



NATIONAL ROAD TRANSPORT ASSOCIATION

Submission to the National Heavy Vehicle Regulator

Draft Heavy Vehicle Productivity Plan

13 March 2020

Introduction

1. The National Road Transport Association (NatRoad) is pleased to make comments on the draft *Heavy Vehicle Productivity Plan 2020-2025*¹ (Draft) released by the National Heavy Vehicle Regulator (NHVR) in December 2019.
2. NatRoad is Australia's largest national representative road freight transport operators' association. NatRoad represents road freight operators, from owner-drivers to large fleet operators, general freight, road trains, livestock, tippers, car carriers, as well as tankers and refrigerated freight operators.
3. NatRoad is disappointed that we were not consulted in the preparation of the Draft. The absence of NatRoad's name from Appendix 2 of the Draft has prompted negative comment from some stakeholders. Omissions of this kind have an influence over perceptions well beyond the trivial. Having said that, NatRoad values its relationship with the NHVR and appreciates the opportunity to assist to shape the outcomes to be derived from the Draft. We applaud measures to make regulatory decisions more transparent and consistent.²
4. This submission generally follows the headings established in the Draft. We note, however, that the Action Plan for the Draft will be developed subsequently to the feedback received from formal submissions on the Plan. The Action Plan will be a critical document. It should meet the requirement of having targets and milestone dates from agreed outcomes set out in the finalised Draft. In addition, it should assess compliance costs before and after any proposed action.
5. When members provided us with feedback on an early draft of this submission, they emphasised that the cost of compliance is a significant contributor to operator costs and as such should be reported and considered as an impediment to productivity improvement. They wanted us to call out the problems with the current chain of responsibility laws in this context. Compliance standards, procedures and requirements which require operators to maintain multiple duplicative processes and recording systems are neither efficient nor productive. In the face of increasing customer and principal audits despite membership of one or even more certification schemes, members are indicating that they are suffering under an administrative tidal wave. Customers/principals do not appear to have sufficient confidence in current assurance schemes so as to have the confidence to rely on them to satisfy their chain of responsibility obligations. The NHVR we submit should focus on this issue as it relates directly to industry costs from compliance with the current law.
6. Assessing compliance costs before and after matters set out in the Action Plan will accord with the Productivity Commission's initial observations about a necessary change in monitoring transport regulation compliance costs.³

¹ <https://www.nhvr.gov.au/files/201912-1127-draft-heavy-vehicle-productivity-plan-2020-2025.pdf>

² An objective of the current NHVR corporate plan <https://www.nhvr.gov.au/files/201907-1085-nhvr-corporate-plan-2019-2022.pdf> see page 10

³ <https://www.pc.gov.au/inquiries/current/transport/draft/transport-draft.pdf>

7. To be particular about the matters noted by the Productivity Commission raised in the last paragraph we note the comments made as follows:

The NHVR is aware that there are significant compliance costs from aspects of its activities but does not report on these costs. ... As a matter of accountability, each of the national regulators should be required to monitor compliance costs in some way, and report regularly on the level and change in these costs. Accountability through transparency should be complemented by regulators' ongoing commitment to reduce compliance costs in ways that are consistent with improving safety outcomes.⁴

Heavy vehicle statistics

8. We refer to the infographics at page 4 of the Draft. Under the heading "Australia's heavy vehicle profile" there are figures of 103,038 articulated trucks, 353,759 heavy rigid trucks and 99,379 buses. These numbers total 556,176 (not shown). The source of these numbers is given as the 2018 motor vehicle census published in January 2019. But the total number of heavy vehicles registered in Australia in February 2020 (according to verbal advice provided by an officer of NHVR) is in excess of 923,000. We are unsure how these numbers reconcile but clarification of this difference is sought. Supplementary material should be added to the final plan so that the true size of the heavy vehicle fleet is not underestimated.
9. One member in commenting on this issue in relation to an early draft of this submission said that it was "deeply concerning and begs the question as to the validity of any productivity measurements and reporting if vehicle numbers vary hugely between different reports." Accordingly, how this disparity occurs and the manner of any necessary reconciliation is a critical issue that we would like to further discuss with the NHVR.
10. In the context of use of data from the NHVR's national heavy vehicle registration data base, referred to in the prior paragraph, the CEO of NatRoad wrote to the Program Relations and Project Manager of NHVR on 20 February 2020 seeking that NHVR make representations to the jurisdictions and Austroads to enable the NHVR to share data and insights that will benefit industry. A copy of that letter is attached as Attachment A. We reinforce that NHVR is able to assist the industry with up-to-date targeted information derived from the registration data base and that evidence-based policy development must be underpinned by reliable and accessible data of the kind mentioned in this correspondence.

Road Freight and heavy vehicle access picture

11. We refer to the information contained on page 6. We suggest that there be statistics published that record the number of days an application for a permit is held by the NHVR before being provided to a road manager and also how long before communication is made to an applicant once material is received from a road manager. This is one measure that would show processing efficiency within the NHVR and would be a measure adding to the transparency of the permit process. The data could be disaggregated by permit type for additional transparency.

⁴ Id at p 23

12. The consent request data adding to 100% gives the impression that all permits were approved. The material should be modified so that impression is not conveyed. The outlier statistics would also assist i.e. the longest period a consent request took to be made for both local and State Government road managers and the longest time it took at an administrative level for the NHVR to deal with a permit application.

About the draft Heavy Vehicle Productivity Plan

13. NatRoad broadly supports the three objectives of the Draft (discussed in detail below) that is:

Objective 1: Provide access certainty and consistency;

Objective 2: Partner with local government to build capability; and

Objective 3: Promote safer and more productive vehicles that are better for the environment and communities.

14. The issue with objective 2, however, is that ideally many of the matters that require promotion and persuasion of local governments should be converted to mandated conditions required by law, as NatRoad outlined in the submission to the National Transport Commission (NTC) for the Heavy Vehicle National Law (HVNL) review in relation to access.⁵ This issue is highlighted in further comments below.

15. The content under this heading indicates that the Draft is aligned with the NHVR's corporate plan 2019-2022. The question arises, therefore, as to whether the Draft comprises the corporate plan's intent to have in place the Heavy Vehicle Freight Access Strategy and five-year action plan.⁶ That appears to be the case although it is not explicitly stated in this part of the Draft. The final plan should clarify this matter.

Priority Outcomes

16. NatRoad notes that the priority outcomes are worthwhile goals. However, whilst the final priority outcome is commended the basis of the targeted investment is not clear. In this context, we would propose that the final plan contain reference to the need for governments to invest in rest areas. This process should commence with mapping of all current rest areas and planning for development of better facilities and the creation of rest areas as a mandated matter when any publicly funded road construction is undertaken.

Objective 1: provide access certainty and consistency; Goal 1: Increase gazetted and pre-approved networks to remove the majority of permits for low-risk movements

17. The NHVR vision and the NatRoad vision in this area are the same. The Draft says "The NHVR envisions a future where permits are required by exception rather than as a rule." In the submission to NTC mentioned above we emphasised a number of matters that align with this statement and which guide a number of responses in this current submission, albeit the NatRoad vision takes the current goal further in the direction of fundamental reform:

⁵ https://www.ntc.gov.au/submission_data/464

⁶ Above note 2 at p 8

- NatRoad supports moving to as-of-right system of access once a heavy vehicle complies with relevant mass and dimension limits.
- A highly responsive permit system is required. NatRoad does not support a period of greater than 7 days for access consent.
- A transitional arrangement could be that a permit is deemed to be issued where a road manager fails to act within 7 days.
- Extensive pre-approved road networks should be mapped out for all classes of heavy vehicle.
- Where pre-approval is not available, guidelines which are binding and consistently applied by the national regulator should be in place and taken up in the HVNL.

18. We welcome the statement that “The NHVR will use trend information from completed applications processed through the NHVR portal to identify potential gazetted and pre-approved network opportunities.” This process together with the delivery of new notices to enable permit free access are fully supported.

19. Industry wants to assist with these processes. However, the exact purpose of the role for industry articulated in the Draft is unclear. The statement is made: “ Industry also has a role to play in successfully delivering new notices, for example by providing data and research on the vehicle fleet and vehicle performance, communications and engagement to ensure industry is aware of potential changes to the access environment, and education on understanding any new obligations.” NatRoad understands the latter educative role. But the issue of how the vehicle fleet and vehicle performance data could be aggregated and supplied in a manner that assists the NHVR in proposing and delivering national notices is unclear.

20. Similarly, we are unclear as to what legacy arrangements that are envisaged to prevent harmonisation are contemplated when the statement is made that “Legacy arrangements may need to genuinely be protected for significant local economic reasons not relevant to other areas.” Examples and the ambit of this proposed “compromise” (as it is labelled by the NHVR) would assist.

21. We also fully support the publication of the outcome of historic permit applications. This process would be very much assisted by publication of the rationale for refusal of a permit, suitably de-identified.

22. Page 11 contains a list of actions that the NHVR proposes to take. These are supported. The list includes the NHVR implementing agreed recommendations from the OSOM review. It would be of utility for the final plan to expand on the recommendations that require action by the NHVR and the status of NHVR action, noting that the Departmental web site reports on this issue as of November 2019.⁷

⁷ https://www.infrastructure.gov.au/vehicles/vehicle_regulation/ris/index.aspx

Objective 1: provide access certainty and consistency; Goal 2: Provide greater certainty for PBS vehicles

23. Again, the NHVR and NatRoad visions align. NatRoad in the submission to the NTC on the HVNL review relating to safer vehicles traversed a number of issues associated with improvements to the PBS scheme.⁸ Again, however, the NatRoad reform proposals go well beyond the three steps proposed in the Draft to assist to meet Goal 2.
24. Two of the three steps proposed by the NHVR relate to partnering with industry. Both steps require industry to increase the administrative burden via the provision of data when PBS access is sought. This approach is not opposed but should be costed and the extent of co-ordination of these projects by industry groups given greater certainty. These projects fall well short of the NatRoad proposal in this context which is in part that mapping networks for all four A and B levels of the PBS network at GML, CML and HML should occur as a priority, ensuring these are integrated with the NHVR Journey Planner and Access Portal: the “pre-approved network” approach mentioned by NatRoad in the access submission referred to earlier.

Objective 1: provide access certainty and consistency; Goal 3: Understand the real capacity and capability of roads and bridges on key freight routes

25. NatRoad agrees with the NHVR’s assessment that “understanding the real capacity of key roads and bridges will allow the NHVR, road managers and industry to better match the right heavy vehicle to the road network, opening up new access possibilities...”⁹
26. NatRoad notes that the Productivity Commission (PC) has made relevant statements in this context in the draft report relating to its current reference on national transport regulatory reform.¹⁰ The PC notes that “a better understanding of road assets and traffic flows could help local governments to increase their use of as-of-right, gazetted or pre-approved heavy vehicle access, thus improving the productivity of the industry as well as asset managers.”¹¹
27. In this context we note the finding of the Australian Local Government Association National State of the Assets Report 2018¹² as follows:

*Asset and risk management plans are an essential and mandatory planning document for each council to report infrastructure funding needed for the next 10 years to achieve productivity and risk targets. Unlike New Zealand, Australia currently has no consistent requirement for asset management plans. In addition, there is no link between asset management plans and funding, which makes a coordinated and effective approach to national infrastructure planning and funding reactive where people live locally.*¹³

⁸ https://www.ntc.gov.au/submission_data/575

⁹ Above note 1 p 13

¹⁰ Above note 3

¹¹ Id at p 338

¹² <https://cdn.alga.asn.au/wp-content/uploads/2018-National-State-of-the-Assests-1.pdf>

¹³ Id at p 1

28. The same report found that fewer than 80% of local governments have a long-term financial plan in place suggesting 1 in 5 councils are struggling to demonstrate how they can effectively generate sufficient revenue to deliver assets and services now and into the future.¹⁴ NatRoad would suggest that any funding provided in accordance with the proposals in the Draft or under the Heavy Vehicle Road Reform (HVRR) agenda mentioned in the Draft should be contingent on the local government entity having in place an appropriate asset register and a financial plan that encompasses planning to meet their heavy vehicle access responsibilities. This places some of the responsibility for development of optimal policies in this subject area with local governments based on best practice with regard to asset management, a matter not currently reflected in the Draft.
29. Further, we note that one of the NHVR actions proposed is to work with the Commonwealth Government to continue delivering the Strategic Local Government Asset Assessment Project beyond the current funded project. NatRoad would support that initiative. We would support, however, publication by the NHVR of related information concerning the extent to which current road managers (at both the local and State levels) assess bridges, culverts and other critical infrastructure linkages differently, why those differences exist and how the gaps between methodologies could be reconciled or eliminated. This is different from attempting to have all assessments undertaken at a consistent but perhaps lowest common denominator level where the heavy vehicle industry might be disadvantaged by a more conservative approach than is currently applied.

Objective 1: provide access certainty and consistency; Goal 4: Understand how de-identified movement data can improve access

30. NatRoad notes the following statement at page 14 of the Draft:

Consultation with peak industry associations and large operators indicated that industry would be willing to voluntarily share de-identified GPS tracking data if there was a commitment regarding its use for access reasons and in accordance with decision-making principles.

31. NatRoad would endorse that proposition but we would be more comfortable with the addition of words that clearly indicate that the data would not be used for enforcement purposes. Members tell us that they are eager to adopt new technology to further enhance safety and productivity outcomes. They need the unfettered right to explore the adoption of new technologies, as the pace of technological change accelerates. In addition, there should be a clear statement that the “network optimisation possibilities” spoken of will not involve a trade-off between the provision of data and additional access to the network. Access should not be based on mandated telematics.
32. It is NatRoad’s policy position that governments or an agency like NHVR should not mandate a specific technological solution, particularly in an area as complex as vehicle telematics. The answer lies in introducing technology neutral laws that permit operators to use technology to

¹⁴ Id at p 56

meet performance-based targets. Accordingly, we support the NHVR's indication that it will establish data-sharing protocols.

Objective 1: provide access certainty and consistency; Goal 5: Deliver a modern risk-based approach to access based on infrastructure capabilities

33. NatRoad supports a move to a risk-based system. We thoroughly endorse the proposition that “any vehicle that is determined to be able to be safely accommodated within nationally agreed infrastructure tolerances should be granted access.”¹⁵
34. We do not, however, support the statements which follow this proposition which would give road managers what appears to be an unfettered discretion to exclude heavy vehicles via “no go” zones. The statement that the risk-based approach should not diminish road managers' rights to approve or refuse access but would rather increase transparency would not necessarily hold unless the criteria around what unacceptable risk to “amenity” could be objectively stated.
35. Amenity is inherently subjective because at one level it can mean the pleasantness or attractiveness of a place. For example, the NSW EPA has defined it broadly thus: 'Amenity' refers to a wide range of attributes and values that make a positive contribution to peoples' quality of life.¹⁶ The notion of amenity must be agreed as relating to, for example with noise, agreed objective criteria about decibel levels and the urgent completion of a proper standard for engine brake noise.
36. We note that one of the elements of the development of a risk-based access model mentioned in the Draft is “road managers knowing the capabilities and limitations of their roads and bridges.” That statement is endorsed and reinforces NatRoad's earlier arguments about more responsibility being required from all road authorities about the nature and extent of their assets. Further, the agreed public safety and amenity decision making principles that are “consistent and sensible” must eliminate to the extent possible the subjective reliance on a broad notion of amenity as a means to exclude heavy vehicle access.

Objective 2: Partner with local government to build capability. Goal 1: Develop an education and support program for local government

37. NatRoad supports the development of local government education programmes. But two issues arise. The first is that local governments must take some responsibility for collection of data on and management of their controlled assets, as previously outlined. Secondly, the funding for the relevant education programmes should not be sourced entirely from the NHVR's budget. NHVR is to a large extent funded by contributions from the heavy vehicle industry and the responsibility for such matters as continuing professional development for

¹⁵ Above note 1 at p15

¹⁶ https://www.epa.nsw.gov.au/soe/soe2003/chapter2/chp_2.7.htm

chartered engineers as proposed in the Draft is much more a community or private responsibility than one vested in the heavy vehicle industry.

38. NatRoad therefore supports the proposals set out under this heading subject to diverse funding sources being utilised, appropriate evaluations about measurable results at all stages of the education programmes being made and local governments in particular creating and maintaining asset registers as previously discussed.

Objective 2: Partner with local government to build capability. Goal 2: Equip local government with route assessment products

39. All of the proposals under this heading are supported. Prior comments about the NHVR publishing material on differences relating to, for example, bridge assessments would assist in this context.
40. Ultimately, the guidance materials that are referred to should become mandatory. The nationally consistent access decision-making framework mentioned should be underpinned by mandated standards rather than by guidelines. The framework should focus on objective criteria (even for matters of amenity) that can be assessed against noise and emissions criteria.

Objective 2: Partner with local government to build capability. Goal 3: Enable governments and industry to identify and advocate for infrastructure investment

41. We support the three proposals that are set out under this heading. With the third proposal the words at its end “on industry desire lines” are unclear as to meaning and could be deleted: is this a typo?
42. This goal is similar to the work on service levels undertaken via the HVRR process. We are not sure about whether the HVRR Phase 1, guiding principles for the development of a SLS Framework for Roads, developed and agreed by TIC, are of utility in the current context. Similarly, how the NHVR’s proposals will integrate with the other phases of the HVRR work programme should be outlined.

Objective 3: Promote safer and more productive vehicles that are better for the environment and communities. Goal 1: Encourage the uptake of modern and safer heavy vehicles

43. This goal aligns with NatRoad policy. However, there are a number of impediments to the adoption of Euro VI touched on in the Draft with which we agree. These were pointed out to Government by NatRoad and other industry stakeholders and have not further advanced since 2017. In short, they were that the draft RIS for the adoption of Euro VI offered no offsets against the identified cost increases. Further, it did not set out incentives for heavy vehicle operators to modernise their fleet with the unintended consequence of keeping older

trucks on the road for longer, and the increased costs were to be unfairly distributed to rural and remote communities.

44. The NHVR proposition that there should be offsets so that adoption of Euro VI might be encouraged is supported but needs more investigation and the direct involvement of industry, a matter that could be advanced as a proposal under this heading.
45. With regard to the first of the two proposals outlined, harmonisation of vehicle standards with international standards should not be undertaken slavishly and/or without modifications necessary for Australian conditions. In particular, harmonisation should not occur at the expense of the local truck building industry.
46. In relation to the second proposal, the extent to which access or its denial has been related to amenity is useful to ascertain especially where there is a linkage between safety and environmental standards i.e. these standards could assist to provide objective criteria to meeting the standard of amenity. But how greater access was framed with reference to these criteria would be important as most access denials relate to protection of infrastructure where increased safety and environment features are not necessarily relevant.

Objective 3: Promote safer and more productive vehicles that are better for the environment and communities. Goal 2: Deliver a modern approach to the PBS scheme

47. The proposals in this subject area again align with NatRoad policy. This is particularly the case so far as the issue of fleet interchangeability for PBS combinations is concerned, a matter that we raised with the NTC in the submission on vehicle standards¹⁷, previously mentioned.
48. Much of the work in this area is presaged on finalising the review of the PBS scheme recommended by the NTC in May 2018¹⁸ and finalisation of that review is the first proposal. We agree. We ask whether there will be industry input into the outcome of the review; for example, we would like input into qualifications of assessors and their ongoing educational requirements and the testing of consistency in the way they apply the relevant PBS standards. That will of course depend on the final revised standards agreed.
49. We also raise the question here of some of the fundamental assumptions about PBS performance. We have recently been in correspondence with personnel from the NHVR about the publication of time series data that shows that PBS vehicles are in fact safer than other vehicles. From that correspondence, there appears to be adequate data on environmental effects. However, the following was indicated in recent correspondence with NHVR:

¹⁷ Above note 8 at paras 64 and 65

¹⁸ <https://www.ntc.gov.au/sites/default/files/assets/files/NTC-Policy-Paper%20-%20Reforming-the-PBS-scheme.pdf>

The safety benefits of PBS are less reliably estimated using the above method so attempts have not been made to extrapolate the safety benefits using fleet growth. However, at each opportunity where safety of heavy vehicles are reviewed, comments on (sic) related to PBS have been positive when compared to the rest of the fleet. Reports on insurance claim have also been reported at 50% of the general rate.¹⁹

50. NatRoad would ask that the NHVR produces, as part of its final plan, better analysis that either adopts and publishes the insurance data and/or other statistics over a time frame and brings that material together in a brief that would appropriately and objectively demonstrate the benefits of the PBS scheme, especially relating to safety, which underpins much of the current Draft's productivity proposals.

Objective 3: Promote safer and more productive vehicles that are better for the environment and communities. Goal 3: Promote awareness of planning and design for modern and safer heavy vehicles

51. We support the statement that "Planning and design standards must be progressively and suitably updated to provide access to modern vehicles that are safer, more productive and better for the environment."²⁰ At the same time as planning documents are changed so as to accommodate better road design, we recommend that NHVR also indicate that the designs should mandate heavy vehicle rest areas which are palpably inadequate in the Australian road network both as to number and quality of facilities.
52. Across the board, government should better acknowledge the need to accommodate heavy vehicles. Population growth will put greater pressure on congestion along networks that are already under strain, particularly in urban areas where freight and passenger transport share the same road infrastructure. With the majority of economic activity now occurring in our major cities, urban freight will be as critical for our future growth as traditional long-distance freight, with this trend accelerated by online ordering and other emerging technologies. There is a need to protect freight facilities from urban encroachment and a need for infrastructure projects to accommodate pick-up and delivery tasks by those who move freight. Without these facilities, safety may be jeopardised. Any efforts by the NHVR to educate other government agencies about these trends is welcomed.

Conclusion

53. As was mentioned at the outset of this submission, NatRoad values its relationship with the NHVR. We have offered the suggestions in this submission as a constructive reinforcement of the direction the NHVR's productivity strategy. The main issues where we perceive that the Draft may be improved is in relation to a greater emphasis on local government

¹⁹ Email correspondence from an officer of the NHVR

²⁰ Above note 1 at p 22

responsibility, a focus on rest area construction and development (which is a current omission) and ensuring that telematics are not mandated as a basis for greater access.