, specifically meeting their sleep and health obligations. It's not increasing the length of the continuous rest period that is required here (as suggested by some) but rather drivers understanding the importance of how they use time within that period – fitting sleep around personal wants does not necessarily meet that test. Yes, drivers sometimes work long hours and in return, get paid well to do so. Like other professions, there are responsibilities and disciplines that come with this key aspect of safety and we need to do more to educate drivers without increasing their anxiety created around the current counting time regime.

My biggest concern with CoR is the way customers interpret it and where they think they may be held accountable which inadvertently leads to unsafe outcomes. The example here is vehicle weights and the use of weigh bridges by some customers. The inaccuracies of public and government weighbridges were recognised by governments 15 years ago and a mass measurement adjustment process was introduced for use by compliance officers.

Unfortunately, this same adjustment is not allowed to be used by customers (who also have the same weighbridge inaccuracies) leading to driver frustration and anxiety caused by delays and the subsequent increased safety problems. These delays can have an adverse effect on fatigue and a driver's wellbeing, which then poses greater safety risks. This is an example of where the CoR Law needs to provide sensible and flexible guidance, the pub test you could say, so freight efficiency is maximised without compromising safety.

Guiding Principle Five: governments need to match the industry with modern and effective up to date systems

I continually see several state agencies struggle to manage the modern data management requirements essential to meet and improve the operation of road freight services.

Like my business, I understand the huge investment required to deliver this outcome but I expect governments to apply the same standard to themselves that they demand from me. This particularly applies to vehicle registration where my perception of the proposed "enrolment" concept is that it is just another system and cost to cover the inadequacies of what the states should be able to collect and provide with truck registration, rather than asking me to manage another government input requirement.

The heavy vehicle industry is made up of professional business entities and should be treated in this way. As a first step, if the states cannot update their systems, then a national registration system that separates truck and light vehicle registration should be pursued. This will ensure information related to professional entities can be collected in one location without the need and costs of duplicate systems.

Guiding Principle Six: better safety is the priority and overrides any perceived privacy concerns

For decades, we have argued the complying safety case for real time access to information on drivers we employ when they are driving our trucks. As a first step, NSW has done some good work in this area (Heavy Vehicle Operator Safety Information Program) which should be made national and then enhanced. It is totally false to claim that privacy concerns somehow override the safety benefits and companies knowing the status of their drivers licenses without relying on them to advise us. Surely operators should be advised when their vehicles are involved in incidents where infringements are issued or proposed. Governments ask us to advise the driver of a vehicle involved with speed and red-light cameras – the same courtesy and safety outcomes should be the case with drivers of our vehicles.

Guiding Principle Seven: Coverage of the HVNL extended to cover more vehicles

I believe that key fatigue management aspects of the HVNL need to cover more of the industry, including taxis and perhaps even car drivers (this is particularly relevant when we are discussing the importance of a greater focus on fatigue training).

Compliance figures are showing that increased issues are occurring in the lighter vehicles fleets and more focus needs to be on the training required in this category.

Guiding Principle Eight: the approach to enforcement must be updated to focus on high safety risks

There is much opportunity to reform the HVNL and associated matters but any success in doing so will be severely diluted in my opinion without a fundamental realignment of the enforcement effort to prioritise the focus to high risk activities.

Yes, there are some good signs included in the RIS, for example, moving away from the prescriptive counting time regime to a more realistic and safety- based approach. Having said that and in looking at the Review in total, I have not seen a concentrated focus or paper which addresses enforcement as a fundamental of success reform.

To do this, confidence and trust needs to be built with agencies responsible for enforcement that the Law will be better focussed on addressing high-risk activities including moving away from the current focus on minor and administrative type sanctions. This will in turn build confidence within drivers and companies alike (and customers too) that the Law will support you if you can show you are trying to do the right thing rather than being targeted for minor record keeping type infringements.

Enforcement agencies would also benefit from being kept up to date on the efforts industry is making in areas such as fatigue and distraction technology and the massive benefits these devices can provide. They provide a whole new level of transparency and as I say elsewhere, it's been disappointing to see little interest in this game changing technology from bureaucracies in general.

Overall, there are many examples where the current approach could be vastly improved and better enforcement outcomes could be achieved by focussing on higher risk practices which would underpin the success of reform. I suggest establishing a small high-level group (which I'd happily be involved in) to explore these critical issues more fully.

Key Areas of the RIS where further comment is provided

The attachments to this letter cover the second area of feedback mentioned in the opening to my letter specifically:

Attachment A: Fatigue (Section Eight)

Attachment B: Access (Section Nine)

Attachment C: Assurance and Accreditation (Section 7)

Attachment D: Safer Vehicle Design (Section 10)

Attachment E: Technology and data (Section 6)

Conclusion

As with all these type of consultation processes, much effort is undertaken by industry to respond in a meaningful and helpful manner. I guess history tells me that greater forces sometimes undermine this effort and better outcomes are foregone for all the wrong reasons.

I sincerely hope that this is not the case with the current HVNL Review and governments can genuinely embrace the need for positive change and embrace a modern framework to underpin this vital Australian service industry.

Regards

Ron Finemore AO
Executive Chairman

Attachment A: Fatigue

OVERVIEW

Identify the problem we are trying to solve would be a good start point

We can unanimously agree that the current system of simply counting work time is not an effective measure in managing fatigue nor does it provide a focus on the safety risk related to being fit for work. The question then becomes "where to now" to ensure we pursue initiatives to encourage operators and drivers to address the risks associated with reducing fatigue related incidents.

It's been satisfying in more recent times to see state road safety centres acknowledging and stating that the majority of heavy vehicle fatalities are the fault of the other vehicle. This also applies where "fatigue" is identified as a factor. This followed a long period where "fatigue" was reported as a major cause in fatalities involving heavy vehicles without explaining this point. This created the perception that the heavy vehicle industry was not to be trusted including driving whilst fatigued.

So, the question becomes "what are we trying to address" with respect to fatigue and I consider this all comes back to "fit for duty" and a shared responsibility to make substantive progress in this area. This includes embracing change in a range of areas including but not limited to fatigue training, driver medicals, and greater use of fatigue and distraction detection technology (noting a high percentage of incidents are actually distraction related not fatigue).

Remove all the anti-driver sanctions in fatigue Laws to help with retention and recruitment

Unfortunately, the current fatigue Laws have many negative aspects that have delivered unintended consequences. No better is this borne out in the fact that it is extremely hard to identify any fatigue prosecutions in recent times being prosecuted through the Courts. This is opposed to the tens of thousands of (unnecessary and unjustified) financial sanctions imposed for minor work and rest hour offences.

Apart from the lack of fatigue prosecutions which brings the Law itself into question, there are many other negative consequences, including, amongst others:

- The perverse outcome of an increase in driver anxiety and associated safety risks driven by the rigid counting time requirements
- The difficulty in retaining (and attracting) good drivers simply because they cannot afford the possible financial risk involved in sanctions for making administrative errors
- The extensive industry resources (we have five staff) involved in non-safety related tasks looking in the rear vision mirror at work diaries for minor recording errors, rather than being deployed in positive fatigue management activities
- The belief within enforcement authorities that they are improving safety outcomes by counting time because that's what they have always done.

This brings us to look at the options to answer the question of what it is we are trying to solve? I will use our own initiatives to help address this.

Embrace fatigue and distraction detection technology – the industry has

Firstly, RFT has made a substantial investment in its safety systems to assist in ensuring our drivers are fit for duty and to not drive when fatigued. We look to ensure they are as safe as possible and along with the rest of road users, get home to their families safely.

Secondly, in 2017, we were an early adopter and invested in Fatigue and Distraction Devices (Seeing Machines) which has in my view been a massive positive game changer in improving safety.

The industry has embraced the opportunity these devices provide with increasing numbers of operators using them and for the first time, as well as helping prevent incidents before they occur, we can now clearly identify what has happened when they occur rather than being "forced" to accept the usual enforcement response that it was "a fatigue event".

Sadly, my perception is that despite the massive industry investment and the obvious benefits of this equipment and its capacity to save lives, the Law and most authorities have shown little interest and not responded nor embraced its effectiveness.

RESPONSE TO SPECIFIC ISSUES RAISED IN THE RIS

Risk based tiered concept

The three-tier approach is supported providing that a clear and realistic path to progress and reward is provided.

Vehicles or drivers

Everyone who drives a vehicle that weighs 4.5 tonnes or above should be covered by fatigue management requirements. I have no preference on whether this is driver licensing or vehicle size option based except I see problems if for example, an HC licensed driver is driving their car. This distinction would need to be made clear.

Fatigue training for all

We should take this opportunity to introduce mandatory training in fatigue management for all drivers of vehicles 4.5 tonnes and above.

Remove 100 km work exemption

Providing various and flexible options such as templates or technology (EWDs, FDDTs) options to record work and rest should remove the need for any exemptions as all operators are currently meant to maintain some type of records. It will be interesting to see the arguments that come up against record keeping. They should be easy to counter IF we provide a flexible enough approach to managing the risk in each tier.

Ensuring the new Law is fatigue related and not simply about prescriptive minute by minute record keeping and the associated administrative sanctions should help remove objections. I say "should" ……

Tier One – prescriptive – should be less not more

As outlined earlier, this tier should be about less not more and in responding to the specifics in the NTC "A Better Law Scenario":

- *Record keeping* whether it is 6, 60 or 73 hours, some type of record as outlined above should be available. If we make record keeping reasonable, then only the unreasonable or those who wish to operate outside the Law should perceivably have problems. If we provide too much flexibility then we will see an increase in drivers operating in the category where work diaries are not required.
- *Work, driving and hours of duty*: in line with the principle that we want to improve safety outcomes, tier one should be about less flexibility not more. Therefore, I cannot support the concepts outlined which in effect:

    - increase the work time for drivers to 84 hours in a week (within the 144 hrs fortnightly limit).
    - Provide some flexibility to push out to 13 hours driving (one day a week)
    - Removing the restrictions on night time driving
- *Continuous rest break*: I would support increasing the continuous rest break in this tier to 8 hours only for a reset and not every day. If this was the case, I would support the reset occurring and being allowed to drive again under the concept outlined. Removing the 24-hour rolling counting time requirement would be strongly supported by most as it is one of the biggest frustrations experienced by drivers and others, but we need more consideration of the best way to do this without negatively impacting safety.
- *Four hours continuous driving*: I support this concept; I think it is a good principle. But to ensure its validity, the break (whether checking vehicle or going to the toilet) should only be a minimum of 5 minutes and be the exact time taken. It should be a reset opportunity, not one that creates frustration or is a target for enforcement.

Tiers two and three

These should involve obtainable and rewarding graduations of flexibility to encourage investment by both small and larger operators to improve their systems and safety.

These tiers should require outer limits, however provide increased flexibility for operators and drivers to better manage work and rest hours within these limits.

Attachment B: Access (Section 9)

OVERVIEW

All our 280 + prime movers require permits

A good start point to my overview on access is to repeat the point made in my opening observations that every one of our 280 plus prime movers is required to operate under a permit (or multiple) of some sort.

I don't consider many of these permits are necessary and none are related to high risk operations (which is what the system should be focused on). Rather, they seem aimed at supporting the status quo under the false impression that permits somehow help road managers better maintain their asset by having more transparency on usage. I'd hate to think how many people in the NHVR, state authorities and local councils are employed in simply paper shuffling and re-issuing what I consider useless permits rather than being involved in proactive roles that assist in improving productivity and asset management.

I haven't found anyone who can explain the lunacy and massive costs associated with the current system. The response is usually a shrug of the shoulders and grudging acceptance that the system is broken but the will to fix it doesn't exist. There should be less permits (high risk or new combinations only) and permits should be for three years (not one) and if no issues, gazettal of routes should ok (negating need for a permit).

The costs of the current system are huge – both for the regulators and industry with little benefit

The flow on costs for a company like RFT relating to access get incrementally worse, not just for our company but for our customers and the Australian economy because we are a service industry and our customers ultimately pay the cost. This starts with having the resource available to apply for and maintain currency with all permits. This is complex and requires continual changing as there is no obligation on councils and third parties to reply to requests in a reasonable timeframe, if at all.

The next resource requirement relates to ensuring an up to date copy of each one is in the relevant vehicle (280 plus of them) in addition to the complex requirement to then train drivers to be able to locate the right permit on the road when requested to do so.

Specific route reservation proposal is a huge step back in time

I notice the RIS (p 141) mentions freight reservation on specific routes to a certain mode should be considered. This makes me wonder if anyone involved actually understands what goes on or has visited operators and looked at the overall issues involved. Suggesting we go back to the 1950-70s period and re-consider freight reservation creates the perception that the writers have little understanding of the critical importance of efficient and timely freight movement and supply chain efficiency for the Australian economy.

Tell us where we can't go (high risk) and substantially reduce the number of permits

Finally, we currently have a Law and system which encourages operators to opt out rather than comply with access requirements. A large majority of the freight task is arranged on a day to day and infrequent basis particularly in regional and rural areas. This means the current difficulties in seeking access permission sees operators simply run under the radar with little chance of detection and no real infrastructure implications. If an operator says no to a customer, the next one will probably say yes. We're kidding ourselves if we think that customers and their

transporters have the luxury of a 28-day timeframe (and sometimes longer) to seek access permission, this simply doesn't happen in many cases.

Perhaps we should also think outside the square here and allow users of freight transport services to apply for access to their premises or properties which can then be used by appropriate transporters (rather than multiple transporters applying for access to the same place).

Surely our vision should be to identify the high-risk assets and tell operators where they can't go rather than hiding behind a system that plainly doesn't work. The "softly softly" approach suggested in the RIS in relation to possible improvements tells me no real change is proposed except perhaps some minor improvements for those of us who for various reasons, need to engage with the outdated permit system.

Finally, I was disappointed when I read that the RIS suggests road managers don't want any legislative obligation or sanction put on them to respond in a certain time, this further underpins the point that hard decisions need to be made about what permits we really need into the future.

RESPONSE TO SPECIFIC ISSUES RAISED IN THE RIS

A general move to CML weights

We should move unilaterally to CML weights. This might not be in RFT's own commercial interests given our huge investment in HPV's but it would be good for the Australian economy. And don't play at the edges with enrolment or on-board mass weighing idea. Any such requirement would just unnecessarily increase costs with few benefits and in many instances in my experience, the latter simply doesn't work in many situations (except ideal flat surfaces).

In applying broad CML access, further productivity benefits need to be considered for tier two and three operators who are investing in safety technologies and practices.

And please, let 20m PBS vehicles operate at CML and HML weights. PBS vehicles are found to be safer than their conventional equivalent and the restriction to GML cannot be justified in any terms, definitely not safety or asset protection ones.

Increase length to 20 metres

I have no issues increasing length to 20 metres for everyone including sleeper cab purposes so long as these vehicles meet a performance standard such as the PBS swept path requirements.

I also note there are various options re allowing length increase canvassed in the RIS, some under a new category titled "enhanced general access". Surely, such provisions should be standard focussed and only allowed in tier two and three so we clearly encourage operators to invest in safety. These provisions should not be prescriptive but allow the NHVR and operator to develop packages that suit different circumstances.

Improve the access decision making process

No matter how many times I read the options in the RIS, I don't get the sense that real change is being proposed to move forward and improve current practices. The radical option (which isn't really radical) is to tell operators where they can't go and remove all low risk permit obligations. This could be coupled with allowing tier two and three operators to take greater responsibility and provide more transparency regarding access on the routes they are using. Let's remember, we have a massive investment in equipment and aren't in the practice of sending trucks to places where they shouldn't go.

I fully understand that the large variety of vehicles and classes make setting rules very difficult so the question is why do we try, apart from better managing high risk operations or assets (e.g. cranes). As I've said, the reality today is that most small operators don't have the resources to do what the system wants so just get on with the task. Unless we make it easier and efficient, it will only impact those companies who have to or want to do the right thing.

At worst in regard to access:

- Permits should only be required to protect high-risk assets which are clearly designated for all to understand
- A14-day mandatory turn around response time should be introduced for these remaining permits with no response meaning deemed approval, not deemed refusal
- Allow the NHVR to approve access permits that are low risk (whilst we move to ultimately remove many of these requirements) that fit within an agreed envelope (both in terms of performance and/or that have been approved previously for similar vehicles)
- permit lengths should be extended to five years (with opportunity to remove if serious issues arise). They should then be gazetted if there are no problems with the route. This is a no brainer given the large percentage that are approved or re-approved
- there should be transparency when a route is approved so others can also adopt with approved routes then transitioning quickly to gazettal rather than permit approval
- PBS combinations should be covered by a template approach to encourage wider adoption once approved

Finally, whilst we think access decisions are hard to get from road managers, dealing with third party consent (rail, irrigation, electricity as examples) (p 140) is often a nightmare. These third parties often have conflict of interest challenges or they simply don't see access as a priority – they don't even answer the phone!

Therefore, I don't think ignoring them in a regulatory sense as suggested in the RIS is the right way to go because ultimately, approvals are still envisaged as being required from them. We need to mandate that they register their legitimate high-risk assets as should all road managers and then any access decisions should be the responsibility of the operator.

Road Manager challenges and permits

As suggested above, a total re-think of when permits should be required is needed and the future emphasis should be on high-risk assets or tasks and nothing else.

I get it that road managers don't appear to have sufficient access to funds especially at the local government level so don't want to grant access for perceived maintenance costs. Of course, the RIS points to possible charging reform miraculously helping to fix this problem where we know that more efficient use of the funds already collected (supply) would provide the biggest benefit. Everybody knows that a huge majority of the benefits of reform all fall on the supply side and the perception is that governments don't want to touch that without increasing charges. I wasn't surprised to read that government departments and road managers don't want legislative rules to govern their access decisions but rather suggest operational improvements are more appropriate (i.e. there would be no consequences for non-compliance for Road Managers in the Law). This means we'd see little transparency or pressure on road managers to deliver meaningful change into the future.

Attachment C: Assurance and Accreditation (Section 7)

OVERVIEW

To start here, I'll simply repeat what I said in Observation Three, that being that all the discussion about enrolment, operator licensing and accreditation may excite some in bureaucracies but not many others in my view. I fear enrolment or operator licensing schemes will simply become an added cost for those in industry doing the right thing with little benefit for government. Let's keep it simple.

Yes, there are many accreditation options and/or requirements currently in place and a reduction in the complexity of these arrangements should be a goal and should fit within the three-tiered system. I understand some customers require a certain level of assurance as will governments for providing certain flexibility or access outcomes. But please, let companies propose how they should achieve the outcome by providing guiding performance standards with little prescription so we can work with the Regulator to deliver the right outcomes.

Finally, the most important outcome governments can deliver in this space is a common audit structure that can be used by all schemes so that one audit, instead of multiple ones can be utilised.

RESPONSE TO SPECIFIC ISSUES RAISED IN THE RIS

Leave operator enrolment or licensing alone

The best option to address the perceived challenges in this area is to fix current government systems and ensure the data governments allegedly need to provide more transparency is collected when vehicles are registered. It is indeed frightening that a "new" system is being proposed simply to compensate for existing systems not working efficiently. This would be a great distraction for a new bureaucracy and a substantial cost to industry and the economy, similar to the current access/permit systems which deliver little benefit but at a huge cost to the economy. Let's remember, an operator licensing concept sat in the Federal Laws for decades before it was finally removed as there was no justification for its introduction.

Enhance the Assurance Framework with a performance-based approach

By all means look at the best options to achieve more efficiency in this area and I provide some ideas to do this in the Overview section above. The guiding principle here should be to develop flexible performance standards and let companies determine how they can best meet these requirements under a transparent system with the Regulator. The default for those who might want to use it is an improved NHVAS but this needs to be seen as being robust rather than a "tick and flick" outcome.

NHVAS AFM discontinued?

I'm not sure where the view comes from (Option 7.2) that under a performance-based standards approach, that AFM would be discontinued (are we just talking about a title change here?). I see an enhanced AFM style outcome as being easily catered for under the three-tier system coupled with an appropriate performance standard outcome. This might also actually make achieving the AFM type outcome more realistic than it is today.

Get rid of duplicate Audits – this is a key outcome we should strive to achieve

A viable and effective audit framework is one of the most important initiatives the HVNL Review can provide (covered in options 7.3 and 7.4) but I don't see that it is necessary to tie it to one option or another rather than just be a must have outcome. We would make considerable savings if we could have governments and our customers agreeing to an audit framework that meets everyone needs. The costs of meeting multiple audit requirements ensure companies like RFT are in a constant external audit mode year-round with extensive resources required to meet requirements of multiple agencies and customers with much duplication often being the case.

The best option – perhaps multiple schemes as per Option 7.4 or similar to provide flexibility

We are a highly diverse industry and based on this fact, flexibility rather than the one box fits all approach is an essential outcome. Yes, there are core issues that are common but it is important the regulatory framework supports and encourages better outcomes rather than hinders them. Again, we come back to less prescription and not mandating schemes but rather having a performance-based approach that is realistic and encourages investment to achieve better safety and productivity outcomes.

Attachment D: Safer Vehicle Design (Section 10)

OVERVIEW

I've always been committed to pursuing the development and then introduction of higher productivity vehicles (HPVs) which allow RFT to undertake the vital land transport freight task in a safer and more efficient manner. RFT continually invests heavily in this area with the biggest hurdle and then cost coming in the myriad of approval processes we are required to undertake. I have no issue with the concept of seeking approval and I acknowledge the NHVR has done its best to improve the timeliness and efficiency of the PBS process over time.

It defies logic that whilst the NHVR has the expertise to undertake assessments as mentioned in the RIS, they are still required to seek the advice of the PBS Review Panel and proposing companies like RFT or the supplier must also seek independent certification rather than being held accountable themselves. This is another example of the "second guessing" game being played which ultimately allows the old state structures to impede and add unnecessary cost to the process.

It gets even worse from here in that when we do ultimately receive approval and build the vehicle, we are still not guaranteed access despite indicative approval having been provided. This sees costly equipment sitting idle and subject to the whims of the access approver in a timeframe they choose.

RESPONSE TO SPECIFIC ISSUES RAISED IN THE RIS

The improvements outlined in Options 10.1 and 10.2 to streamline the approval process and also create a PBS technology standard seem very positive on face value from an RFT perspective and if successfully implemented, could greatly assist in improving the PBS process. It is important to ensure the Law includes the flexibility that allows the NHVR to move quickly with advances. Removing the second-guessing steps and not requiring Panel approval except in high risk applications would be important. And allowing the transfer of approval when selling PBS vehicles will definitely ensure the correct value is achieved on sale

Option 10.3 to increase width within the PBS process would from my perspective very much rely on a positive safety assessment based on Australian road conditions. I note in this regard that this may be a positive outcome on open road/highway conditions, I have some concerns this may not be the case in some urban areas. The RFT experience has seen that some of the rationale of extra width increase was driven by refrigerated van needs but these have been mainly overcome as design and construction techniques in this area have improved.

Attachment E: Technology and Data (Section 6)

OVERVIEW

I understand and appreciate the desire or need for governments to "control" the type of technology used to deliver outcomes usually under the guise of improving safety, productivity or to achieve other perceived community wants.

What frustrates me most in their attempts to pursue such outcomes is the perceived desire of bureaucracies to "reinvent the wheel" and dictate or too tightly prescribe the technology that can be used. In turn, this then severely undermines the intent or effectiveness of the goal they are trying to reach.

Clear examples of this are as follows:

1) The so called "Intelligent Access Program" (IAP) is a shining example of bureaucracy gone mad in our sector. Through over prescription, this program has over time, severely undermined the Australian economy's ability to deliver the full benefits achievable through the use of higher productivity vehicles under a cloud of complexity and unnecessary costs. To boot, we also had another government body set up to run the program which has resulted in continuing attempts (and extra costs on industry) to justify its existence
2) The introduction of Electronic Work Diaries, whilst being handled a little better through establishing a standard rather than dictating technology, is similarly disadvantaged simply because the Law it is meant to help administer is overly prescriptive. This could in fact exacerbate the existing problem of enforcement being focused on irrelevant and minor counting time sanctions rather than providing a positive business and safety tool.

These examples highlight the reluctance of industry to "trust" government which perversely mirrors the perceived lack of trust governments have in industry based on how these good ideas have been side-tracked to become "white elephants" rather than delivering better outcomes.

If we are to progress in this area, a new commitment and trust needs to be established on all sides to developing a genuine partnership to use technology to access data (in a consistent way) that can assist in delivering better safety and productivity outcomes.

The real truth is that industry is usually way in front of governments in identifying technology gains that will provide more transparency and assist in achieving safer and more productive results. Governments then look to join the field, not by embracing a flexible and partnering approach that leverages industry's existing massive investment, but rather looking to dictate and undermine this investment through over prescribing behind a "we know best" and sometime arrogant attitude. When pushed, the justification for their approach is usually based on an alleged resistance from enforcement authorities, in particular the Police, to a partnership. I simply don't believe this is the case and that we are missing huge opportunities with this "divide and conquer" philosophy.

RESPONSE TO SPECIFIC ISSUES RAISED IN THE RIS

HVNL should be flexible in allowing new technology to be embraced quickly

There is no doubt the Law is deficient in that game changing safety technology such as fatigue and distraction detection technology cannot be recognised. Indeed, it is an indictment that we are still waiting for the current Law to be amended to recognise this technology and the huge safety benefits it can deliver.

TCA or NHVR to set standards – why do we need an assurance provider?

I've said it before and I'll say it again, we need to let the national regulator regulate and hold it accountable for delivering agreed outcomes. This extends to this area and any remaining TCA type functions should in future be handled by the NHVR.

A key goal of the HVNL Review must be to reduce the red tape in this area including removing the need for technology to be certified, rather this should be left to the provider and user to be accountable for delivering the outcomes specified by a standard. This should also be the case with the costly process of assessing PBS vehicles, it beats me why governments think they can do this role in a timely and effective manner when history shows on a number of fronts that this isn't the reality.

I note that the high-level assurance role is justified on a risk basis and cites prosecution evidentiary needs. It's ironic that this is the justification given I cannot remember (and I'm happy to be corrected) any prosecutions under IAP or for that matter, alleged serious fatigue offences that relied on data assurance for their base.

I do understand governments (and industry) want data available in a useable format but instead of pushing the problem to the technology itself, we should be looking at establishing core data requirements and then building interfaces so different systems can feed into a common base. This seems possible for revenue collection on toll roads, can't we do it here too without being over prescriptive?

Paper in Vehicles – let's use technology please

It's a nightmare for everyone involved to ensure all the relevant paperwork relating to compliance is in a particular vehicle and up to date. This adds another level of complexity and then anxiety to the driver to fully understand everything they are required to hand over when requested on the side of the road. Indeed, I'd go as far as saying that it is impossible to achieve full compliance.

As a principle, I don't believe it's necessary to have most information available at the road-side, either paper or electronically, it's very hard and costly to achieve this outcome. As a start point, this should not be required for tier 2 and 3 operators, rather the request should go to the company to provide if required. Indeed, we could work towards modernising the government systems so they can identify from their own systems in real time that the requirement has been met. Afterall, the permit or requirement will have been issued by government in the first place. For example, the NSW Police have real time access through ANPR to a lot of information around registration, can't we link more requirements to this process?