



Submission to the National Heavy Vehicle Regulator

Draft Heavy Vehicle Safety Strategy 2021-25

30 April 2021

Introduction

1. This submission provides NatRoad's response to the Draft Heavy Vehicle Safety Strategy 2021-25 (Strategy).¹ 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.
2. The National Heavy Vehicle Regulator (NHVR) has aligned the Strategy to the draft National Road Safety Strategy 2021-2030 (National Strategy), which sets out Australia's road safety objectives, key priorities for action, and road trauma reduction targets to 2030. The Strategy will be supported by an Action Plan, produced annually, which will outline the activities, responsibilities and timeframes for delivery, that the NHVR will undertake over its five-year life.²
3. NatRoad supports the supplementation of the more general National Strategy with targeted heavy vehicle plans and actions. Recently, NatRoad provided a submission on the draft National Strategy, a copy of which is attached as Attachment A, where we expressed a number of views on the terms of the National Strategy, all related to heavy vehicle safety. That submission reflects a number of policies relevant in the current context.
4. Following the provision of that submission, NatRoad had an in-depth discussion with Departmental officials about Attachment A. We supplemented the submission with discussions of other issues which had arisen since we lodged Attachment A. In particular, we emphasised the regulatory issues with road signage as a barrier to safety, a matter set out in an email to Departmental officials dated 30 March 2021, a copy of which is attached as Attachment B.
5. In addition to the matters raised in Attachment B, during discussions we emphasised the safety critical issue of the provision of adequate rest areas suitable for heavy vehicles, citing in support the useful University of Kentucky study³ which assesses the optimal spacing of rest areas to assist in the avoidance of fatigue-related incidents. We raise that issue again below.
6. The Strategy is largely supported. Comments made in this submission, therefore, emphasise where a change in or expansion of the Strategy is recommended. The following discussion is structured to comment under the subject headings used in the Strategy repeated as subject headings below.

¹ <https://www.nhvr.gov.au/files/202103-1221-draft-heavy-vehicle-safety-strategy-2021-2025.pdf>

² <https://www.nhvr.gov.au/consultation/2021/04/30/heavy-vehicle-safety-strategy-2021-2025>

³ Bunn, Slavova and Rock <https://www.sciencedirect.com/science/article/abs/pii/S0001457517304189>

Targets

7. NatRoad supports endeavours to secure zero road deaths.⁴ The targets in the National Strategy are supported. The primary goal is zero road deaths by 2050. This ambitious target is preceded by targets of fatalities per capita reduced by 50% to 2030 and serious injury per capita reduced by 30% to 2030. In the introduction to the Strategy, it is stated that the NHVR will contribute to the achievements of these targets.⁵
8. The Strategy's term, however, is expressed as running to 2025. We would suggest that targets for the heavy vehicle industry are separately set, utilising the statistic of the heavy vehicle crash rate per billion vehicle kilometres travelled, a measure used by the Productivity Commission as expressed in paragraph 5 of Attachment A.⁶ There are a number of choices of measurement but we believe that this statistic is the best measure as it takes into account the expansion of the road freight task over time and a reduction in these crashes would obviously contribute to the targets expressed in the National Strategy.
9. We would recommend that the NHVR, with industry, devise an end point target for 2025 to focus attention on the need to take action in the short term. How the heavy vehicle crash rate per billion vehicle kilometres travelled correlates with the per capita reduction in fatalities should be explored with the best available time series data on these two measures. Other statistical indicators might be explored. Setting of those should be an iterative process with industry, utilising the Industry Reference Forum as one potential forum for a workshop.
10. The sector can then build on the successes or otherwise of the initial plan contained in the Strategy in order to better allocate resources to the achievement of the National Strategy's targets in the last five years of its roll out, whilst being aware of the linkages between the two targets. We would suggest that further work on a range of indicators over time should be published as part of the NHVR's work on the Strategy's finalisation and the completion of the related action plans. That proposition fits in with the NHVR's statement that it will acquire, share and use data to lead decision making in relation to safety.⁷

Emphasis on Partnerships

11. NatRoad endorses the move beyond reliance on traditional compliance and enforcement approaches. The Strategy says that this is inclusive of a move to "greater collaboration with key industry partners."⁸ NatRoad commends this approach, noting that for some considerable time, we have sought better uniformity in enforcement of

⁴ Expressed in this May 2020 NatRoad media release <https://www.natroad.com.au/news/road-safety-all-road-users>

⁵ Above note 1 p2

⁶ See Productivity Commission *National Transport Regulation* <https://www.pc.gov.au/inquiries/completed/transport/report/transport.pdf> p147

⁷ Above note 1 p3

⁸ Ibid

the Heavy Vehicle National Law (HVNL) and related laws between the various Australian police forces and the NHVR. We understand that the National Transport Commission (NTC) will examine the issue of enforcement following current work on the reviewed HVNL substantive policy formulation. How the new model would better accommodate a risk-based, intelligence led regulatory approach should be one of the guiding principles for reform and should be incorporated in the NTC's policy development, with input from the NHVR.

12. We also note that the NHVR will become involved with “proactively influencing policy changes.”⁹ We support this approach and would be pleased to work with the NHVR to determine the best means of devising and introducing relevant policies, inclusive of those discussed in this submission. It is important that the NHVR be integrally involved in the formulation of the policy mentioned in the prior paragraph and other measures, particularly on access, flagged in this submission.
13. The HVNL review that is currently underway must deliver improvements to the HVNL policies that will assist with better safety outcomes. In concert with industry, we believe that NHVR has the capacity to assist with favourable outcomes as part of the current review.
14. Best practice would be for policy proposals that emanate from the HVNL review to be subject to proper cost/benefit analysis along the lines of the work commissioned by NatRoad and the ATA¹⁰ regarding four of the options of the six for different enrolment and licencing schemes (listed under Option 7.1 in the Consultation RIS¹¹). Because that exercise was not undertaken with sufficient acuity in the CRIS, policies which are advanced that affect safety and productivity should not be limited to the options in the CRIS. Options that are chosen for further consideration in the final legislative package must be properly analysed via a rigorous cost/benefit process. We seek to partner with the NHVR to achieve this outcome.

Create Positive Change in behaviours and culture to improve safety

15. It is clear from Attachment A that a focus on an improvement in general/light driver understanding of driving safely around heavy vehicles is a key NatRoad concern. We endorse this part of the Strategy and believe that development of programmes that reinforce appropriate driving behaviour around heavy vehicles should be given priority.
16. We also endorse the empowerment of operators and others in the supply chain to “improve their organisational safety culture.”¹² It is noted that one of the more specific matters set out under this general priority is that NHVR support the uptake of safety management systems (SMS).

⁹ Ibid

¹⁰ The relevant report is an attachment to the NatRoad submission dated 20 November 2020
https://www.ntc.gov.au/submission_data/971

¹¹ <https://www.ntc.gov.au/sites/default/files/assets/files/HVNLR-consultation-RIS.pdf>

¹² Above note 1 at p4

17. SMS is a systematic approach to managing safety, including the necessary organisational structures, accountabilities, policies and procedures that are integrated throughout the business. Developments of SMS are supported by NatRoad. NatRoad has consistently sought to reinforce to members that there is no need to spend money on consultants who might use chain of responsibility (COR) provisions to gouge members. NatRoad seeks to reinforce that an SMS is scalable – in other words, it can be tailored to the size and complexity of an organisation, a matter reflected in NHVR guidance.¹³ Education of members about SMS is important and NatRoad believes that ongoing education has faltered during the current pandemic. Integrating COVID-19 safety plans within an SMS is an issue where NatRoad would seek to work further with the NHVR.
18. At the same time, there is a great deal of work to be done to ensure that regulatory assurance schemes limit the ability of numerous, resource-draining audits and other requirements to be imposed on members. These do not advance safety, and add to administrative costs as well as seeking to allocate risk to members.
19. Members are reporting that not only are they subject to frequent and intrusive audits but that they are required to adhere to sometimes unreasonable operational directives linked to compliance with the private assurance regimes being imposed. There is an absurd level of duplication where the member has its own audit system, is then audited by its major customer and then, for example, in seeking to meet a tender, must meet other intrusive requirements. The major customer or principal (where the member is a subcontractor) then places other contractual obligations on the member in the name of assurance and/or compliance with COR. NatRoad would like to further work with the NHVR and the NTC in the outcome of the HVNL review to ensure that the new system brings about reform of this current unsatisfactory position.
20. In meeting the Strategy's goal of ensuring that "the right person is held legally responsible for compliance with the HVNL"¹⁴, NatRoad would seek a change in the law. We would want the law to reflect that where those "up the chain" seek to influence operators' activities through intrusive requirements, they would not be able to walk away from the fact that they have influenced the operator's means of doing business and therefore have assumed responsibility for the intrusions on members through excessive audit and other interventionist strategies. In the alternative, boundaries around what are or are not legitimate interventions by other chain parties should be established in a revised law.
21. Without these changes to the law, it will be difficult for the NHVR to change the culture that exists in some hirers' attitudes and behaviours.
22. In this section of the Strategy emphasis on mental health is made. This issue is particularly important to deal with the issue of 'suicide by truck' that is mentioned in paragraph 12 of Attachment A. Recent NatRoad discussions with the Office of Road Safety dealt with this subject. The Office indicated that the more general mental health strategy developed by the Australian government should deal with this issue.

¹³ <https://www.nhvr.gov.au/files/201808-0887-cor-and-safety-management-systems.pdf>

¹⁴ Above note 1 at p4

We suggest that the Strategy not shy away from confronting this issue, especially the deleterious effects on drivers when they are involved in incidents of this kind. Further discussion of this issue in the context of the mental health of both the general public and heavy vehicle drivers should be held, albeit that it is a sensitive issue.

Drive Uptake of a modern, safer heavy vehicle fleet that reduces the likelihood and impact of crashes

23. NatRoad supports all of the elements of the Strategy articulated under this heading. The issue of safety technology for heavy vehicles has a dedicated section in Attachment A.

24. One of the issues raised in the Strategy is the action to “empower industry to increase the range of innovative, safer vehicles adopted via a reformed Performance Based Standards scheme.”¹⁵ NatRoad believes the best way to achieve this outcome is for all regulatory agencies and governments to agree to implement the Productivity Commission’s¹⁶ recommendation in this context.

25. Recommendation 7.5 is as follows:

The Council of Australian Governments should direct road managers (including the state road authorities) to work with the National Heavy Vehicle Regulator to expand key freight routes covered by notices, allowing as-of-right access for larger vehicle types.

The focus of this work should include expanding gazetted access networks for:

- *vehicles approved through the Performance-Based Standards (PBS) scheme (including PBS B-doubles, A-doubles and B-triples), **at least to match the networks for the equivalent non-PBS vehicles***
- *types of vehicles for which permit applications are almost universally approved.*

Road managers should upgrade road infrastructure to allow heavy vehicle access where the benefits exceed the costs. Where road network constraints prevent heavy vehicle access, road managers should ensure that there are adequate truck stops and logistics centres to allow larger vehicles to be broken down into smaller combinations.¹⁷

26. At the least, when PBS approval is being considered, access routes for the particular type of approval should be formulated and agreed. NatRoad has a number of members who have commented that they go to great expense and trouble in designing and having PBS vehicles approved only to have very expensive equipment stored at the depot because route access is not granted. This discourages the roll out of PBS vehicles and detracts from the industry’s efficiency.

27. Appropriate vehicle maintenance is mentioned in this part of the Strategy. NatRoad has for some time proposed a policy which would provide a financial incentive for operators to maintain their vehicles.

¹⁵ Above note 1 at p6 our emphasis

¹⁶ <https://www.pc.gov.au/inquiries/completed/transport/report/transport.pdf>

¹⁷ Id at p30

28. When it came into force, the *Fuel Tax Act 2006* included a powerful incentive for heavy vehicle operators to maintain their vehicles, as it required vehicles manufactured before 1 January 1996 to meet maintenance or testing criteria to be eligible for fuel tax credits. Whilst this originally applied to 61 per cent of the trucks registered in Australia, by 2016 this had fallen to 33 per cent of the trucks in service, meaning a majority of the truck fleet from that date no longer had to meet any maintenance requirement or test to be eligible to receive fuel tax credits.
29. Regular maintenance is the key to ensuring that vehicles continue to be safe, meet emission standards and are fuel efficient. NatRoad has proposed that Government amends the *Fuel Tax Act 2006* to remove the 1 January 1996 threshold so that every on-road truck has to meet maintenance or testing criteria to be eligible for fuel tax credits. This would also distinguish responsible operators from those who do not maintain their vehicles in order to get a competitive advantage in a highly competitive market. NatRoad seeks NHVR's support in bringing this policy to fruition.

Influence road network design to support safe heavy vehicle use

30. NatRoad supports this part of the Strategy. We propose that adequate and appropriate signage be added to the paragraphs on safe network design, with assistance to streamline this area of regulation. Attachment B shows a fractured and inefficient regulatory approach at present.
31. The number and quality of rest stops is an essential element of fatigue management. We refer to paragraph 5 above which refers to a seminal US study in this subject area. That study shows that more frequently placed rest areas has a major, positive impact on fatigue-related accidents. That study found that commercial vehicle driver at-fault crashes involving sleepiness or fatigue were more likely to occur on roadways where the nearest rest areas/truck stops were located 20 miles (just over 32 kilometres) or more from the commercial vehicle crash site. Therefore, the optimal distance between these locations is somewhere between 0 to 20 miles depending on other factors. The study showed a surge in the occurrence of roadway crashes once the distance between rest locations exceeds 20 miles, highlighting the need to consider the 20-mile distance as a hard upper limit for mapping rest locations for heavy vehicle drivers. That seems a very tall order given the current state of knowledge about locations of rest areas and reinforces that this distance, 32 kilometres for rest area placement, should be a goal which all participants in the road transport industry and the NHVR should have as an objective, especially along major freight routes.
32. This important topic is integral to proper fatigue management and is open to quantification by government and we believe NHVR should be funded to achieve this goal. NatRoad policy is for Government to have on record a compilation of rest areas by State or Territory and what distance from the prior rest area they occur and how and when their construction was and is integrated with infrastructure spending. They should all be graded in accordance with the 2019 Austroads' *Guidelines for the*

*Provision of Heavy Vehicle Rest Areas Facilities*¹⁸ and a plan put in place by responsible government authorities for upgrading amenities and facilities.

33. Rest area size and location should be part of a plan where the responsible government agency periodically checks current rest areas against future planning proposals and the projected increase in freight task along the route. This would involve assessing the capacity of the rest area and its capability to meet current and future demands with the investment of capital expenditure to ensure ongoing adequacy. These measures should add to the more efficient management of fatigue and thereby reduce heavy vehicle road incidents. In the interim, NatRoad recommends that the defence in section 252(2) HVNL¹⁹ be expanded to encompass operators who are utilising BFM or AFM fatigue management. We ask that NHVR instigate this reform as soon as possible.
34. The final paragraph on safe heavy vehicle road use in this section of the Strategy raises a number of issues. The first is that we do not know sufficiently the causes of many heavy vehicle road incidents. It is because of that systemic defect in the system that NatRoad supports an independent investigatory function that is separate from the NHVR and police regulatory role. We support no blame investigations so that causes of heavy vehicle incidents are properly and impartially investigated as opposed to investigated from a prosecutorial stance. The Productivity Commission recommendation in this regard is supported as follows:

The Australian Government should:

- *provide a sufficient annual appropriation to enable the Australian Transport Safety Bureau (ATSB) to carry out its functions, both existing and as proposed in this inquiry*
- *formalise the role of the ATSB in conducting investigations and research involving Domestic Commercial Vessels and rail*
- *amend the Transport Safety Investigation Act 2003 to enable the ATSB to conduct research and investigate incidents involving heavy vehicles, and autonomous vehicle technologies*
- *direct the ATSB to undertake a clearly defined, phased transition into the heavy vehicle role, including an initial period of data collection and research to identify any systemic issues and incident types with the potential to inform policy.*

*The costs of the ATSB should not be subject to cost recovery from industry, but the States and Territories should support the Australian Government by providing a consistent contribution to its total costs, rather than on a case-by-case basis.*²⁰

35. We strongly support the implementation of this recommendation.

36. The second matter raised is in relation to access. This is a fraught area. It is an area in

¹⁸ <https://austroads.com.au/publications/freight/ap-r591-19>

¹⁹ That provision is as follows: *In a proceeding for an offence against section 250 or 251 relating to the driver failing to have the short rest break, it is a defence for the driver to prove that— (a) at the time the driver was required to have the short rest break, there was no suitable rest place for fatigue-regulated heavy vehicles; and (b) the driver had the short rest break— (i) at the next suitable rest place for fatigue-regulated heavy vehicles available after that time on the forward route of the driver's journey; and (ii) no later than 45 minutes after the time the driver was required to have the short rest break.*

²⁰ Recommendation 9.4 above note 16 at p35

need of urgent reform. We want the system to be much less based on permits and based on as-of right access. NatRoad's policies in this regard have been extensively promoted during the course of the HVNL review and we would be happy to further work with the NHVR and the NTC to move away from a system based on the current permit regime and to a more efficient system that will also assist with safety outcomes.

Conclusion and summary of recommendations

37. NatRoad appreciates the opportunity to comment on the Strategy in draft.
38. NatRoad believes that a summit/workshop on the issues, perhaps (as suggested in paragraph 9 of this submission), involving the Industry Reference Forum would assist with the finalisation of the Strategy.
39. NatRoad highlights the following recommendations made in this submission:
 - We would recommend that the NHVR, with industry, devise an end point target for 2025 to focus attention on the need to take action in the short term.
 - Further work on a range of statistical indicators over time should be published as part of the NHVR's work on the Strategy's finalisation and the completion of the related action plans.
 - A risk-based, intelligence led regulatory approach to enforcement should be one of the guiding principles for reform and should be incorporated in the National Transport Commission's policy development, with input from the NHVR.
 - All policy proposals that are part of the HVNL review should be subject to detailed cost/benefit analysis and NatRoad wants to partner with the NHVR to achieve that outcome.
 - Development of driver education programmes that reinforce correct driver behaviour around heavy vehicles should be given priority.
 - NatRoad seeks to work with the NHVR in education about integrating COVID-19 safety plans into members' Safety Management Systems.
 - NatRoad asks NHVR to support a change in the law that prevents excessive audits and operational intrusion by parties up the chain of responsibility from operators.
 - The mental health component of the Strategy should deal with issues associated with "suicide by truck" both from a preventative view and in assisting drivers directly affected.

- NatRoad seeks NHVR support in implementing the Productivity Commission recommendation relating to the expansion of key freight routes and increasing access (the recommendation is set out at para 25 of this submission). More generally, NatRoad wants to work with the NHVR to move away from a largely permit based system to one based on as-of-right access.
- Route access for PBS vehicles should be established and approved at the same time as PBS approval is granted.
- Appropriate vehicle maintenance can be better achieved by using the fuel tax rebate scheme as a suitable incentive system: the details are set out at paragraphs 28 and 29 of this submission.
- There should be an audit of all Australian rest stops with an assessment of their capacity together with proposals developed for their upgrade. As an interim measure the defence in s252(2) HVNL should be expanded to encompass all fatigue management options, not just standard hours.
- The Productivity Commission recommendation set out at paragraph 34 of this submission should be implemented with that implementation supported by the NHVR. The Australian Transport Safety Bureau should be empowered to conduct research and investigate incidents involving heavy vehicles.