

Question 1: Have we covered the issues with the current HVNL accurately and comprehensively? If not, what do we need to know?

The one thing missing from the discussion paper is a need for first-hand experience in trucking from policy makers, enforcement, academics, employed association representatives and politicians. It is vital that the theory and science and data is viewed and understood along with the reality of being inside a heavy vehicle regulated by HVNL.

Some of the people at the heart of the policy creation and discussion have had some limited exposure but the majority have none. No piece of research in my opinion is credible until operators are both surveyed, quoted, consulted and those tasked with drafting changes and modifications to HVNL have been in a heavy vehicle for a substantial period to experience the real issues, in this case risk-based regulation but fatigue and lack of infrastructure is perhaps the most valuable situation to experience as it affects risk and other HVNL issues at every level.

I also want to support the submission of Rod Hannifey and express my concern at the length of this discussion paper and the next; and the likelihood that the majority of drivers and operators will not have sufficient time or motivation to respond. I discount the belief that Associations can solely do this on their behalf, there should be no requirement for operators/drivers to use an Association, in fact the majority of small transport operators I would say sit outside Associations. I urge the NTC and other bodies to ensure there are face to face opportunities OUTSIDE of Association events for operators and drivers to give their feedback in person, unfiltered and in ways allowing less formal discussions. These should be along the lines of meetings and workshops held in big regional centres and capital cities and taking into account freight network intersections or events eg Brisbane Truck Show.

Also reading and writing literacy may be a barrier to many people and the written format of online comments and submissions works against these barriers. Many people have not used online forums and signing up to use the microsite is also likely to put older operators off. The requirement to use smartphones or digital devices to access information also excludes people in our industry.

Question 2: What does the current HVNL do well? What should we keep from the current law? What do non-participating jurisdictions' regulations, or comparable regulations from other sectors, do better than the current HVNL that we might incorporate in the new law?

The current HVNL is problematic and I choose to highlight a small number of the many issues:

- Transparency – enforcement and policing requires that police and road managers understand heavy vehicles, but there is very little transparency or room to question infringements. Fighting an infringement in court is costly, and operators and drivers will generally pay a fine vs fighting it even if they have evidence they are not at fault or guilty. Some operators may use associations or unions to help them but often the advice is the same, time off the road is money out of a person's wallet and affects their business, their family and their budget. This is discussed more in Q10.
- HVNL is not national, and I don't think that I need to add much other than to say that the current transport industry is experiencing more movements cross border than ever, and the stress of dealing with cross-jurisdictional requirements makes life very hard for small operators and affects productivity in the rural and livestock sector. Work is more likely to be undertaken by bigger fleets with employed loading/compliance managers or using consultants.
- We need so much more education and reference material on the HVNL. There must be guides for transport operators and drivers that outline all of the HVNL, not just some pages in the Work Diary. If operators and drivers are to follow the law, then there must be educative materials of all types available, with clear easy to understand information. It is not acceptable that sometimes

enforcement officers disagree on the law or may give different advice or don't have a shared agreement of the whole HVNL, this is unfair to them, and to operators. People want and need legal clarity. By reducing the size of the HVNL and its complexity, everyone benefits. Resources and training will be key to any changes, for operators and enforcement.

- Many people refer to the WA system as one to aspire to, that it offers flexibility. I have no experience in WA, but if there are other systems where transport occurs within legal bounds but offers productivity benefits and safety is not compromised, then they all should be considered seriously, without worrying about how large a change that might be or how it may be perceived.
- Guides like the NTC Load Restraint Guide are useful but there must be free education and resources to accompany this and other guides. It is not appropriate to have RTOs charging high fees for courses, operators want certainty and value for money. They also want advice from those who fully understand the complexity of loading steel or cattle for example. Enforcement need to be part of this educative process for industry to give it authenticity and to test the guidelines and information provided.
- Regulatory burden is high and the worst impact is on small operators and owner drivers with one to 5 trucks. Small operators form the backbone of the transport industry, especially in the rural and livestock sector. All attempts must be made to encourage and preserve small operators in the supply chain.
- I believe that the NHVR consultation with industry has been a revolutionary change, but this must continue and expand. There is a little too much focus on Associations, I am a big believer in people being encouraged but not forced to join to have a say. Whilst associations do represent an easily accessible avenue to industry, the consultation must attempt to address those outside Associations to ensure that the full size of the problem is addressed and laws are adequate.
- HVNL and how it relates to road safety must be de-politicised and removed from manipulation by political or social bias if we are to keep road users safer. The work of NTI on the fault burden (or lack of) from heavy vehicles in serious road collisions is important and worthy of more study. If we are to follow the bicycle-lobby logic, then victim blaming truck drivers for all collisions must stop. Yes everyone must take care, but other road users must respect heavy vehicles and drive and use roads more safely around them, transport operators cannot carry all the burden of care. There must be onus on education and behavioural change, there must be TV and media campaigns and driver education to properly and authoritatively educate the public and young drivers about heavy vehicles and to own their safety when interacting. Education must come from enforcement bodies and police not industry to have credibility with the public. Vulnerable road users are physically vulnerable but if we measure vulnerability also taking into account the stress level and trauma on truck drivers not at fault in serious collisions or who are left without support after trauma or whose business is investigated or driving record is delved into even if clearly not at fault, then vulnerable is more complex than big vs small. Vulnerable is also about who is most likely to be impugned by media, public opinion and enforcement as a quick fix to a more complex issue. I question using the phrase, "Heavy-vehicle-related road safety", it is road safety plain and simple, heavy vehicles are just one party on the road.

Question 3: Do you support using the proposed risk management approach to test current policy and to develop and test policy options? How can the proposed approach be improved?

I think Risk management approaches are appropriate, given once again the opportunity for actual operators to help design the risk management theory/triggers/layers. The controls must exist and be reasonable, there is little point creating risk controls on a matrix if current scenarios mean there is a gap. An example is the difficulty the NHVR currently have communicating with some LGA and real time delays to OSOM or even basic loads of time sensitive freight. If the risk controls don't work in the real world, they should not be instituted into policy or law.

Question 4: Does the object or scope of the HVNL need to change? If so, how?

I believe that if the object of the HVNL is to ensure safety and productivity and regulatory efficiency then it is going the right direction. However, it is the other layers of bureaucracy and financial and political interest that muddy the waters. The HVNL must be able to be implemented with operators being reasonably able to fulfil its requirements eg current fatigue requirements with little provision of parking bays across Australia set operators up to run over time or drive tired or try to beat cameras to rest spots with food or space; or else we should just stay where we are with the current flawed system which we know is flawed but we are at least familiar with its (many) limitations.

Question 5: Do you agree that national consistency is a goal that we should strive for, acknowledging it may mean compromise for participating and nonparticipating jurisdictions alike to be nationally agreeable?

National consistency would be very useful, especially in times of emergency, drought etc. The example of agreed drought hay arrangements from the NHVR was welcome but nearly too late for huge hay movements across NSW and Vic and SA borders. There needs to be some trigger to allow this work to be easily expedited in extreme drought or national emergency. Consistency is important but rural Victoria is not remote NT or WA, and so I can see the need for both some complexity and flexibility so operators are not mandated to arrangements that are not appropriate to climate or road conditions. I give the example of EBS and rural rough corrugated roads and late model Prime Mover suspension and braking capacity in these extreme conditions. In addition the weight arrangements for livestock carrying Prime Movers and Trailers in extreme conditions warrants consideration vs in peri urban or freeway use. Also the provision of adequate sleeping quarters/bunks for long distances in remote unserviced locations and the affect on vehicle length envelopes also affects the rural and livestock sector. Effluent tanks are another issue affecting mass and load restraint, which vary depending on location of transport origin; road types used and markets/destination.

Question 6: Do you agree we should simplify the law by placing obligations as low in the legislative hierarchy as we can? How do we balance agility and flexibility in the law with suitable oversight when deciding where obligations should reside?

Consultation is key, I support that 100%. There must be the ability for low order instruments to help solve real issues quickly for operators as they arise.

Question 7: How do we encourage the use of technology and data for regulatory purposes? What do operators, regulators and road managers need or want?

There is a huge disparity between small operators and large fleets. There must be the ability for operators to use technology but not to be forced to do so. There is no compelling evidence that heavy vehicles with technology are not having collisions, even if some of the risks of big fleet numbers are minimised. There seems little allowance for driving record and experience, and technology is being used as a blanket panacea. With regard to EWD, companies may find it useful to utilise, but don't mandate to a one truck owner operator who manages a written work diary well. I support voluntary uptake but costs of electronic and digital systems, fatigue technology and other regulatory instruments place a highly disproportionate additional cost which only hurts small operators and does not make them safer by default.

Let big fleets use and share their data if they chose, but do not over allocate imagined safety payoffs to the presence of technology and data because they do not directly correlate in the real world.

Question 8: What areas of the current law are particularly problematic because they are process or administration focused? Can you detail the impacts?

The impact of off-road fatigue factors is huge and must be addressed by the HNVL. Flexibility to manage fatigue is key, and experience and safe driving records of many small operators point to them being able to successfully manage delays in loading and unloading without collisions. As Rod Hannifey stated in his submission, the Safe T Cam network sets up a system of chasing points and driving to deadlines rather than encouraging drivers to self-assess fatigue and stopping when tired. Safety isn't compliance, and compliance is not always safe. We must recognise that. Using inflexible measures to control a chaotic system is ultimately going to fail. There is an imperfect world of delays and other parties in transport and despite best efforts drivers are more often than not delayed. If there are literally only a handful of safe places to stop, or legally move a heavy vehicle into, then an inflexible and punitive system of fatigue regulation is bound to penalise every operator every time if there is enforcement present. The goal must be to get the driver and vehicle and load to their destination safely. And this must be done with weighted input from drivers and operators about the barriers not deferring to policy makers and scientists as the 'experts' with a minor or absent real world experience of fatigue and heavy vehicle operation.

Question 9: How could the law regulate heavy vehicles in a way that accommodates diversity, while retaining consistency and harmonisation across Australia?

The key will be listening to operators and designing a system that tries to deal with our road networks, our jurisdictions and freight task. The answers lie with those already doing the work. And once again, getting policy makers and enforcement in trucks to experience the full gamut of the transport industry to then design law and policy around these. Theory and simulation gets you 20% of the way at best.

Question 10: In a broad sense, what tools do the regulator and enforcement agencies need to respond appropriately to compliance breaches? What recourse and protections do regulated parties require?

The penalties should be commensurate with the breach, and the willingness of the operator to comply must be viewed by enforcement as an opportunity to educate rather than punitively punish. I believe that regulators and enforcement have all the tools they need, and I also believe that small operators especially owner operators want to comply and try very hard to meet all rules and laws because their business and reputation and financial survival is inextricably tied to their driving record. I will point to the example given by Rod Hannifey as a text book problem with the current system. It creates stress and fear amongst drivers and real hardship for people and their families and resolving it successfully still impacts negatively on the driver even if proven innocent. All the system often does is encourage compliance but not always safety.

Question 11: How can the new HVNL help to improve safety, productivity and regulatory efficiency?

Without being trite, by listening to industry. I emphasise individual drivers and operators should be given priority with regard to safety and efficiency feedback. Make it easy for operators to talk about issues, fund 24 safety hotlines so operators can report parking bays clogged with campers or a loading facility locking them out when delayed. Ensure penalties up the supply chain are pursued through COR and OHS. Protect the drivers and operators from supply chain pressure. Follow through with COR to those who seek to flout the law and endanger others. Listen to on the ground enforcement who have successful educative relationships with those they police, it is those officers who will be tasked with enforcing the laws that are designed. They have all the experience needed to inform what not to do if we start again with the HVNL.

Question 12: Do you agree with the six draft regulatory principles? If not, why? Are there other principles we should consider?

The six draft regulatory principles are very agreeable. I reiterate the need to consult with operators and drivers at every opportunity. I would add a seventh or the intent of it in one of the existing 6 to emphasise this or make it at least an underpinning framework to all of the process.

Draft regulatory principle 7: The future HVNL should be written and designed based on the real experience and input of transport operators and drivers, as well as the input of grass roots enforcement officers with a focus on addressing real world issues rather than theory. There should be a determination from enforcement and regulators and lawmakers/politicians to defer to the expertise and lived experience of those doing the transport work to inform the realities of how the future law could work and existing law does work in reality. The future HVNL should result from extensive in-truck experience from enforcement and policy representatives across the Australian freight task and continent over a significant period of time. The future HVNL must be relevant to the realities and limitations of the transport industry and not set unachievable boundaries or regulation that operators can never meet or only meet by pressured compliance.