20 December 2019

National Transport Commission
Review of Heavy Vehicle National Law
Level 3, 600 Bourke Street
Melbourne VIC 3000

Via email: pdavies@ntc.gov.au

Dear NTC

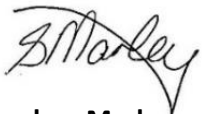
REVIEW OF HEAVY VEHICLE NATIONAL LAW

Thank you for the opportunity to provide a submission as part of your review of the Heavy Vehicle National Law (HVNL).

The ALRTA position is explained in more detail in the attached submission, including 108 recommendations.

If you wish to arrange a meeting to discuss the attached submission, please contact the ALRTA Executive Director, Mathew Munro, on (02) 6247 5434 or mathew@alrta.org.au

Yours sincerely



Stephen Marley
National President

SUBMISSION TO

REVIEW OF THE HEAVY VEHICLE NATIONAL LAW

20 DECEMBER 2019

1.0 Introduction

The Australian Livestock and Rural Transporter's Association (ALRTA) is pleased to offer this submission to the review of the Heavy Vehicle National Law.

The ALRTA is the peak body representing road transport businesses servicing the agricultural supply chain. We are a federation of six state associations including:

- Livestock, Bulk and Rural Carriers Association of New South Wales
- Livestock and Rural Transporters Association of Victoria
- Livestock and Rural Transporters Association of South Australia
- Livestock and Rural Transporters Association of Western Australia
- Livestock and Rural Transporters Association of Queensland
- Livestock Transporters Association of Tasmania

Together our associations represent over 700 transport businesses including owner-drivers, small fleet operators and large fleet operators with hundreds of trucks and trailers.

2.0 ALRTA Participation in the Review Process

The National Transport Commission (NTC) has released seven separate issues papers including:

1. Risk-based regulation;
2. Effective fatigue management;
3. Easy access to suitable routes;
4. Safe people and practices;
5. Vehicle standards and safety;
6. Assurance models; and
7. Effective enforcement.

An expected eighth issues paper was not released.

2.1 ALRTA Representation in Consultation Workshops

ALRTA representatives have participated in several Heavy Vehicle National Law (HVNL) consultation workshops on these topics as outlined in Table 1.

Date	Host	Topic
2-3 Oct 2018	NHVR	Fatigue Safety Forum #1
22 May 2019	NTC	Industry Advisory Group (Risk-based Enforcement, Fatigue)
15 June 2019	ALRTA	HVNL Consultation Session @ National Conference
20 June 2019	NTC	Fatigue Co-Design Workshop (Sydney)
12 July 2019	ATA	Fatigue Co-Design Workshop (Brisbane)
26 July 2019	NTC	Access Co-Design Workshop
29 July 2019	NHVR	Fatigue Safety Forum #2
1 Aug 2019	NTC	Industry Advisory Group (Access, People, Vehicles)
13 Sept 2019	NTC	Industry Advisory Group (Enforcement, Assurance Models)
19 Nov 2019	NTC	Fatigue Workshop
21 Nov 2019	NTC	Legal Fundamentals
2 Dec 2019	NTC	Building Blocks
3 Dec 2019	NTC	Vehicles and Access

Table 1: *ALRTA Participation in HVNL Review Consultation Workshops.*

2.2 ALRTA Participation in ATA Policy Development

The ALRTA is a member of the Australian Trucking Association (ATA). The ATA has consulted with member associations in preparing separate submissions to each of the National Transport Commission (NTC) Issues Papers released as part of the HVNL review. ALRTA generally endorses the ATA submissions, particularly with regard to the ATA responses to the review principles proposed by NTC and responses to specific questions posed by NTC within the Issues Papers.

2.3 ALRTA Member Survey and National Council Consideration

The ALRTA submission has been developed via a member survey conducted by ALRTA and State Member Association staff during July – October 2019. Participants were selected to ensure participation across all ALRTA member states and transport businesses of different sizes.

Each survey interview took between 60-90 minutes to complete. Issues and positions were logged as surveys were undertaken. Surveys were repeated until new surveys no longer produced significant new information / opinion concerning the topics included. This point occurred after 22 surveys were complete.

The information and opinions gathered during the member survey process were considered by ALRTA National Council on 15 August 2019 and 25 October 2019 and further refined during NTC consultation workshops in November and December 2019.

The ALRTA National Council has endorsed this submission.

3.0 About Rural Road Transport

There are tantalising new opportunities for Australian agriculture on our doorstep. In this 'Asian Century' we sit poised to capitalise on our potential as a global food bowl, supplying agricultural commodities to a new Asian middle class that is demanding quality meat, milk, grain, vegetables and fibre from trusted suppliers.

Already, over two-thirds of our agricultural production is exported, contributing 20% of our total export earnings. Yet, we are three times more reliant on land transport than our international competitors, and together with New Zealand, Australia has the highest total transport cost for exports across all countries in the OECD.

Realistically, Australia has an abundance of land while Asia has an abundance of labour. In terms of freight movements, the most likely economic scenario is that Australia will supply primary materials to Asia, and Asia will supply manufactured goods to Australia.

While relatively sparsely populated, it is Australia's rural, regional and remote areas that produce our food, fibre, wood and mineral exports. This is the backbone of Australia's export economy. When all else fails, people still require food, clothing, shelter and energy.

Australia requires a world class road transport system to support the agricultural sector. The HVNL is the primary legislation specifying the type of vehicles that can be used, where those vehicles may travel and how long individual drivers may drive the vehicles. The HVNL review is an important opportunity to simultaneously improve safety outcomes, reduce red tape, make better use of limited road infrastructure and ultimately improve the international competitiveness of Australia's rural economy.

4.0 General Scope and Powers

4.1 Scope and National Consistency

While some progress has been made in establishing the HVNL in the Eastern States, the overall regulatory approach remains piecemeal and inconsistent at best.

As it currently stands:

- The HVNL is not one law, but mostly harmonised state laws;
- Western Australia and Northern Territory remain outside of the HVNL;
- The Federal Government controls vehicle standards, emissions and fuel tax;
- The Fair Work Commission controls awards and industrial instruments;
- State Governments control licencing, training and vehicle registration;
- The National Heavy Vehicle Regulator controls notices and important business rules;
- A combination of state transport departments, the National Heavy Regulator and police control on-road compliance and enforcement; and
- State and local governments control road access.

It is plainly obvious that the laws regulating heavy vehicles are extremely complex. The fundamental problem lies in the overlapping jurisdiction of the various governments at national, state and local levels involved in heavy vehicle regulation.

If Australia is ever to achieve world's best infrastructure provisions and heavy vehicle regulation it will be necessary for Australian Governments to embark on a bold journey during which the current 'silo' approach is abolished with key powers referred to a new statutory authority (a re-constituted NHVR) with jurisdiction to regulate all facets of road transport relating to vehicle standards (pre and post service), driver licencing, training, health/medical, charging, off-road infrastructure, access, registration, compliance and enforcement.

Even in cases where the National Heavy Vehicle Regulator (NHVR) does not have primary jurisdiction over general matters such as speed, distraction, drug & alcohol etc, the HVNL should still require transport businesses to manage these issues and NHVR authorised officers should have limited enforcement powers.

It is vitally important that uniformity must not come at the expense of productivity. Various governments routinely refuse to accommodate uniformity by insisting on the 'least productive' approach on the presumption that any productivity increase must necessarily compromise safety. It is often that case that one jurisdiction will allow a productivity increase (e.g. grain harvest mass tolerances in QLD) that results in no discernible safety difference as compared with other jurisdictions. At all times, the government policy objective should be to move to uniform regulation based on the 'highest productivity' approach if there is no evidence of differing safety outcomes across jurisdictions. If this cannot be achieved, then core regulations should be harmonised allowing scope for competitive inter-jurisdictional variation.

For example, grain harvest schemes could be generally aligned under one notice (definitions, eligible grains, eligible vehicles, record keeping etc) while combination and axle mass tolerances could vary by jurisdiction.

Recommendation 1: That the National Heavy Vehicle Regulator must administer one set of laws (the HVNL) for heavy vehicles over 4.5 tonnes GVM in every state and territory exclusive of Western Australia and Northern Territory, and coverage must be to all business types regardless of their size or make up (owner operator, small fleet, large fleet etc).

Recommendation 2: That HVNL governments refer all powers over heavy vehicles to be incorporated in a single Commonwealth law, administered by a single Commonwealth agency (a re-constituted NHVR) with jurisdiction to regulate all facets of road transport relating to vehicle standards (pre and post service), driver licencing, training, health/medical, charging, off-road infrastructure, access, registration, compliance and enforcement.

Recommendation 3: That in cases where the NHVR does not have primary jurisdiction over general matters such as speed, distraction, drug & alcohol etc, the HVNL should still require transport businesses to manage these issues and NHVR authorised officers should have limited enforcement powers.

Recommendation 4: That the government policy objective should be to move to uniform regulation based on the 'highest productivity' approach if there is no evidence of differing safety outcomes across jurisdictions. If this cannot be achieved, then core regulations should be harmonised allowing scope for competitive inter-jurisdictional variation.

4.2 Object of the HVNL

The heavy vehicle fleet exists to move freight as efficiently as possible on public roads to support Australia's national economy and social fabric. Any unnecessary cost imposed on heavy vehicles, or opportunity to improve productivity that is lost, imposes a cost on businesses and consumers, which consequently reduces our international competitiveness and increases the cost of living.

ALRTA considers that the current multi-factor objectives of the HVNL relating to safety, productivity, efficiency, public infrastructure, environment, amenity, innovation and safe business practices strike a reasonable balance across broad range of core considerations necessary for promoting best practice heavy vehicle regulation.

Recommendation 5: That the object of the HVNL remain unchanged.

4.3 Interaction with WH&S Law

While ALRTA recognises the primacy of WH&S law, it is also important to have a HVNL that deals in more detail with road transport related matters. However, given the high degree of overlap, it is important for primary duties and enforcement powers to be largely consistent, so that regulated parties and authorised officers are not confused by similar, but different laws, that concurrently apply.

Recommendation 6: That the primary duties and enforcement powers contained in the HVNL be fundamentally consistent with WH&S laws.

4.4 Structure of the HVNL

The overwhelming majority of rural carriers consider that the current HVNL is too focussed on administrative processes rather than safety outcomes, appearing to many transport operators to just be a means of government revenue raising. From the perspective of industry associations that work with governments on behalf of members, the very structure of the HVNL can be a significant impediment to improving the regulatory environment.

The primary HVNL is far too detailed and inflexible. Even minor necessary amendments can take years to progress via the NTC, Ministerial Council and then various State Parliaments and review committees.

Transport operators would prefer a HVNL that was focussed on clearly stating the regulatory outcomes that are expected and leaving any further detail to subordinate regulations or even business rules or codes administered by the HVNL. This would require an entirely new approach to the hierarchy of laws and instruments. Using fatigue as an example:

- The HVNL should simply state that drivers should not drive while fatigued.
- Fatigue regulations should establish key definitions and parameters, including outer operating hours.
- All other matters should be left to instruments that can be administered by the NHVR in consultation with participating jurisdictions and industry.

This alternative approach would ensure that fatigue laws could stay abreast of contemporary best practice based on emerging research and technological developments. It would also enable every individual transport business to identify and manage their own risks in the most appropriate manner.

Recommendation 7: That the HVNL be restructured to clearly state the outcomes that are expected with any further necessary regulatory detail moved to subordinate instruments.

4.5 A Geographic Approach

A fundamental problem with the current HVNL is that it must be written in a fashion that is applicable in all road environments. Safety risks can however be extremely different in remote parts of Australia compared with the urban environments in which most people live. As a result, some provisions of the HVNL are quite inappropriate in some contexts. For example:

- Fatigue regulations can force drivers to stop in dangerous remote environments where there are no rest stops;
- Drivers in remote areas may not have any ability to repair and clear a vehicle defect that has occurred during a journey; and
- Access rules can prevent standard vehicles (e.g. B-doubles) from accessing farm gates without first obtaining a permit, even though there is very little traffic on the road and the permit will likely be issued.

ALRTA understands that this problem is one of the fundamental reasons that WA and NT, jurisdictions with large swathes of remote areas, take a different (and more practical) regulatory approach than the HVNL. This is also why drivers in remote parts of SA, QLD and NSW are generally attracted to the WA and NT regulatory approach.

Paradoxically, the best way to move towards a more uniform regulatory framework may be to construct the HVNL in a way that recognises that not all operating environments are alike. A law constructed in this way could instead take the 'same approach in the same circumstances', potentially reducing the regulatory burden, improving productivity and reducing contempt for laws that do not seem appropriate or able to be complied with.

Recommendation 8: That the HVNL should be based on a geographic approach that recognises that safety risks can be vastly different across operating environments.

4.6 Cross Border Recognition

ALRTA members report that customer service, red-tape levels and the enforcement approach in WA and NT is generally superior to the Eastern States. Permits are quicker and easier to obtain, more productive combinations are allowed on the road, fatigue management is more flexible and enforcement officers are better trained and more knowledgeable.

Given the desire of WA and NT to remain outside of the HVNL, it is important for governments to improve the current approach to cross-border recognition of the differing regulatory regimes. Transport operators should be able to cross borders relatively seamlessly without their vehicles and compliance systems immediately becoming non-compliant.

Recommendation 9: That the HVNL include provisions to recognise the equivalence of WA and NT heavy vehicle regulatory systems.

4.7 Heavy Vehicle Registration

ALRTA would support a full transition of heavy vehicle registration laws to the HVNL, administered by the NHVR. The, 2011 *Inter-Governmental Agreement on Heavy Vehicle Regulatory Reform*, signed by the Australian Prime Minister and all State Premiers stipules that, among other things, the HVNL will cover:

- Registration; and
- Heavy vehicle registration charges.

Collection of heavy vehicle registration charges would fundamentally change the power imbalance that exists between the NHVR and participating state jurisdictions. Currently, NHVR is wholly reliant on participating states for funding which may result in conflicts of interest when the regulator seeks to impose national consistency on unwilling or uncooperative participants.

Responsibility for heavy vehicle registration must necessarily also include administration and enforcement of concessional registration schemes such as Primary Producer Registration Schemes. ALRTA is not opposed to such arrangements when used as the law intends. However, our member operators report that vehicles registered under primary producer schemes are commonly observed operating on a commercial basis.

Misuse of primary producer schemes has a threefold impact:

1. Primary producer vehicles compete unfairly with commercial carriers.
2. Governments forgo revenue for infrastructure and regulatory purposes.
3. Persistent non-compliance risks discontinuation of such schemes which would disadvantage legitimate users.

On this basis, we believe that industry and government have a shared interest in protecting the integrity of primary producer registration schemes.

Recommendation 10: That the HVNL establish that the NHVR has responsibility for heavy vehicle registration, charges and enforcement.

Recommendation 11: That all primary producer vehicles be required to display a registration plate that readily identifies the conditional nature of the registration.

Recommendation 12: That penalties for misuse of primary producer concessional schemes be substantially increased to offset the very large economic incentive to misuse the scheme.

4.8 Review Powers

It is important for any regulatory framework that enables government authorities to make decisions affecting the rights of regulated parties to include a fair, reasonable and low-cost avenue for decisions to be subject to both internal and external review. Currently, the provisions of the HVNL are not adequate in this regard.

Firstly, decisions of road managers concerning road access appear to be 'above the law' and unable to be challenged, even when decisions are arbitrary or inconsistent. Secondly, avenues relating to on-road enforcement matters are closely tied to the jurisdiction in which the alleged offence was committed and the agency actioning enforcement. For example, the avenues for appealing a vehicle defect offence issued by NSW police are completely different from the avenue for appeal if the same breach was issued via NHVR enforcement officers in Tasmania. This situation undermines the intent of the HVNL. Even when the offence is the same, transport operators do not always have the same rights or appeal options.

Recommendation 13: That the HVNL include consistent, fair and low-cost options for regulated parties to seek an internal and independent external review of decisions, including road access and vehicle defects.

4.9 Oversight of NHVR

Overtime, the HVNL and NHVR are expected to assume more power and to operate more independently from direct Ministerial oversight – as any mature statutory body should be intended. Proposals by state jurisdictions to continue or reinstall ministerial oversight of important functions of the NHVR must be cautiously regarded as an unwillingness to relinquish control of policy, access,

standards, revenue or other matters to a national regulator. At the end of the day, mid-ranking state policy staff advise Department Heads, who advise Ministers. If state bureaucracies are not willing to trust the NHVR to deliver high quality, nationally consistent heavy vehicle regulatory services in consultation with government and industry then the NHVR will only ever be an additional layer of red tape.

While ALRTA supports greater autonomy, for the NHVR to be effective in an independent remit it must have a deep and ongoing understanding of the practical realities of operating a road transport business. Unless, industry representative and consultative requirements are enshrined in the HVNL, there is a risk that the NHVR will become an isolated power unto itself that considers transport operators to be 'the enemy' that must be regulated with a cold iron fist in order to protect other road users.

To prevent this occurrence, the HVNL should require that the NHVR Board include at least one representative with broad operational industry experience and compel the NHVR to establish standing consultative arrangements with industry representative structures (i.e. peak industry and community associations including the ALRTA).

Recommendation 14: That the HVNL require that the NHVR Board include at least one representative with broad operational industry experience.

Recommendation 15: That the HVNL require the NHVR to establish and maintain standing consultative arrangements with industry representative structures.

5.0 Safer People

5.1 A Practical Law Backed by Education

As reasonably stated in the HVNL objectives, it is important to encourage and promote productive, efficient, innovative and safe business practices for all parties engaged in the road transport task. However, the current HVNL both encourages and discourages safe practices, and in some cases completely neglects to address important influential matters because these either have not previously been contemplated or fall outside of the scope of the HVNL.

Throughout this ALRTA submission there are numerous examples of how the current HVNL can leave drivers and operators feeling harassed, frustrated and unfairly treated. For example:

- An inability to find suitable rest areas or decent amenities when regulations require rest;
- An inability to obtain access permits in a timely fashion for routine short-notice jobs that can be done safely;
- Poor regulation of off-road infrastructure and loading/unloading practices; and
- Lack of standardised enforcement procedures and poor training of authorised officers.

These problems result in stressed drivers with little confidence in the efficacy of the law. They feel that the HVNL is concerned only with detecting and meting out punishment for administrative and technical errors rather than genuinely compelling all parties to engage in the safest possible practices.

ALRTA considers that the HVNL and the NHVR should play an active role in encouraging safe work practices by empowering drivers and operators to make practical decisions that improve safety in a live operating environment and by complementing black and white legal requirements with improved awareness and education campaigns targeted at all road users.

Recommendation 16: That the HVNL empower drivers and operators to make practical decisions that improve safety in a live operating environment.

Recommendation 17: That the HVNL specify a role for the NHVR in direct and indirect safety awareness and education campaigns targeting all road users.

5.2 Safety Management Systems

Individual businesses are best placed to identify and manage their own risks. The HVNL should place an emphasis on business-level safety management by requiring all operators to have a safety management system appropriate for the size and resources available within their business. This approach will encourage a culture of safety at the core of every road transport business emanating from the inside out, rather than a 'tick the box' approach imposed by detailed regulation from the outside in. This position also complements ALRTA support for a HVNL that clearly states the high-level outcomes that are expected with any further necessary regulatory detail moved to subordinate instruments.

Recommendation 18: That the HVNL place an emphasis on business-level safety management by requiring all operators to have a safety management system appropriate for the size and resources available within their business.

5.3 Licencing and Training

While a business-level approach is imperative, it is drivers who are ultimately in control on public roads where heavy and light vehicles interact. In this regard, there is no more effective option than to improve training and education of all vehicle drivers.

Many ALRTA members are concerned that some licenced drivers simply do not have the skills necessary to safely operate on public roads. Of particular concern are international drivers with no experience driving under Australian conditions, or newly licenced drivers who have waited the minimum period necessary to graduate to a higher-level licence but who have not actually accumulated driving experience during that time. There have been numerous examples of licenced drivers who can drive a truck, but who cannot successfully complete basic manoeuvres such as reversing an articulated vehicle into a loading dock.

While technically outside the scope of the HVNL review, Governments must nonetheless recognise and progress this important matter as a priority and consider transferring responsibility for the design of heavy vehicle driver training standards and education of light vehicle drivers (insofar as they interact with heavy vehicles) to the NHVR. This is fundamentally required to enable the national regulator to manage safety risks by ensuring that:

- All drivers meet minimum competency levels (training, knowledge and skills standards) that can be determined from time to time in response to research, information, technological development or new legal requirements;
- Training requirements are achievable and commercially viable for transport businesses; and
- The NHVR has an effective tool to oversight, and if necessary, discipline or prohibit dangerous drivers.

This proposal is hardly new or radical. In fact, the 2011 *Inter-Governmental Agreement on Heavy Vehicle Regulatory Reform*, signed by the Australian Prime Minister and all State Premiers states includes an:

- *"Understanding that all States and Territories are cooperating to work towards producing a single, physical heavy vehicle driver licence and a consistent approach to heavy vehicle driver competency and testing standards and heavy vehicle driver training school recognition, the Parties agree that the outcomes of that work be included within the ambit of the National Law".*

Recommendation 19: That heavy vehicle driver licencing, including training, competency and testing is included within the HVNL (that including a basic knowledge of the HVNL and other applicable laws [i.e. not just 'steering the vehicle'].

Recommendation 20: That heavy vehicle licence holders who have accumulated a certain number of demerit points (e.g. 10 points over 5 years) are required to undergo 'refresher' training to ensure training and knowledge remains contemporary.

Recommendation 21: That driver training standards and progression to higher level licence classes be based on competency, not time or age.

Recommendation 22: That governments consider establishing a heavy vehicle apprenticeship scheme to provide a recognised career path for young drivers to learn all facets of heavy vehicle driving and operation (e.g. loading, scheduling, logistics). The apprenticeship must be able to be undertaken in businesses of all sizes.

6.0 Safer Vehicles

6.1 Reconsidering Mass and Dimension

Heavy vehicle safety and performance has improved dramatically over recent decades. While well maintained older trucks remain safe, vehicles manufactured in 2019 are scarcely comparable to those manufactured in the mid-1900s – when much of the basis for the current HVNL was established. This trend is expected to continue, if not accelerate, and it is reasonable to reconsider some of the basic threshold limits originally imposed on vehicle mass and dimension.

Recommendation 23: That general access mass and dimensions be set at 62.5t and 26m(l) * 2.6m(w) * 4.6m(h) (i.e. a standard 9axle b-double).

Recommendation 24: 4.6m stock crates are a standard vehicle and must be moved out of class 3 into class 2 to avoid the requirement for registration specific permits (which requires operators of mixed fleets to include most vehicles on the permit to allow interchange).

Recommendation 25: That modern A-doubles be permitted on existing b-double routes.

Recommendation 26: That general mass limits (GML) be replaced by concessional mass limits (CML).

Recommendation 27: That all vehicle combination can operate at higher mass limits (HML) without an IAP requirement for all vehicles with road friendly suspension and on-board scales.

Recommendation 28: That the GML steer axle mass limit be increased to 7.2t.

Recommendation 29: That a general mass tolerance of 5% or up to 0.5t be introduced for all axles, not exceeding manufacturers ratings.

Recommendation 30: That an increased mass tolerance (up to 2t) be applied to the middle tri-axle of a b-double if the gross mass is within the total limit and the axle weight is less than the manufacturers' rating.

Recommendation 31: That an axle spacing tolerance be introduced.

Recommendation 32: That governments mandating new safety or emissions technologies that add weight or consume space consider commensurate increases in mass and dimension allowances.

6.2 Incentivising Safer Vehicles

While pre-service vehicle standards are primarily set by the Federal Government, the HVNL deals with in-service vehicle standards and testing procedures. Hence, the HVNL is an important legal instrument that can be used to incentivise a more rapid uptake of safer vehicles. However, it must be remembered that heavy vehicle purchasing decisions are influenced by a complex array of laws covering areas such as vehicle standards, fuel standards, inspections, registration, stamp duty, insurance and taxation – among many other things!

Recommendation 33: That the accelerated uptake of safer vehicles be incentivised by an appropriate combination of subsidies and concessions including: registration discounts, stamp duty discounts, increased fuel tax credits, accelerated depreciation and investment allowances.

Recommendation 34: That research be undertaken into the possibility of providing regulatory concessions for newer standard vehicles with improved safety and performance (e.g. improved access or mass allowances).

6.3 Standards and Defects

Heavy vehicles are inherently complex machines. Defects do not occur in the yard, they occur on the road, yet poorly trained enforcement officers often take an overzealous approach to finding and penalising low risk defects that an operator has had no opportunity to repair. The state-based nature of the HVNL is particularly problematic when it comes to heavy vehicle defect clearance. Operators regularly report great difficulty in clearing defects across jurisdictions and even across different enforcement agencies within the same jurisdiction (e.g. RMS vs Police).

Improving vehicle safety, performance or emissions standards often requires the use of new technologies that add mass or consume productive space. Governments must be mindful that incremental decisions to require certain technologies can have a cumulative effect on mass and dimension and consider adjusting these limits in the interests of achieving an appropriate balance.

Recommendation 35: The HVNL should require that all heavy vehicles are physically inspected by a qualified, independent third party at least annually, unless accredited under an approved maintenance system. Vehicles less than 4 years old should be exempt (except for the initial roadworthiness check).

Recommendation 36: That independent heavy vehicle inspections be able to be carried out by government inspectors or accredited non-government inspectors.

Recommendation 37: Operators should be able to obtain a full third-party vehicle inspection at any time which, if advised to NHVR or an accreditation scheme provider, would reset the mandatory inspection interval.

Recommendation 38: That defect notices issued by any authorised officer in any jurisdiction be able to be cleared by a government or accredited non-government vehicle inspector in any jurisdiction.

Recommendation 39: That the NHVR be empowered to intervene and resolve disputes involving clearance of vehicle defects.

6.4 Performance Based Standards

The Performance Based Standards (PBS) scheme attempts to achieve improved safety and productivity through innovative and optimised vehicle design. While PBS is lauded for statistically proven better safety outcomes, it remains a fringe scheme that will only ever have limited application due to the complex costly and uncertain assessment and approval process, and the fact that there is a limited after-market for approved PBS vehicles. The most significant productivity and safety gains will be made by reassessing the mass and dimension thresholds that apply to standard vehicles.

Current PBS rules are too restrictive to be operationally attractive for rural operators who use multiple different types of trailer sets (e.g. livestock crates, tippers, flat tops). Trucks and trailers in approved PBS combination typically cannot be interchanged – even for identical equipment with different identification numbers. PBS would be far more appealing if some standard equipment could be interchanged within an approved envelope.

Recommendation 40: That PBS adopt an envelope approach under which approval at a standard level should be automatically granted to all proposals that fit within an already approved vehicle specification. The applicant who obtained the original approval should be compensated by new applicants until initial costs are recovered.

Recommendation 41: That commonly approved PBS vehicles be periodically classified as general access vehicles (or equivalent to a standard Higher Productivity Vehicle with equivalent network access).

6.5 Other Measures

There are many opportunities for improving vehicle safety and productivity provided that governments take a bigger picture view of the issue and agree to use the levers available across various legislative instruments to achieve the desired outcome. Some further options are recommended below.

Recommendation 42: That vehicle length be measured backward from the kingpin to allow different types of prime movers to be freely interchangeable and to allow the installation of wider sleeper cabs to improve driver rest.

Recommendation 43: That bull bars be excluded from length measurements.

Recommendation 44: That all pig and dog trailers be required to fit safety chains.

Recommendation 45: That vehicle modification rules be simplified and streamlined with a focus on encouraging safety improvements.

Recommendation 46: That vehicle modification rules include a length and width tolerance if the proposed modification produces a net safer outcome.

7.0 Vehicle Access

7.1 Farm Gate Access is a Regulatory Problem

Road transport is typically the first and last link of our agricultural supply chains. To ensure that we are globally competitive, it is imperative that Australia can deliver agricultural commodities from our farms and processors to world markets in the most efficient manner possible.

Overcoming Australia's inherent freight disadvantage requires the use of higher productivity vehicles (HPV) moving from farms all the way through the supply chain to export ports.

With improved heavy vehicle charging and investment policies, it may be possible to upgrade Australia's arterial and sub-arterial roads to at least b-double standard including frequent rest areas with reasonable amenities. However, it will never be viable to upgrade the local roads on which the majority of Australia's farms are located to such a standard.

For this reason, achieving farm gate access for HPVs in Australia will require a complimentary regulatory approach that factors in a differing approach to risk assessment and flexibility. Rather than assuming that local roads can never accommodate such vehicles, the problem must be turned on its head. Given the need to facilitate farm gate access for HPVs on a limited road budget, we must be asking 'what is the best regulatory system for facilitating such an outcome'?

Recommendation 47: That the HVNL provide for a system of 'low volume access' to enable HPVs to infrequently access places of primary production for the purpose of loading produce or delivering farm necessities.

7.2 Improving the Permit System

Road transport operators report that although the permit system has improved in recent years, it remains far too complex and too slow.

The permit system can work reasonably well when operators have predictable, ongoing work, but many jobs in the rural transport sector are ad hoc and requested at short notice. For example, a primary producer who is monitoring livestock prices may make a decision to sell only days before a major sale takes place. The producer (or an agent) contacts a carrier to arrange transport, who may then only have 48hrs or less to obtain a permit. Even in circumstances in which the permit is certain to be granted, it cannot be obtained in time for the livestock to be legally carried. There is no difference in safety risk if the operator accepts the job knowing the permit will eventually be granted, but it would be technically non-complaint. If a general access vehicle was used instead, there would be a significant cost increase for the producer and productivity loss for the rural economy.

The permit system was originally intended to provide access for unusual vehicles in unusual circumstances. B-doubles and 4.6m high livestock crates have now been in operation since the 1980s and have become the standard vehicle configuration in much of rural Australia (and road trains are standard in more remote parts of Australia). In 2019, it should be possible for these vehicles to access the vast majority of farm gates without having to wait weeks for new permits to be issued and without having to renew permits in perpetuity.

Navigating the permit system is a tedious job. Operators in HVNL states report that there are simply too many layers of government involved in permit decisions and there is conflicting information available across road transport departments. Even when good information can be found, individual road managers often have different attitudes towards heavy vehicle access rendering decisions uncertain and subject to local politics and funding strategies.

ALRTA considers that the access and permit system should aim to deliver the same outcomes in the same circumstances. Many decision makers simply compare a general access vehicle with a HPV and conclude that the HPV will necessarily put more pressure on their infrastructure. However, when considering the total freight task, using HPVs can actually reduce total vehicle movements which improves safety and decreases the overall impact on road infrastructure.

Recommendation 48: That permits that are routinely issued should be converted to notices.

Recommendation 49: That every application for a permit should also be considered for a notice.

Recommendation 50: That permits should be valid for a period of not less than two years.

Recommendation 51: That notices issued by NHVR should automatically apply in all HVNL jurisdictions at all levels of government, unless the road manager can demonstrate to the NHVR a sound reason otherwise.

Recommendation 52: That a notification system be developed for low risk permits (i.e. so that road managers are simply notified of automatic approvals issued to operators rather than having to approve each individual application).

Recommendation 53: That generic permits be available that are not linked to vehicle registration. These permits should be able to be obtained by any person (e.g. a farmer) and able to be used by any vehicle matching the generic description on the permit.

Recommendation 54: That 'commodity routes' be established (or maintained) that allow access to any operator transporting a specified commodity using specified equipment. These routes should also be a priority for upgrading to HML status for all combinations (see Recommendation 27).

Recommendation 55: That a geographic approach be used in remote areas providing access to all roads within a stated area unless otherwise specified.

Recommendation 56: That an envelope approach be used such that if a permit is issued for a particular vehicle type (based on dimension and mass), all future access applications from vehicles that fit within this envelope should be automatically approved (e.g. if a permit is issued for a road train, future applications for b-double access should be automatically approved).

Recommendation 57: That further work be undertaken to establish one single agreed bridge assessment formula.

Recommendation 58: That bridge assessments be kept on file and made available for all future applicants (who will not need to pay or wait for an additional bridge assessment to be undertaken).

7.3 A Network Perspective is Required

Developing world-class HPV road networks requires all road managers to work together to achieve a contiguous network outcome. However, in Australia it is quite normal and expected for each road manager to act only in their own best interests without regard for cost impacts on other road managers. The key element missing from the current access system is a higher-level decision-maker that considers the network-wide impacts of each individual access decision, with powers to override poor local decisions that result in a less safe, less productive and higher cost road network.

Recommendation 59: That agreed access decision-making guidelines be developed and published.

Recommendation 60: That all local road managers be subject to a capability and commitment test before being empowered to make access decisions, and be periodically re-assessed. This should include a commitment to meet minimum timeframes and apply decision-making processes as per agreed guidelines. Local road managers who are unable to meet the requirements of the capability and commitment test should have their powers transferred to a competent state authority or NHVR.

Recommendation 61: That a pool of road engineering experts be established within NHVR and made available to local governments that lack an engineering assessment capability.

Recommendation 62: That applicants receive confirmation of receipt of an access application within 24hrs.

Recommendation 63: That the 28 day decision timeframe be reduced to 72 hours.

Recommendation 64: That the NHVR or state road authority be empowered to make low-risk access decisions in the event that a local authority does not respond within stipulated timeframes.

Recommendation 65: That OSOM permits be managed by either the NHVR or state road manager as is the case in WA.

Recommendation 66: That the condition of all local roads be mapped and entered into a common database to assist access decision making.

Recommendation 67: That IAP be considered a vehicle condition only able to be applied by NHVR.

8.0 Fatigue

8.1 General Approach to Fatigue Regulation

The current HVNL fatigue laws are bad laws. While well intentioned, in practice the current rules can perversely encourage drivers to take risks, discourage rest when it is needed and restrict productivity outcomes. To illustrate:

- Drivers and schedulers strive to maximise driving time within the allowable driving window;
- The requirement for a 7hr break in each 24hrs in BFM (as an example) means that all driving tasks must be undertaken within a 17hr window from starting time;
- Every driver is different, and the same driver may feel different on different days;
- A driver who takes more rest than the minimum may run out of driving hours, and therefore not be able to complete a driving task – even though better rested;
- When unexpected events occur, drivers feel that they cannot control their rest within the driving task;
- There is a severe lack of suitable rest areas. Sometimes drivers are simply unable to rest when required due to the absence of facilities;
- The consequences of a problematic shift on one day, can carry over into the following day(s) if a driver has not been able to complete a task (the finishing of which uses up hours the following day). This can result in a driver being caught in a poor shift pattern until the next 24hr break;
- Drivers forced to rest within a short distance of home or a quality rest area, just results in poorer quality rest and higher consequential fatigue risk.

ALRTA members report that some of the most significant fatigue risks include:

- The early part of the first shift of the week;
- Driving between midnight and 6:00am;
- Long night hours;
- Transition from day/night;
- Change of work/sleep pattern;
- Home, mental stress and diet;
- Off-duty time management;
- External factors such as road works, accidents, weather conditions;
- Loading / unloading waiting times;
- Post-sale weighing;
- Export feedlots load late in the day knowing a ship won't load until morning – drivers can get caught with no facilities and have to drive illegally to a road house;
- It can be difficult to sleep with a load of animals on board (noise and movement);
- Poor road quality;
- Major customers demanding timeslots;
- Cameras encourage drivers to drive quickly between check points; and
- The cost of employing compliance officers when you have less than 10 trucks is not feasible.

The current HVNL is largely inflexible and fails to adequately address many of these risk factors. A whole new approach is required.

Drivers and transport operators generally do not want more driving hours, however, there is an urgent need for improved flexibility in how available driving hours and rest requirements can be used. Given the perverse outcomes that can arise under rigid fatigue laws and the broad range of potential fatigue risk factors outlined above, ALRTA considers that improved flexibility could actually be a risk-offset when applied appropriately.

Recommendation 68: That the HVNL specify driving limits over an extended window, allowing drivers to manage their own rest within this window.

Recommendation 69: That the HVNL fatigue system be simplified to a basic prescriptive regime (that still includes improved flexibility compared with current standard hours) and a higher-level risk managed system (that includes entry requirements, AFM and technological solutions).

Recommendation 70: That the HVNL standard hours regime allow drivers 24hrs of driving over a 48hr window with a maximum of 13hrs on any one day.

Recommendation 71: That the HVNL empower drivers to rest whenever they feel fatigued without the risk of punishment by an employer or customer.

8.2 Scope of Fatigue Laws

Fatigue is a major safety risk which must be regulated under the HVNL. Currently, this regulation applies only to vehicles 12.0t or over, whereas most provisions of the HVNL apply to vehicles 4.5t or over. ALRTA considers that the fatigue risks applicable to vehicles of a different mass, but undertaking a similar driving task, is not substantially different. Therefore, fatigue regulation should be extended to all vehicles 4.5t or over.

Recommendation 72: The HVNL fatigue regulations should apply to all vehicles 4.5t or over.

The root cause of fatigue is not always connected solely with the driving task. Drivers may have underlying medical conditions affecting sleep or alertness, and other activities conducted in private time may greatly affect 'fitness-to-drive' prior to commencing a shift (or may have an impact later during a shift). Fatigue regulation within the HVNL should encompass all major risk factors, and ideally any formal medical checks should be tax deductible.

Recommendation 73: The HVNL should require mandatory driver medicals and place a higher emphasis on driver 'fitness-for-duty'.

In line with ALRTA's previous comments about the structure of the HVNL at section 4.4, ALRTA believes that much of the detail of fatigue regulation should be moved down the hierarchy of instruments to enable NHVR to modify rules reflecting new research into evidence concerning risk management. This should include a power to modify the definitions of work and rest.

Recommendation 74: The HVNL should empower the NHVR to modify definitions of work and rest.

8.3 Counting Time

Counting time rules are currently too complex. In particular, the persistence of overlapping counting periods results in an extreme potential for inadvertent errors or misunderstandings – both by drivers and enforcement officers. It is also often impractical to make a clear distinction between driving time, work time and rest time because the nature of 'work time' is open to interpretation and can never truly cover all risk factors. For example:

- driving a non-fatigue-regulated vehicle prior to work (e.g. driving a tractor for an extended period) or during a rest break does not count as work;
- unloading a vehicle may count as work, even when this may be more beneficial for alertness than sitting motionless smoking a cigarette;
- Sitting stationary in the driver's seat with the air-conditioning on will count as work even when it may be more beneficial for alertness than sitting outside in 40 degree temperatures.

Recommendation 75: That the HVNL counting time rules be simplified such that:

- Only driving time is recorded. All other times should count as rest.
- Sitting in the driver's seat of a stationary vehicle (e.g. on a weighbridge) should not count as driving.
- A long-rest break of a minimum period (e.g. 7hrs) should reset the counting period and extinguish any further forward counting from the end of a previous long rest break.
- The feasibility of a standard midnight to midnight counting period should be explored.
- A 14 day counting period should be available to drivers in the second tier fatigue regulatory system (see Recommendation 69).

8.4 Record Keeping

Record-keeping requirements are closely related to counting-time regulations. The interaction of these laws can result in an inefficient, complex and costly regulatory burden.

The benefits of fatigue record-keeping are most apparent for drivers who must manage longer driving shifts with cumulative requirements for mandatory rest breaks. This is not the case when drivers undertake shorter 'stop-start' driving shifts in a local area. To put this in context, it is generally recognised that driving shifts of less than two hours are of significantly lower risk than longer shifts that exceed the two hour threshold.

The current 100km radius work diary exemption enshrined in the HVNL, uses distance as a proxy to sensibly reduce the record-keeping burden for lower risk, short distance drivers. The 160km radius work diary exemption notice achieves a similar outcome in the rural supply chain where average speeds are higher. Typically, a driver operating exclusively within these radii would undertake many local short journeys punctuated by many short-rest breaks. In the absence of a record-keeping exemption, each of these 'changes of activity' could trigger a record-keeping requirement resulting in the highest record keeping burden falling on the lowest risk drivers.

The aim of the HVNL should be to minimise fatigue risk, not maximise record keeping. For this reason, the ALRTA strongly supports the continuation of a radius-based record-keeping exemption.

However, ALRTA also recognises the potential misuse of the record keeping exemption by drivers who undertake a mix of local and long-distance work. If it is necessary to address this risk, a reasonable balance might be achieved by requiring drivers undertaking local work to simply record the commencement of a shift, the conclusion of a shift and the total time worked, without a requirement to record each change of activity.

This ALRTA proposal is particularly attractive when considering the potential to include vehicles between 4.5t to 12.0t within the scope of fatigue regulations. If as suggested by some experts, 80% of the transport task is currently not fatigue regulated, this new regulatory burden has potential to run into many billions of dollars annually, which must be passed onto consumers in the form of higher prices. Consequently, a well-intentioned regulatory reform, may fail a cost-benefit analysis.

A continuation of radius-based record-keeping exemptions, with a new requirement to record start, finish and total driving time only, would dramatically reduce the total increase in regulatory burden associated with extending the scope of fatigue regulation, while at the same time reducing the potential misuse of the current radius based exemption.

Recommendation 76: That the HVNL radius-based record keeping exemptions be preserved, with a new requirement to record start (i.e. end of long rest-break), finish (i.e. commencement of long rest break) and total driving time.

9.0 Compliance and Enforcement

9.1 Risk Based Compliance and Enforcement

ALRTA is a strong supporter of risk-based compliance and enforcement, underpinned by a mix of auditing, cameras and targeted roadside intercepts. Such an approach should in theory produce the best safety-outcome at the lowest cost for transport operators and taxpayers.

However, a risk-based approach relies to a large degree on good intelligence systems and reasonable interpretation of 'risk' which may be expected to be different across various trucking sectors and different sized operators. For this reason, if the HVNL is drafted to focus on a risk-based approach, it must also require the regulator to consult closely with industry in determining acceptable levels of risk.

It is also important that the HVNL focus primarily on 'current' or 'imminent' safety risks, rather than technical breaches that occurred some time ago and no longer present a threat.

Recommendation 77: That the HVNL take a risk-based approach to compliance and enforcement.

Recommendation 78: That the HVNL require the regulator to consult with industry, community and governments to determine acceptable risk levels across various trucking sectors.

Recommendation 79: That the HVNL place a greater emphasis on immediate safety risks (e.g. a fatigue breach in a current counting period) and less emphasis on technical breaches that no longer represent an imminent safety risk (e.g. a fatigue breach in a previous counting period).

9.2 Recognising and Rewarding In-House Compliance Systems

One of the primary objectives of the HVNL should be to encourage all operators to identify and manage their own risks. Many transport businesses use telematics or other systems (auditing / work diary checking) to monitor driver hours so that action can be taken in response to any breaches when they occur. This is a significant investment for any business to make and it produces far safer outcomes than random intercepts.

However, having taken action to address a breach, the transport operator (and driver) remain exposed to prosecution if at some future point the breach is subsequently detected by enforcement officers. This undermines the in-house compliance system and can result in 'double jeopardy' for drivers who have already been disciplined or educated to prevent reoccurrence of the breach. ALRTA believes that the HVNL should contain new provisions that recognise and reward good in-house compliance systems by reducing or removing penalties for breaches that have already been dealt with by the transport business.

Recommendation 80: That the HVNL include new provisions that recognise and reward good in-house compliance systems by reducing or removing penalties for breaches that have already been dealt with by the transport business.

9.3 Demerit Points

Professional truck drivers spend far more time on the road and drive far longer distances than light vehicle drivers. However, this is not recognised under the current demerit point system which provides a total of 12 points for light and heavy vehicle drivers alike. Given that demerit point penalties are generally in units of 3 or 4 points, it would be of great benefit to professional truck drivers to be allocated even a single additional point, or for the HVNL to include a reward system under which drivers could earn demerit points back.

While, strictly speaking, licence demerit points are not currently within the scope of the HVNL, the demerit point issue is just one example of why ALRTA is elsewhere in this submission advocating for heavy vehicle licensing and training to be brought under the future HVNL.

Recommendation 81: That heavy vehicle drivers be allocated one additional demerit point and be able to earn points back under a reward system.

9.4 Chain of Responsibility

One specific area of the HVNL that requires urgent attention is the chain of responsibility provisions.

ALRTA was supportive of new positive general duties when introduced into the HVNL in October 2018, which included the removal of 'deeming' provisions that enabled authorised officers to issue infringements to all chain parties connected to an observed offence. Essentially, if an infringement was issued to one party, the same infringement could be issued to all other parties without an investigation needing to occur.

However, since October 2018 it has become apparent that neither the NHVR, state road agencies or police have sufficient resources to properly investigate the role of other chain parties when a lower-level offence occurs. As a result, infringements are generally only ever issued to the driver or operator, and not to other influential parties. This also appears to be the case for improvement notices and warnings that could alternatively be issued.

ALRTA believes that for chain of responsibility provisions to be effective at the lower-end of the offence scale, deeming provisions should be re-introduced.

Recommendation 82: That automatic deeming be reintroduced for low level infringeable offences under the HVNL chain of responsibility provisions.

Another major failing of the chain of responsibility provisions has been the narrow and exhaustive list of defined chain parties. This list has been problematic in several instances, including:

- Saleyard owners (as opposed to operators);
- Persons preparing livestock for transit;
- Third party vehicle repairers;
- Online freight auction websites; and
- Other off-road parties responsible for providing loading and unloading infrastructure and driver amenities.

The current exhaustive list essentially allows influential parties to 'fall through the cracks' because they are either ill-defined, or they can identify avenues to change or represent their activities as not being captured by current definitions.

After complete failures by regulatory authorities to effectively prosecute saleyards in NSW connected with overloading, and several rounds of consultation with jurisdictions facilitated by the NTC and NHVR that were unable to conclusively reach consensus on whether or not persons preparing livestock for transport fall within the definition of 'packer' (or other available categories), ALRTA has concluded that the only viable solution to this problem is to remove the current list of chain parties from the HVNL (in future using these as examples only) and instead including a new definition based on the current definition of a 'person conducting a business or undertaking influencing road transport' – as already contained in workplace health and safety legislation.

Recommendation 83: That the current list of chain parties from the HVNL be removed (in future using these as examples only) and replaced with a new definition based on a 'person conducting a business or undertaking' (insofar as they influence road transport either on or off road) – as contained in workplace health and safety legislation.

9.5 Regulation of Off-Road Infrastructure

Over the past 40 years, there has been a dramatic improvement in the standard of prime movers and trailers used for the livestock freight task. The safety performance of a modern, purpose built, combination is scarcely comparable to the vehicles used in the 1970s and 80s.

As technology has advanced, so too has the price of purchasing and maintaining a contemporary heavy vehicle combination. Professional livestock transporters invest many hundreds of thousands of dollars in their on-road equipment and are subject to regular observation or inspection by enforcement authorities.

Unfortunately, the same cannot be said for off-road loading and unloading infrastructure in the rural transport sector. All too often, modern vehicles have no choice but to use the very same loading facilities that were built for vehicles designed a generation ago (or even longer).

The reason is simple. The cost of constructing modern loading or unloading infrastructure is borne by the depot owner, while the cost of cumulative inefficiencies in the loading task is borne by the transport operator. It is a classic market failure, and without some form of 'chain of responsibility' there is little incentive for depot owners to keep pace with improvements in vehicle technology.

There is no doubt that community expectations around workplace safety have also changed dramatically over recent decades – we no longer accept the risk of death or critical injury as just 'part of the job'. ALRTA understands that workplace health and safety laws have a central role to play in requiring plant owners to assess and control safety risks, but such laws are of a general nature and are usually applied only to obvious on-site risks such as slips, trips, falls, crushing, cuts, bruising etc.

In the context of transport safety, there are also less obvious risks for the plant owner that can result in safety problems manifesting off-site, such as fatigue related heavy vehicle accidents.

For example, outdated livestock loading infrastructure is neither vehicle-friendly or animal-friendly. Drivers know that a prolonged and tedious loading or unloading process can significantly affect their fatigue levels over the full length of a transport task.

A survey of 40 members conducted at the Livestock and Rural Transporters Association of Victoria (LRTAV) Annual Conference in August 2019 indicated that:

- 80% of injuries requiring medical attention that occur during livestock loading or unloading are not reported to work safe authorities; and
- For most drivers, near misses occur almost every day.

ALRTA, our State Member Associations, and individual transport businesses are together progressing several initiatives designed to improve safety when loading or unloading livestock.

In July 2015, the ALRTA published a national Guide for Safe Design of Livestock Loading Ramps and Forcing Yards. The Guide summarises the potential hazards of livestock loading ramps and forcing yards and includes practical examples of ways to control associated risks for different types of facilities.

In response to a coroner's recommendation and an application lodged by ALRTA, Standards Australia is now developing an enforceable national standard via the Australian National Committee ***SF-054 – Safe Design of Livestock Ramps and Forcing Yards***. It is expected that an enforceable national ramp standard will be published in late 2021.

Frasers Livestock Transport has designed a custom-built, free-standing cross-loading module that incorporates a series of elevated platforms, over-trailer walkways and sliding gates/barriers. This new module has decreased the *risks* of falls, trips and contact with livestock and improved productivity through time efficiencies and enhanced livestock welfare.

The Livestock and Rural Transporters Association of Victoria (LRTAV) has worked with equipment suppliers to develop and promote safer supporting infrastructure such as the ProWay Stock Crate Pivot Access Landing (Crate P.A.L.) that swings in alongside a trailer to enable drivers to work at varying levels without the need to climb on the side or top of the crate.

A trial of a 'user-pay' Crate P.A.L. commenced at Kilcoy Global Foods on 2 September 2019. Funded through the NHVR's Heavy Vehicle Safety Initiative, the trial is exploring the potential of a 'user-pay' system to facilitate more rapid uptake of safer unloading infrastructure at major livestock depots across Australia.

In addition to these major initiatives, ALRTA State Member Associations are actively progressing specific safety concerns raised by individual grassroots members with local feedlots, saleyards and processors – there are just too many to list.

While direct action from industry associations is important, prevailing workplace health and safety laws and heavy vehicle laws should be effective in requiring minimum safety standards in off-road loading and unloading equipment to be met. These laws should also require depots frequented by heavy vehicles to provide basic amenities such as toilets, showers and shade.

However, in our observation, current workplace health and safety laws, and heavy vehicle chain of responsibility laws are NOT effective in achieving these goals.

Managers of most loading and unloading facilities remain resigned to doing the absolute bare minimum in line with the lowest-cost option – or simply will take no action at all. Because such facilities operate under a 'traditional' model and are located away from population centres, there is little risk that workplace health and safety officers will inspect the infrastructure, let alone understand the consequential risks that may arise in terms of heavy vehicle driver fatigue.

It is simply not acceptable that we continue the practice of putting this important sector in the 'too hard basket', thereby exposing our drivers and other road users to on-road safety risks that can, and should be, controlled by off-road parties in the chain.

Recommendation 84: That the HVNL specifically regulate the provision of safe and productive off-road transport infrastructure under chain of responsibility provisions.

9.6 Disclosure of Offences

All parties in the chain of responsibility have general duties to ensure the safety of their transport activities. However, the HVNL does not include provisions that require (or even allow) driver offences to be disclosed to the registered operator of the vehicle involved. This situation limits the ability of vehicle operators to fulfil their chain of responsibility duties, leaving them unwittingly exposed to prosecution. ALRTA considers that all offences committed by a driver should be automatically disclosed to the registered vehicle operator.

Recommendation 85: That the HVNL require that all offences committed by a driver be automatically disclosed to the registered vehicle operator.

9.7 Enforcement Officers

ALRTA member operators commonly perceive that HVNL enforcement officers are poorly trained, apply the law inconsistently and have a poor understanding of trucking operations (especially police). Further, transport operators who have appealed HVNL breaches feel that officers are not at all accountable for their actions or decisions.

Recommendation 86: That the NHVR be responsible for training and monitoring the performance of all officers authorised under the HVNL.

Recommendation 87: That authorised officers (including police) must receive specific training in accordance with the HVNL and NHVR Heavy Vehicle Inspection Manual before being empowered to enforce the HVNL or inspect heavy vehicles.

Recommendation 88: That during enforcement action, the officer should be required to ask the operator to explain their understanding of the problem and take this into account when deciding whether or not to issue a breach.

9.8 Penalties

All drivers and transport operators feel unfairly exposed to a raft of administrative beaches under the HVNL that attract large fines not reflecting potential safety impacts. There are few, if any, other industries in which regulated entities can be fined a week's wages for inadvertent breaches such as:

- Working a few minutes longer than allowed;
- Taking a wrong turn into an area in which access is restricted;
- Inadvertent, minor or inconsequential load loss; or
- A vehicle defect which occurs during a journey.

ALRTA considers that larger penalties should be applied to entities that demonstrate a persistent pattern of deliberate behaviour. Penalties for repeat offenders should be higher still. Conversely, transport operators and drivers known to have good compliance records should not be exposed to penalties for minor offences that are difficult (or impossible) to control. As outlined in section 9.1, the focus of the HVNL should be to encourage regulated entities to identify and manage risk, while pragmatically accepting that not all risk can be entirely eliminated.

Recommendation 89: That the penalties for non-safety related administrative breaches of the HVNL be reduced or removed with a focus on warnings, improvement notices and self-clearing defect notices (allowing at least 7 days to clear).

Recommendation 90: That penalties under the HVNL be generally rebalanced to reflect a risk-based approach to compliance and enforcement.

Recommendation 91: That penalties for low risk heavy vehicle defects be greatly reduced with new higher-level penalty introduced for failing to maintain a vehicle. The new penalty could be applied in circumstances in which it is obvious that defects have existed for some time without action being taken to remedy the problem, or failure to undertake basic preventative maintenance.

ALRTA considers that the basis for calculation of breach categories under HVNL subordinate instruments is fundamentally flawed and grossly unfair. The problem arises because of the different treatment of concessions that are constituted in law (legislation or regulations) vs those that are constituted in subordinate instruments (notices and permits).

Table 2 below outlines GML, CML and HML mass allowances on an eligible tri-axle group, including the mass-breach consequences of a 104% overload.

	GML	CML	HML
Tri-axle Limit	20.t	21.0t	22.5t
104% overload	20.8t	21.9t	23.4t
Breach Category	Minor	Minor	Substantial (borderline severe)

Table 2: *Comparison of mass breach categories at 104% on eligible triaxle for GML, CML & HML.*

Table 2 illustrates that a 104% overloading offence at HML attracts a higher offence category than either GML or CML. While it may be argued that this is appropriate due to higher risks applicable at HML, this is equally true when comparing GML vs CML between which no breach category differences apply. Further, HML vehicles are limited to particular routes only (presumably chosen because of limited risks applicable at HML) and may even require monitoring via the IAP system.

The risk of extreme penalties for breaching HML weights results in operators significantly underloading HML vehicles by around 2-3% which greatly undermines any productivity increase delivered under the HML notice (particularly if also factoring in IAP costs where applicable). In SA, data collected by grain receivers indicates that a consistent 2% underload results in an additional 6,000 vehicle movements each season. These factors no doubt go a long way towards explaining why HML take up has been far less than originally expected.

If, as suggested by ALRTA, much of the HVNL detail is moved down the hierarchy of instruments to enable greater flexibility in administering the law, it is possible that more problems such as that illustrated in Table 2 will arise – even though underlying risks are unchanged!

ALRTA asserts that breach categorisation outcomes (and associated penalties) should not be materially affected merely by drafting architecture. Any differences in breach categorisation should only occur by way of a reasoned risk assessment, specifically dealt with within the appropriate legal instruments. If an operator is substantially compliant with an instrument they claim to be operating under (e.g. A Livestock Loading Scheme), breaches should only be calculated with reference to the instrument, rather than calculated as if the instrument does not apply at all.

Recommendation 92: That breach categorisation always be calculated with reference to the legal instrument that establishes an applicable mass, dimension or time limit, in circumstances where the operator is otherwise substantially compliant.

9.9 Animal Welfare

Livestock transporters are subject to an enormously complex legislative environment (Table 3). All of these laws apply simultaneously and animal welfare outcomes can be affected by overlapping requirements. For example:

- road laws limit vehicle speeds.
- heavy vehicle national laws limit driver work hours.
- land transport standards limit the time that water can be withheld from livestock.

Area	Legislation
Land Transport Standards and Guidelines for Animal Welfare	Nationally consistent state-based instruments (except WA & NT)
Heavy Vehicle National Law	Nationally consistent state-based instruments (except WA & NT)
Workplace health and safety	Nationally consistent state-based instruments (except VIC)
Prevention of cruelty	Various state-based instruments
Quarantine and biosecurity	Federal and various state-based instruments
Export control	Federal laws
Industrial	Federal and various state-based instruments
Road rules	Various state-based instruments
Vehicle standards	Federal and various state-based instruments
Vehicle registration	Federal and various state-based instruments
Driver licencing	Various state-based instruments

Table 3: *Key legislation applicable to livestock transport.*

If a loaded carrier experiences unforeseen and uncontrollable circumstances that delay a journey by several hours (e.g. a mechanical breakdown), a situation can arise in which the driver is simply unable to comply with all legislated requirements.

Value judgements must sometimes be made taking into account the welfare of the driver, livestock and other road users. For this reason, it is important that the HVNL recognises that an impending animal welfare crisis, that could be avoided by additional driving that would otherwise breach fatigue laws, is a reasonable defence against prosecution.

Recommendation 93: That the HVNL recognise that an impending animal welfare crisis, that could be avoided by additional driving that would otherwise breach the HVNL, is a reasonable defence against prosecution. In particular, this must be recognised in fatigue provisions.

9.10 Minor, Incidental and Unavoidable Load Loss

Moving livestock along road corridors is an important and necessary task that underpins Australia's regional and export economies.

According to the ABS publication *Value of Agricultural Commodities Produced, Australia, 2015-16* the total value of '*Livestock slaughterings and other disposals'* is approximately $21b annually. The vast majority of these livestock will have been transported by road on at least one occasion.

ALRTA is in the process of implementing a broad effluent strategy that involves clarifying chain of responsibility, developing a registered code of practice, improving information flows, encouraging the use of containment systems and establishing a network of managed roadside disposal sites.

These measures would together be expected to greatly reduce the incidence of major effluent spills.

However, even with all of these measures in place, and fully adhered to by all parties in the livestock supply chain, some effluent loss will be inevitable due to the nature of live animals and legislated requirements for open, ventilated crates.

To put the effluent problem in perspective, it is worth considering that the traditional means of droving stock on horseback along roads and stock routes (and sometimes through the main street of towns) would result in far more effluent being deposited along the route.

By comparison, effluent loss from a heavy vehicle generally would be much lower over the same length of route simply because it takes only a fraction of time to travel the same distance. Overall, the use of heavy vehicles to transport a given number of animals results in a net reduction of effluent being deposited along road corridors.

Given the necessity of moving livestock and that some effluent loss is unavoidable, it is manifestly unreasonable to penalise heavy vehicle drivers when small amounts of livestock effluent is lost in transit, particularly when there is no safety risk or appreciable impact on amenity.

The current strict interpretation of section 115 of the HVNL is also problematic for a range of other rural commodities. For example:

- **Hay / Cotton / Wool:** All bales may be properly secured and tarped, but a small amount of fibrous material can dislodge due to movement and air flow during transport. Even the process of properly configuring bales on the trailers and applying pressure via straps will inadvertently dislodge some material.
- **Grain:** Grain can be secured in a tipper and tarped but airflow can 'pick up' some material or loose grain that has fallen on other parts of the vehicle during loading may inadvertently dislodge. Some grains like canola flow like water and can be almost impossible to fully contain during loading, transport and unloading.
- **Gravel:** Wet gravel loaded into a tipper may leak some water onto the road during transport.
- **Cooling Water:** Cooling water may be sprayed onto livestock such as pigs in trailers on hot days. This water may then drip or inadvertently spray onto the roadway.
- **Rain:** Rain events during transport can cause small amounts of material to inadvertently wash from the vehicle. The rainwater itself may mix with other materials (e.g. effluent) and become indistinguishable from the load.
- **Gas:** Strictly speaking, invisible gas exiting a vehicle from the load might even constitute evidence of a load restraint offence (e.g. methane from livestock, decomposing material from a garbage truck etc). There is nothing in section 115 distinguishing the various states of matter (solid, liquid, gas) so any escape whatsoever can trigger a breach.

Penalising drivers for these types of offences does nothing to improve road safety and can result in good drivers having contempt for the HVNL and the officers that administer it.

Further, focussing on easy to prosecute offences such as these wastes valuable enforcement resources that would be better focused on risk-based targeting of significant safety issues.

The NTC has previously considered this issue as part of a 2018 Discussion Paper on *Effluent and Load Restraint*, recommending several options to remedy the problem.

Recommendation 94: That the HVNL allow for a minor, incidental or unavoidable loss of part of a load or a new category of exemption should be created specifying that any effluent loss from a heavy vehicle loaded with livestock does not constitute a load restraint offence.

9.11 The Role of Technology

The HVNL was developed in a paper-based era that did not contemplate the rapid advances in communications technology that have occurred in recent decades. It is highly likely that technological advances will continue to occur at an increasingly rapid pace, potentially resulting in outdated, inefficient, redundant or unworkable heavy vehicle laws.

For this reason, it is essential that the new HVNL take a forward-looking positive approach to the use of technology in all facets of heavy vehicle regulation, not the least of which relates to assurance systems, compliance and enforcement. Embracing technology may also deliver other incidental benefits such as the generation of real-time (or near real time) network-wide data that can be used for safety research and infrastructure planning purposes.

Recommendation 95: That the HVNL empower the NHVR to recognise technological solutions (including potential future technologies) as a voluntary alternative means of demonstrating compliance with the HVNL.

Recommendation 96: That the HVNL empower the NHVR to set nationally consistent standards for technology solutions proposed to be recognised under the HVNL.

Recommendation 97: That the HVNL specifically address issues concerning standardised data formats/platforms, privacy, security and purpose of use.

Recommendation 98: That technological solutions leverage off current technologies as much as possible, rather than imposing entirely new systems that must then operate along-side existing systems.

Recommendation 99: That the HVNL provide a greater level of operational flexibility to operators that adopt monitoring technologies to actively manage safety risks (e.g. fatigue, mass or access).

Recommendation 100: That the HVNL allow the voluntary collection of de-identified data for research and network management purposes.

Under the current regulatory regime, penalties for non-compliance need to be set at a relatively high level because the risk of being detected can be quite low. Operators who voluntarily enter into constant monitoring systems (particularly any system that reports non-compliance to a regulator) have a much higher probability of being 'caught', and therefore, the need for high penalties as a deterrent is much lower. There is a strong case to reduce non-compliance penalties in these circumstances, which is both fairer and an incentive for operators to voluntarily enter such systems.

Recommendation 101: That HVNL penalties be reduced for operators who adopt technologies that monitor, record and report potential non-compliance events.

Recommendation 102: That HVNL penalties be reviewed with the objective of removing or reducing penalties for non-compliance with administrative requirements that have become redundant (e.g. carrying a licence that can be checked electronically at the roadside).

10.0 Assurance Models

ALRTA is supportive of voluntary accreditation models which can complement the HVNL by:

- Offering a safety management system to assist operators to identify and manage risks in their own business;
- Continually evolving to maintain 'best practice' standards, over and above the HVNL;
- Enabling operators to demonstrate their safety management systems to customers, regulators and other parties in the chain of responsibility.

However, the current accreditation model operating under the HVNL is fundamentally flawed. Persons or vehicles accredited under the NHVAS system enjoy regulatory benefits such as increased driving hours, increased mass or reduced inspection requirements, whereas, operators in other equivalent industry developed schemes do not. As a result, the NHVAS system operated by NHVR has many thousands of vehicles, drivers and operators enrolled, while industry schemes such as TruckSafe are only able to attract a few hundred entrants – despite arguably being a better scheme.

Competition between accreditation schemes is healthy because it drives innovation and continuous improvement. Many elements first developed under the TruckSafe system have subsequently been incorporated into the NHVAS framework. However, for a competitive model to be sustainable, accreditation schemes must compete on an equal basis. ALRTA considers that the best way to achieve this outcome would be to:

- Extend common regulatory benefits to all competing schemes;
- Discontinue the NHVR's role as an accreditation provider;
- Allow NHVAS to be provided by a third party at arm's length from the NHVR;
- Establish NHVR as an accreditation system overseer, setting prescribed standards and regulating accreditation providers (similarly to the Electronic Work Diary system).

One of the key benefits of this model would be the establishment of regulatory equivalence across all schemes and scheme providers. This would enable operators to choose the scheme that is best for their own business circumstances, rather than having to join all schemes customers may demand (a mutual recognition system could greatly reduce cost and duplication for enrolled operators).

Recommendation 103: That the HVNL change the regulatory model for accreditation systems to:

- Extend common regulatory benefits to all competing schemes;
- Discontinue the NHVR's role as an accreditation provider;
- Allow NHVAS to be provided by a third party at arm's length from the NHVR;
- Establish NHVR as an accreditation system overseer, setting prescribed standards and regulating accreditation providers (similarly to the EWD system);
- Establish standards for core elements to ensure mutual recognition of equivalent accreditation schemes. ALRTA supports a 'distributor model' under which TruckSafe, NHVAS and WA RAV could become separate, but equivalent, ways of meeting national accreditation standards.

10.1 Operator Licencing

Essentially, both 'operator licencing' and 'mandatory accreditation' represent different points along the same continuum. Introducing a mandatory licencing or accreditation system would create a significant new regulatory burden and cost for many thousands of small road transport businesses, as well as a significant new regulatory function for governments. The cost of such a system would be expected to be hundreds of millions of dollars annually, all of which would increase Australian freight costs.

A more realistic alternative would be to empower regulators to prohibit certain individuals or entities from operating or controlling any type of road freight business on a case-by-case basis (e.g. via cancellation of registrations of vehicles registered under or associated with entities that have a poor record of compliance).

Recommendation 104: That transport regulators are empowered to prohibit particular persons or entities from operating or controlling any type of road freight business on a case-by-case basis.

10.2 Accreditation Recognition

ALRTA is aware that some supply chain parties inappropriately make public claims about using transport operators accredited under various schemes. For example, one large supermarket chain claims to use carriers accredited under the TruckSafe Animal Welfare Module. The claim is highly misleading because the supermarket chain does not exclusively use accredited carriers. In fact, very few of the total number of carriers engaged are accredited.

Claims such as these undermine the value of the accreditation system and reduce demand for accreditation. The HVNL should empower the NHVR (as the regulator of accreditation systems) to make rules about claims that can be made concerning the use of accredited operators.

Recommendation 105: The HVNL should empower the NHVR (as the regulator of accreditation systems) to make rules about claims that can be made concerning the use of accredited operators.

10.3 Specific Regulatory Benefits

ALRTA is concerned about the regulatory benefit that applies to vehicles accredited in NHVAS maintenance management. ALRTA member operators generally agree that all heavy vehicles should be physically inspected by a third party at regular intervals in all HVNL jurisdictions. While in-house inspection and maintenance programs can reduce risk, there simply is no substitute for risk-based third-party physical inspections. It would however be reasonable for accredited operators to be inspected less often or be able to self-inspect unless there is reason to revoke this ability.

Recommendation 106: Persons auditing NHVAS maintenance schemes should have heavy vehicle mechanical qualifications.

Recommendation 107: Vehicles accredited in an approved maintenance program must be inspected by a qualified, independent third party on a risk-basis (i.e. if non-compliance is detected during intercepts then the regulator could require a certain percentage of the fleet be inspected).

Recommendation 108: Operators of accredited vehicles should be able to conduct 'in-house' inspections by appropriately qualified persons. The regulator should have an ability to revoke this option if preventable defects are detected during random inspections.

11.0 Summary of Recommendations

The ALRTA makes the following recommendations:

11.1 General Scope and Powers

- **Recommendation 1:** That the National Heavy Vehicle Regulator must administer one set of laws (the HVNL) for heavy vehicles over 4.5 tonnes GVM in every state and territory exclusive of Western Australia and Northern Territory, and coverage must be to all business types regardless of their size or make up (owner operator, small fleet, large fleet etc).

- **Recommendation 2:** That HVNL governments refer all powers over heavy vehicles to be incorporated in a single Commonwealth law, administered by a single Commonwealth agency (a re-constituted NHVR) with jurisdiction to regulate all facets of road transport relating to vehicle standards (pre and post service), driver licencing, training, health/medical, charging, off-road infrastructure, access, registration, compliance and enforcement.

- **Recommendation 3:** That in cases where the NHVR does not have primary jurisdiction over general matters such as speed, distraction, drug & alcohol etc, the HVNL should still require transport businesses to manage these issues and NHVR authorised officers should have limited enforcement powers.

- **Recommendation 4:** That the government policy objective should be to move to uniform regulation based on the 'highest productivity' approach if there is no evidence of differing safety outcomes across jurisdictions. If this cannot be achieved, then core regulations should be harmonised allowing scope for competitive inter-jurisdictional variation.

- **Recommendation 5:** That the object of the HVNL remain unchanged.

- **Recommendation 6:** That the primary duties and enforcement powers contained in the HVNL be fundamentally consistent with WH&S laws.

- **Recommendation 7:** That the HVNL be restructured to clearly state the outcomes that are expected with any further necessary regulatory detail moved to subordinate instruments.

- **Recommendation 8:** That the HVNL should be based on a geographic approach that recognises that safety risks can be vastly different across operating environments.

- **Recommendation 9:** That the HVNL include provisions to recognise the equivalence of WA and NT heavy vehicle regulatory systems.

- **Recommendation 10:** That the HVNL establish that the NHVR has responsibility for heavy vehicle registration, charges and enforcement.

- **Recommendation 11:** That all primary producer vehicles be required to display a registration plate that readily identifies the conditional nature of the registration.

- **Recommendation 12:** That penalties for misuse of primary producer concessional schemes be substantially increased to offset the very large economic incentive to misuse the scheme.

- **Recommendation 13:** That the HVNL include consistent, fair and low-cost options for regulated parties to seek an internal and independent external review of decisions, including road access and vehicle defects.

- **Recommendation 14:** That the HVNL require that the NHVR Board include at least one representative with broad operational industry experience.

- **Recommendation 15:** That the HVNL require the NHVR to establish and maintain standing consultative arrangements with industry representative structures.

11.2 Safer People

- **Recommendation 16:** That the HVNL empower drivers and operators to make practical decisions that improve safety in a live operating environment.

- **Recommendation 17:** That the HVNL specify a role for the NHVR in direct and indirect safety awareness and education campaigns targeting all road users.

- **Recommendation 18:** That the HVNL place an emphasis on business-level safety management by requiring all operators to have a safety management system appropriate for the size and resources available within their business.

- **Recommendation 19:** That heavy vehicle driver licencing, including training, competency and testing is included within the HVNL (that including a basic knowledge of the HVNL and other applicable laws [i.e. not just 'steering the vehicle'].

- **Recommendation 20:** That heavy vehicle licence holders who have accumulated a certain number of demerit points (e.g. 10 points over 5 years) are required to undergo 'refresher' training to ensure training and knowledge remains contemporary.

- **Recommendation 21:** That driver training standards and progression to higher level licence classes be based on competency, not time or age.

- **Recommendation 22:** That governments consider establishing a heavy vehicle apprenticeship scheme to provide a recognised career path for young drivers to learn all facets of heavy vehicle driving and operation (e.g. loading, scheduling, logistics). The apprenticeship must be able to be undertaken in businesses of all sizes.

11.3 Safer Vehicles

- **Recommendation 23:** That general access mass and dimensions be set at 62.5t and 26m(l) * 2.6m(w) * 4.6m(h) (i.e. a standard 9axle b-double).

- **Recommendation 24:** 4.6m stock crates are a standard vehicle and must be moved out of class 3 into class 2 to avoid the requirement for registration specific permits (which requires operators of mixed fleets to include most vehicles on the permit to allow interchange).

- **Recommendation 25:** That modern A-doubles be permitted on existing b-double routes.

- **Recommendation 26:** That general mass limits (GML) be replaced by concessional mass limits (CML).

- **Recommendation 27:** That all vehicle combination can operate at higher mass limits (HML) without an IAP requirement for all vehicles with road friendly suspension and on board scales.

- **Recommendation 28:** That the GML steer axle mass limit be increased to 7.2t.

- **Recommendation 29:** That a general mass tolerance of 5% or up to 0.5t be introduced for all axles, not exceeding manufacturers ratings.

- **Recommendation 30:** That an increased mass tolerance (up to 2t) be applied to the middle tri-axle of a b-double if the gross mass is within the total limit and the axle weight is less than the manufacturers' rating.

- **Recommendation 31:** That an axle spacing tolerance be introduced.

- **Recommendation 32:** That governments mandating new safety or emissions technologies that add weight or consume space consider commensurate increases in mass and dimension allowances.

- **Recommendation 33:** That the accelerated uptake of safer vehicles be incentivised by an appropriate combination of subsidies and concessions including: registration discounts, stamp duty discounts, increased fuel tax credits, accelerated depreciation and investment allowances.

- **Recommendation 34:** That research be undertaken into the possibility of providing regulatory concessions for newer standard vehicles with improved safety and performance (e.g. improved access or mass allowances).

- **Recommendation 35:** The HVNL should require that all heavy vehicles are physically inspected by a qualified, independent third party at least annually, unless accredited under an approved maintenance system. Vehicles less than 4 years old should be exempt (except for the initial roadworthiness check).

- **Recommendation 36:** That independent heavy vehicle inspections be able to be carried out by government inspectors or accredited non-government inspectors.

- **Recommendation 37:** Operators should be able to obtain a full third-party vehicle inspection at any time which, if advised to NHVR or an accreditation scheme provider, would reset the mandatory inspection interval.

- **Recommendation 38:** That defect notices issued by any authorised officer in any jurisdiction be able to be cleared by a government or accredited non-government vehicle inspector in any jurisdiction.

- **Recommendation 39:** That the NHVR be empowered to intervene and resolve disputes involving clearance of vehicle defects.

- **Recommendation 40:** That PBS adopt an envelope approach under which approval at a standard level should be automatically granted to all proposals that fit within an already approved vehicle specification. The applicant who obtained the original approval should be compensated by new applicants until initial costs are recovered.

- **Recommendation 41:** That commonly approved PBS vehicles be periodically classified as general access vehicles (or equivalent to a standard Higher Productivity Vehicle with equivalent network access).

- **Recommendation 42:** That vehicle length be measured backward from the kingpin to allow different types of prime movers to be freely interchangeable and to allow the installation of wider sleeper cabs to improve driver rest.

- **Recommendation 43:** That bull bars be excluded from length measurements.

- **Recommendation 44:** That all pig and dog trailers be required to fit safety chains.

- **Recommendation 45:** That vehicle modification rules be simplified and streamlined with a focus on encouraging safety improvements.

- **Recommendation 46:** That vehicle modification rules include a length and width tolerance if the proposed modification produces a net safer outcome.

11.4 Vehicle Access

- **Recommendation 47:** That the HVNL provide for a system of 'low volume access' to enable HPVs to infrequently access places of primary production for the purpose of loading produce or delivering farm necessities.

- **Recommendation 48:** That permits that are routinely issued should be converted to notices.

- **Recommendation 49:** That every application for a permit should also be considered for a notice.

- **Recommendation 50:** That permits should be valid for a period of not less than two years.

- **Recommendation 51:** That notices issued by NHVR should automatically apply in all HVNL jurisdictions at all levels of government, unless the road manager can demonstrate to the NHVR a sound reason otherwise.

- **Recommendation 52:** That a notification system be developed for low risk permits (i.e. so that road managers are simply notified of automatic approvals issued to operators rather than having to approve each individual application).

- **Recommendation 53:** That generic permits be available that are not linked to vehicle registration. These permits should be able to be obtained by any person (e.g. a farmer) and able to be used by any vehicle matching the generic description on the permit.

- **Recommendation 54:** That 'commodity routes' be established (or maintained) that allow access to any operator transporting a specified commodity using specified equipment. These routes should also be a priority for upgrading to HML status for all combinations (see Recommendation 27).

- **Recommendation 55:** That a geographic approach be used in remote areas providing access to all roads within a stated area unless otherwise specified.

- **Recommendation 56:** That an envelope approach be used such that if a permit is issued for a particular vehicle type (based on dimension and mass), all future access applications from vehicles that fit within this envelope should be automatically approved (e.g. if a permit is issued for a road train, future applications for b-double access should be automatically approved).

- **Recommendation 57:** That further work be undertaken to establish one single agreed bridge assessment formula.

- **Recommendation 58:** That bridge assessments be kept on file and made available for all future applicants (who will not need to pay or wait for an additional bridge assessment to be undertaken).

- **Recommendation 59:** That agreed access decision-making guidelines be developed and published.

- **Recommendation 60:** That all local road managers be subject to a capability and commitment test before being empowered to make access decisions, and be periodically re-assessed. This should include a commitment to meet minimum timeframes and apply decision-making processes as per agreed guidelines. Local road managers who are unable to meet the requirements of the capability and commitment test should have their powers transferred to a competent state authority or NHVR.

- **Recommendation 61:** That a pool of road engineering experts be established within NHVR and made available to local governments that lack an engineering assessment capability.

- **Recommendation 62:** That applicants receive confirmation of receipt of an access application within 24hrs.

- **Recommendation 63:** That the 28 day decision timeframe be reduced to 72 hours.

- **Recommendation 64:** That the NHVR or state road authority be empowered to make low-risk access decisions in the event that a local authority does not respond within stipulated timeframes.

- **Recommendation 65:** That OSOM permits be managed by either the NHVR or state road manager as is the case in WA.

- **Recommendation 66:** That the condition of all local roads be mapped and entered into a common database to assist access decision making.

- **Recommendation 67:** That IAP be considered a vehicle condition only able to be applied by NHVR.

11.5 Fatigue

- **Recommendation 68:** That the HVNL specify driving limits over an extended window, allowing drivers to manage their own rest within this window.

- **Recommendation 69:** That the HVNL fatigue system be simplified to a basic prescriptive regime (that still includes improved flexibility compared with current standard hours) and a higher-level risk managed system (that includes entry requirements, AFM and technological solutions).

- **Recommendation 70:** That the HVNL standard hours regime allow drivers 24hrs of driving over a 48hr window with a maximum of 13hrs on any one day.

- **Recommendation 71:** That the HVNL empower drivers to rest whenever they feel fatigued without the risk of punishment by an employer or customer.

- **Recommendation 72:** The HVNL fatigue regulations should apply to all vehicles 4.5t or over.

- **Recommendation 73:** The HVNL should require mandatory driver medicals and place a higher emphasis on driver 'fitness-for-duty'.

- **Recommendation 74:** The HVNL should empower the NHVR to modify definitions of work and rest.

- **Recommendation 75:** That the HVNL counting time rules be simplified such that:
    - Only driving time is recorded. All other times should count as rest.
    - Sitting in the driver's seat of a stationary vehicle (e.g. on a weighbridge) should not count as driving.
    - A long-rest break of a minimum period (e.g. 7hrs) should reset the counting period and extinguish any further forward counting from the end of a previous long rest break.
    - The feasibility of a standard midnight to midnight counting period should be explored.
    - A 14 day counting period should be available to drivers in the second tier fatigue regulatory system (see Recommendation 69).

- **Recommendation 76:** That the HVNL radius-based record keeping exemptions be preserved, with a new requirement to record start (i.e. end of long rest-break), finish (i.e. commencement of long rest break) and total driving time.

11.6 Compliance and Enforcement

- **Recommendation 77:** That the HVNL take a risk-based approach to compliance and enforcement.

- **Recommendation 78:** That the HVNL require the regulator to consult with industry, community and governments to determine acceptable risk levels across various trucking sectors.

- **Recommendation 79:** That the HVNL place a greater emphasis on immediate safety risks (e.g. a fatigue breach in a current counting period) and less emphasis on technical breaches that no longer represent an imminent safety risk (e.g. a fatigue breach in a previous counting period).

- **Recommendation 80:** That the HVNL include new provisions that recognise and reward good in-house compliance systems by reducing or removing penalties for breaches that have already been dealt with by the transport business.

- **Recommendation 81:** That heavy vehicle drivers be allocated one additional demerit point and be able to earn points back under a reward system.

- **Recommendation 82:** That automatic deeming be reintroduced for low level infringeable offences under the HVNL chain of responsibility provisions.

- **Recommendation 83:** That the current list of chain parties from the HVNL be removed (in future using these as examples only) and replaced with a new definition based on a 'person conducting a business or undertaking' (insofar as they influence road transport either on or off road) – as contained in workplace health and safety legislation.

- **Recommendation 84:** That the HVNL specifically regulate the provision of safe and productive off-road transport infrastructure under chain of responsibility provisions.

- **Recommendation 85:** That the HVNL require that all offences committed by a driver be automatically disclosed to the registered vehicle operator.

- **Recommendation 86:** That the NHVR be responsible for training and monitoring the performance of all officers authorised under the HVNL.

- **Recommendation 87:** That authorised officers (including police) must receive specific training in accordance with the HVNL and NHVR Heavy Vehicle Inspection Manual before being empowered to enforce the HVNL or inspect heavy vehicles.

- **Recommendation 88:** That during enforcement action, the officer should be required to ask the operator to explain their understanding of the problem and take this into account when deciding whether or not to issue a breach.

- **Recommendation 89:** That the penalties for non-safety related administrative breaches of the HVNL be reduced or removed with a focus on warnings, improvement notices and self-clearing defect notices (allowing at least 7 days to clear).

- **Recommendation 90:** That penalties under the HVNL be generally rebalanced to reflect a risk-based approach to compliance and enforcement.

- **Recommendation 91:** That penalties for low risk heavy vehicle defects be greatly reduced with new higher-level penalty introduced for failing to maintain a vehicle. The new penalty could be applied in circumstances in which it is obvious that defects have existed for some time without action being taken to remedy the problem, or failure to undertake basic preventative maintenance.

- **Recommendation 92:** That breach categorisation always be calculated with reference to the legal instrument that establishes an applicable mass, dimension or time limit, in circumstances where the operator is otherwise substantially compliant.

- **Recommendation 93:** That the HVNL recognise that an impending animal welfare crisis, that could be avoided by additional driving that would otherwise breach the HVNL, is a reasonable defence against prosecution. In particular, this must be recognised in fatigue provisions.

- **Recommendation 94:** That the HVNL allow for a minor, incidental or unavoidable loss of part of a load or a new category of exemption should be created specifying that any effluent loss from a heavy vehicle loaded with livestock does not constitute a load restraint offence.

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    - Extend common regulatory benefits to all competing schemes;
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- **Recommendation 104:** That transport regulators are empowered to prohibit particular persons or entities from operating or controlling any type of road freight business on a case-by-case basis.

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