



victorian**transport**association^{inc.}

Response to the National Transport Commission Vehicle Standards and Safety

Submission Number Five

Submission on behalf of the
Victorian Transport Association

August 2019

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3.0 SUMMARY



1.0 ABOUT THE VICTORIAN TRANSPORT ASSOCIATION (VTA)

1.1 Introduction

The Victorian Transport Association (VTA) has over 800 members and is dedicated to the service of members and supporters in all sectors of the transport and logistics industry.

With over 100 years' experience and a specific business focus, we possess the industry acumen, market knowledge and industry contacts that enable members to capitalise on the current commercial and regulatory environments.

Recognised as Australia's pre-eminent multimodal prime contractor and employer organisation in transport and logistics, the association works with all levels of government, the unions, statutory authorities and the industry to achieve mutually beneficial outcomes. The VTA is committed to enhancing the image of the industry while helping improving the commercial environment for our members to operate.

2.0 VTA'S RESPONSE TO THIS ISSUES PAPER

2.1 Introduction

The Victorian Transport Association (VTA) welcomes the opportunity to respond to this '*Vehicle Standards and Safety Issues Paper*' released in July 2019 by the National Transport Commission (NTC). The VTA will refer to this document as Submission Number Five.

The HVNL in its current form falls short of being truly national and is overly prescriptive and complicated. This review (the Review) of the HVNL will have a significant impact on the heavy vehicle industry. It will determine the shape, practices and operational standards within the industry that at times falls short of community expectations and struggles to project a positive culture.

The VTA and its members maintain that this Review must ensure that any changes to the law remain focused upon and are underpinned by three key pillars: improved efficiencies, improved productivity and improved safety outcomes.

It is vital that we confront past standards and legal structures whereby we build a new HVNL framework which addresses the current problems and short-comings and most importantly, ensures that we deliver a far more robust, purposeful and flexible framework in order to meet future industry challenges.

2.2 Approach to the VTA Response

The VTA responded to the initial March 2019 Issues Paper, titled '*A risk-based approach to regulating heavy vehicles*' (referred to as number one submission) and made a concerted effort to include many of its key issues and topics within this submission.



Given the breadth and complexity of this Review, the number of issues involved, the NTC timelines and demands upon consulting and gaining feedback from its members, the VTA will provide more concise submissions for this and each of the future Issues Papers.

Our responses are based upon the VTA's knowledge and thorough understanding of the transport and logistics across different sectors, jurisdictions, government bodies and agencies, as well as, the feedback from VTA members through its well-established VTA Secretariat structure.

The VTA appreciates that 'flexibility' in the new Law is essential. The VTA also acknowledges getting the balance right between flexibility and certainty is paramount.

As already outlined in submission number one, the VTA reiterates the two additional principles which must be included in this Review and they underpin our position in relation to this Issues Paper. The two additional principles included:

- 1) the need for clear and consistent mandatory operational standards in the new Law.
- 2) the new law must apply to all vehicles greater than 4.5 tonnes (GVM).

The VTA also supports the four draft regulatory principles outlined in this current Issues Paper which include:

Draft regulatory principle 1: The future HVNL should promote greater use of vehicles that perform to higher safety standards and deliver productivity benefits. It should support the use of safer vehicles from other markets and recognise and encourage the use of safe vehicle technology.

Draft regulatory principle 2: The future HVNL should support effective, flexible, risk-based maintenance regimes to improve safety outcomes. It should support efforts to bring consistency to inspections.

Draft regulatory principle 3: The future HVNL should support proactive, efficient identification, repair and clearance of defects. It should support getting vehicles back to service quickly.

Draft regulatory principle 4: Technical breaches that do not pose a safety risk to operators, drivers or other people should be managed proportionally.

In relation to regulatory principle 3, whilst the VTA fundamentally supports this principle, the VTA maintains that there needs to be national consistency and efficiency in clearance of identified defects.

The VTA maintains that the new Law must ensure it is more flexible, consistent and better harmonised across all jurisdictions. The new Law also needs to be better able to accommodate technological advances whereby the Law does not need to be re-written and is flexible and agile in order to embrace such advances.



In relation to vehicle standards and safety, one of the biggest challenges perceived by the VTA relates to changing current 'mindsets' and achieving a greater 'sense of urgency' from all key stakeholders. This includes the regulators, government departments, government agencies, road managers and enforcement authorities across all jurisdictions.

2.3 Specific VTA responses to the questions.

2.3.1 What risks to safe vehicles that are currently out of scope for the HVNL should be brought into scope? What is in scope that shouldn't be?

The VTA has carefully examined Section 2 of the Issues Paper and maintains that the key safety risk factors have been covered.

The VTA recognises that the vehicle standards are implemented by a range of legislative instruments that apply across different stages of the vehicle cycles. The VTA understands that heavy vehicle standards can be traced back to international standards and overall, there is a high level of national consistency.

Whilst the safety risk factors are covered and in scope, the VTA maintains that several issues certainly need to be addressed. These include: roadworthiness; maintenance and inspections, defects and the safety risk priority areas. Please note that the issues relating to Performance Based Standards (PBS) are addressed in 2.3.3.

As highlighted in all VTA responses involving this Review, the VTA strongly supports the aspiration of national harmonisation, as well as, the importance of achieving 'flexibility' in the new Law.

In section 2.5.2 of the Issues Paper, it states that the HVNL does not define 'roadworthy' or 'roadworthiness'. It also does not provide a process for determining roadworthiness or declaring a heavy vehicle is roadworthy. This situation is unacceptable and needs to be addressed as part of this Review.

The Issues Paper mentions that the NHVR is developing a roadworthiness program. This is a positive move, however, like many other issues associated changing the current Law, we are too risk adverse, too slow and cautious, especially when the different motives and diverse policies and practices prevail across the various jurisdictions. They are certainly not in harmony.

The VTA maintains that we must find the 'political will' to address such barriers if we are to substantially improve the new Law for the transport and logistics industry.

The VTA acknowledges the current situation of jurisdictions whereby heavy inspections include scheduled, unscheduled and targeted inspections. The inspection methods and practices vary dramatically between jurisdictions. This is unacceptable and requires immediate improvement.



In order to address this situation but still allowing flexibility, the VTA advocates that there should be an annual safety inspection for heavy vehicles introduced into Victoria whereby all heavy vehicles are subject to an inspection by an accredited heavy vehicle workshop.

The VTA also emphasises that those companies which already engage an accredited service provider(s) (internal or external) would not be required to have a separate or additional inspection.

The focus is to raise safety standards and ensure that heavy vehicles which are not appropriately inspected nor maintained are at least subject to such a safety inspection. It is also important that there is a national consistent approach to the inspection of heavy vehicles for roadworthiness.

The VTA also acknowledges there are mixed opinions regarding annual inspections, however, from a Victorian perspective, the VTA advocates for such inspections by accredited heavy vehicle workshops through an auditable process.

2.3.2 Have we covered the issues relating to safe vehicles accurately and comprehensively? If not, what do we need to know?

As mentioned in 2.3.1, the Australian Design Rules (ADR's) along with the other related government policy makers already have a relatively high level of national consistency. The nature and the complexities involved in vehicle standards present their own challenges, however, the overall structure and regulatory oversight is in place.

Based upon feedback from VTA members, the VTA believes it is important to provide further clarification of several issues relating to safe vehicles, outlined in Section 3 of the Issues Paper. These issues relate to heavy vehicle standards mass and dimension limits and their reference to European and North America as outlined in section 3.2.1 of the Issues Paper. The VTA will also provide feedback on 'moving the permissible vehicle width' issue. In relation to steer axle mass, the Issues Paper states:

'The steer axle mass and vehicle width limits in the ADR's and HV (MDL)NR are inconsistent with international standards. Europe and North America have higher limits for both axle mass and width of heavy vehicles.'

NTC Issues Paper p.26

The VTA acknowledges the inconsistency of Australian standards with international limits, however, the steer axle mass argument presented in the Issues Paper is challenged by the VTA. The Issues Paper does not present and take into account many of the different inter-dependent factors which require a far more comprehensive discussion.

In brief, these relate to differences of European wheel bases; configurations of North American mass limits and trailing equipment; designs and capacities. These issues are complex, inter-related and require careful consideration from a systematic perspective.



We should also need to carefully consider the differences in geography; distances travelled; terrains and the uniqueness of the very diverse operating conditions relevant to Australia and vehicle and equipment suitability.

In relation to dimensional limits, the VTA is fully aware of Austroads exploring the possibility of moving to a permissible vehicle width of 2.55 metres. While the VTA has previously expressed its views on this issue, the VTA believes that in the process of exploring 2.55 metres we should extend and consider 2.60 metre width for heavy vehicles as part of this research.

It is proposed in the Issues Paper that by allowing the above changes this would allow Australians to select from the broadest and most updated range of international-produced vehicle with a wide range of safety technology.

Given the need to genuinely improve the HVNL, we must explore all options and carefully consider the cost benefits, productivity and safety improvements for the transport and logistics industry. It is obvious that such changes would certainly be welcomed for example by the refrigerated sectors and specialised air freight organisations of the industry.

As part of the Austroads research and exploration process, the VTA advocates that we must also carefully evaluate and measure the full impact upon the existing Australian manufacturing organisations, suppliers (direct and indirect) if such changes were to be implemented.

The VTA strongly advocates that assessing and implementing advanced safety technology must also be high on the agenda in the total review of the HVNL.

2.3.3 How can the future HVNL most effectively deliver safer vehicles to the road? Which aspects of the PBS scheme are working well, and which aren't? What barriers to the broad uptake of safer vehicles exist?

The VTA fully supports the draft regulatory principle 1. This principle states:

'The future HVNL should enable and encourage increased use of safer and more productive vehicles. PBS vehicles offer significant safety and productivity benefits. A future HVNL should seek to reinvigorate the PBS scheme so that it continues to drive innovation, safety and productivity in an efficient way that encourages operator uptake'. NTC Issues Paper p.31.

The future HVNL should enable and encouraged increased use of safer and more productive vehicles. PBS vehicles certainly offer significant safety and productivity benefits. The VTA supports the reinvigoration of the PBS scheme. The evidence clearly highlights the PBS benefits in driving innovation, safety and productivity gains.



At the same time, the VTA is very concerned that the PBS scheme continues to be severely limited and challenged by the total unacceptable 'hurdles' faced by the operators. The issues are already well documented in relation to the significant direct and indirect costs, unacceptable administrative and paperwork requirements and the time delay experienced. Once again, this clearly a poor indictment on all concerned.

By way of feedback, members have also expressed their concern that there appears to have been a significant loss of specialised knowledge and expertise of personnel in the relevant agencies and authorities in recent years. This loss has further attributed to the issues faced by the PBS scheme.

In preparing this submission, it was highlighted and reinforced by VTA members that the transport and logistics industry is characterised by very low margins, low barriers of entry and that it is already over regulated. This impacts the level of commitment by operators to the HVNL.

The transport and logistics industry is committed to productivity and safety. The VTA argues that in addition to the application of mandatory operational standards, the operators who invest in and implement additional productivity and safety measures should be rewarded with greater access to realistic incentives built into the new law.

Many VTA members (small, medium and large organisations) who are already committed to operating effective management systems highlighted the enormous costs of resourcing, implementing and maintaining such systems. They have also made it very clear that from their perspective, there is a lack of understanding and appreciation of these requirements by regulators and government agencies.

This further highlights that this Review must result in a reform of the HVNL whereby the scope and key considerations (as per Terms of Reference) are achieved and that the benefits of increasing national consistency of heavy vehicle regulation are also able to be adapted and applied effectively to remote, regional and urban areas.

The VTA advocates that whilst PBS scheme should continue to be fully supported, it is a major concern that key road managers are severely restricting 'load limits' across major heavy vehicle road networks, including 'toll' controlled roads operated by private operators. This situation is very evident in Victoria.

Whilst not directly related to the HVNL, the above dilemma is extremely counter intuitive to achieving improved efficiencies; improved productivity and improved safety for the transport and logistics industry, especially when the benefits of PBS heavy vehicles cannot be fully maximized.

It is also pertinent to highlight a common theme from VTA members in relation to the language used in the Issues Papers and other documents. For example, we continually read such as: 'the HVNL does not define roadworthiness', 'HVNL is developing a roadworthiness program' or 'Austroads is exploring the possibility' and the list goes on



While recognising the complexity of the issues, the transport and logistics industry is nevertheless concerned and frustrated by the total unacceptable amount of time it takes for changes to be reviewed, developed and implemented by policy makers, regulators and governments in Australia.

We need to be far more agile, flexible and responsive to the market and the new Law must achieve marked improvements if we are going to be more efficient, productive and safer. It is also shared by industry that a greater 'sense of urgency' and commitment to effective change is paramount.

2.3.4 How can the future HVNL encourage suitable maintenance programs? How can it most effectively identify and remove dangerous vehicles from the road?

Please refer to our response outlined in 2.3.2. In addition to this response, the VTA also suggest that there needs to be a concerted effort to raise awareness and understanding of maintenance in its own right, as well as, an essential dimension of an effective safety management system.

The VTA is fully supportive of the National Heavy Accreditation Scheme (NHVAS) which is part of the accreditation provisions in the HVNL and should be the case in the new Law. The VTA is not supportive of commercial safety accreditation providers which derive specific revenue from their activities and are not governed by the NHVR.

The VTA also wishes to highlight that Codes of Practice have a role to play in assisting the industry, however, it should be remembered that they do not form part of the HVNL.

As mentioned in the 2.3.1, the VTA advocates that the implementation of accredited safety workshops has an important role to play in addressing and improving vehicle standards and safety.

Consequently, the new Law should consider how it can assist in overcoming the current deficiencies. The VTA suggests that the 'roll-out' of the new Law also needs to include a comprehensive and well-designed awareness and education program.

2.3.5 How can the future HVNL meet the assurance needs of all Australian state and territory road transport authorities in a way that does not unreasonably impose on operators?

As an extension of 2.3.4, the new Law should provide operators the flexibility to implement efficient and assured maintenance systems. The VTA advocates that the requirements for managing vehicle safety risk under the future NHVR should apply and be interrupted consistently across the country. It should involve a recast of the HVNL which supports a cohesive national approach to annual vehicle safety inspections. The current gaps need to be filled.



These gaps also extend to 'damage, defects and repairs'. Once again, while a major challenge, we must also address the 'inconsistency' factor across jurisdictions, as well as, better aligning the penalties to the severity of the safety breaches.

It is clearly acknowledged there are major differences in the motivations, structures and priorities relating to compliance and enforcement across jurisdictions. It is often the root cause of much anguish and frustration of operators, especially those conducting business activities in different states.

The feedback is very clear from VTA members. The new Law must be carefully restructured whereby the penalties are more balanced in approach and better aligned with the actual safety significance of the damage, defect or repair, especially in relation to major and minor defect notices.

It also raises the issue that 'on-road' inspections are limited by their very nature, consequently, this again highlights the case for thorough inspections being conducted by accredited heavy vehicle safety workshops. The VTA concurs with its members that the enforcement approaches vary and that the level of experience of authorised officers can often lead to inconsistent outcomes.

The VTA argues that enforcement officers should not be addressing specific mechanical issues but these issues should be handled by the experts associated with the accredited workshops.

After a thorough review of the current HVNL, the VTA maintains that this Review must ensure that the totally disproportionate amount of content and sections dedicated to 'disposal of a vehicle' must be clearly addressed and rationalised in the new Law.

2.3.6 Do we need assurances regarding repairs and replacement parts? If so, could these be achieved using standards? Should third-party repairers be explicitly included in the Chain of Responsibility? How can defect clearance processes be reasonably expedited?

The VTA fully supports the draft regulatory principle 3 that is 'the future HVNL should support proactive, efficient identification, repair and clearance of defects. It should support getting vehicles back to service quickly.' NTC Issues Paper p.32

As previously discussed, the future HVNL should support quality repairs and efficient clearance of defects. The VTA also supports the importance of defects being repaired quickly and cleared efficiently. As further stated in the Issues Paper, 'vehicles should not be kept off the road unless they pose imminent safety risk that is not manageable in any other way'.

This also underpins the VTA's position to ensure that there is consistency and balance across jurisdictions and that the safety risk drives the appropriate responses between enforcement agencies and operators.



According to VTA feedback, the four key safety areas which must be 'front and centre' in addressing heavy vehicle safety and maintenance standards involve: brakes, steering; suspension; and coupling. This is not to suggest that all the other areas are not important, however, ensuring that the above four areas is crucial for achieving improved efficiencies, productivity and in particular, safety.

The VTA supports the need for assurances repairs and replacement parts and agreed standards should apply. Furthermore, third party repairers should be explicitly included in the Chain of Responsibility (CoR).

2.3.7 Should the future HVNL apply a risk-to-safety threshold for vehicle standards and loading matters?

Throughout this submission, the VTA has re-enforced the need for the threshold captured in the draft regulatory principle 4 whereby technical breaches that do not pose a safety risk to operators, drivers or other people should be managed proportionally.

The VTA has always agreed for the adoption of a common sense approach to minor breaches. However, this has not been the case for many years and the current issues result from the different interpretation of the HVNL and its enforcement.

The above issue is further compounded by the long-established approaches taken by the relevant enforcement agencies across the different jurisdictions. They are deeply entrenched, politically underscored and reflect the different cultures prevailing within the agencies across each of the jurisdictions. The challenges are significant but they must be addressed if we are to achieve the desired objectives of this Review.

3.0 SUMMARY

The VTA believes that this Review provides an excellent opportunity to address the short comings and issues associated with the current HVNL. It also acknowledges the significant complexities involved in reviewing and changing the current HVNL and legislation.

The VTA and its members maintain that this Review must ensure that any changes to the HVNL remain focused upon three key pillars: improved efficiencies, improved productivity and improved safety outcomes. The VTA believes that these improvements can be effectively achieved by: ensuring the implementation of regulated and accredited workshops; national standardisation of vehicle standards; front axle weight increases; and PBS standards implemented.

It is vital that we 'get it right' whereby we build a new HVNL framework that effectively addresses the current problems and short-comings and ensures that we deliver a far more robust, purposeful and flexible framework to meet future challenges of our industry.

Peter Anderson
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