



NATIONAL ROAD TRANSPORT ASSOCIATION

Submission to the National Transport Commission

Issues Paper: *Easy Access to Suitable Routes*

12 August 2019

Introduction

1. The National Road Transport Association (NatRoad) is pleased to make comments on the Issues Paper entitled *Easy Access to Suitable Routes*¹ released by the National Transport Commission (NTC) in June 2019. The Issues Paper is the third in a series that informs the current review of the Heavy Vehicle National Law (HVNL).²
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. This submission responds to the questions posed in the Issues Paper. We indicate in bold the specific questions from the Issues Paper that we have answered. We briefly set out the NatRoad principal policies relating to this area of the law before answering the specific questions.
4. In essence, current heavy vehicle road access regulations limit the ability of operators to transport goods by road to their destination in the most efficient manner— either by the most direct route, by the preferred vehicle type or during preferred times. The different vehicle dimension and weight restrictions across the road network means operators have to use less productive vehicle combinations, leading to more trips, more emissions and higher consumer prices.
5. NatRoad would like to see in place an efficient freight supply chain which is able to operate 24 hours, 7 days a week. Requiring heavy vehicles to travel only during daylight hours or in certain specified time periods over less-than-optimal routes impedes productivity, increases operating costs and adds to road congestion, particularly along major routes to key ports or airports that are shared with light vehicles. Accordingly, access is one of the most pressing areas for reform of the HVNL.
6. The issue of access reform needs systemic reform of other policy areas, touched on below. The first is a requirement to have an extensive pre-approved road network mapped out that should make the task of planning heavy vehicle routes simpler and more consistent. Secondly, road funding needs to be linked with levels of service provided to heavy vehicle freight movements and NatRoad outlines that this objective is supported.³

The Problem: No Connected network of pre-approved routes

7. In September 2018, the Government published a paper relating to a review of Oversize Over mass (OSOM) access arrangements⁴ (OSOM Report).
8. The OSOM Report contains a case study of pre-approvals issued by the Port of Brisbane for a wide range of Class 1 vehicles.⁵

¹ [https://www.ntc.gov.au/Media/Reports/\(516E8F3F-598E-29BA-D3AA-08418292FBBF\).pdf](https://www.ntc.gov.au/Media/Reports/(516E8F3F-598E-29BA-D3AA-08418292FBBF).pdf)

² <https://www.ntc.gov.au/heavy-vehicles/safety/review-of-the-heavy-vehicle-national-law/>

³ Reflected in stage 1 of the Heavy Vehicle Road Reform process, see:

https://www.transportinfrastructurecouncil.gov.au/publications/heavy_vehicle_road_reform_phase_one.aspx

⁴

https://www.infrastructure.gov.au/vehicles/vehicle_regulation/files/Oversize_Overmass_review_September_2018_FINAL_REPORT_sans_appendices.pdf

⁵ Id at p 20

9. The OSOM Report comments on road managers issuing pre-approvals as an efficient means of approaching road access saying this:

*A Road Manager can submit to the NHVR a pre-approved route that can be used by specified vehicles, including OSOM. When the NHVR receives a permit application for movement on a local road that is pre- approved by the relevant Road Manager for the vehicle type, the NHVR does not need to seek additional consent from the Road Manager before issuing a permit. The NHVR will supply a copy of the permit to the Road Manager. **Pre-approval of routes is used to streamline processes, reduce administrative burden for local government and reduce turnaround times.** The pre-approval process targets routes expected to experience large numbers of (particularly Oversize Over mass, but not exclusively) vehicle movements such as roads in industrial areas and access routes connecting existing approved routes or State controlled roads.⁶*

10. Pre-approved routes for all classes of heavy vehicle in each local government area should be a matter that local governments and other road managers are required to develop. These pre-approved routes could then be co-ordinated into the provision of route maps for various classes and combinations so that operators were able to plan their freight routes against this map.
11. This process should follow what NatRoad has urged the Government to implement as necessarily underpinning infrastructure funding.
12. NatRoad has proposed that there be a precursor process to the allocation of funds from programmes which fund local government for infrastructure. This process will also enable a proper consideration of the state of infrastructure and its ongoing maintenance as a necessary part of planning to adopt the Heavy Vehicle Road Reform (HVRR) proposals.⁷
13. Nationally consistent service level standards for roads, to categorise roads by their functions and set customer-focussed service levels is the foundation of the HVRR and should be accelerated in order to frame other reform measures.
14. Once the state of the road assets is set out in accordance with this primary platform for HVRR, asset management plans must be put in place Australia wide. As noted by the Australian Local Government Association in its *National State of the Assets 2018* report⁸
*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.*⁹
15. NatRoad wants road managers to have detailed databases of their network assets. This accords with recommendation 34(a) of the OSOM Report. It also accords with the basis of the HVRR.

⁶ Ibid our emphasis

⁷ See <https://www.infrastructure.gov.au/roads/heavy/files/public-paper-on-HVRR-end-states.pdf> for an analysis of the HVRR high level plan and above note 3 for stage 1 progress

⁸ <https://alga.asn.au/site/misc/alga/downloads/publications/2018-National-State-of-the-Assests.pdf>

⁹ Id at p 1

16. NatRoad fully supports the commencement of structural assessment of vital local government bridges, roads and culverts. The NHVR and local road managers have commenced a project to properly assess the integrity of many local government road assets.¹⁰ This work should feed into the establishment of pre-approved routes for all classes of heavy vehicle.
17. The pre-approved routes that form part of this data base/mapping should enable access to be granted to the vehicles which are covered by that approval as of right, akin to the system in place in the Northern Territory (NT). The NHVR should be able to develop national pre-approved routes for all classes of heavy vehicle that could be translated to a national network of pre-approved routes on an accessible map. There should be a much better pre-approved process for granting access to PBS vehicles, in particular.
18. In the NT compliant vehicles have open access to the network and this system is supported. For the NatRoad aspirational system, vehicles that were non-compliant with requirements to travel on the pre-approved routes could obtain permission via the granting of relevant exemptions through an OSOM permit or via an exemption published in the government gazette and made public on an accessible web site, akin to the way the Northern Territory system currently operates.
19. NatRoad supports the system of road access that is currently applied in the NT which should be the model on which national reform proceeds.

Access Reform is linked to road funding reform

20. Road access restrictions discussed at length in the Issues Paper can be partly attributed to the road funding model which does not link the cost of road use with road investment. It is therefore difficult for road managers to recover the full cost of supplying, maintaining or upgrading road infrastructure so that it is suitable for heavy vehicles. As a result, road managers, including local governments, restrict heavy vehicle access to protect road assets. This criterion rather than facilitating efficient freight movements becomes the priority.
21. NatRoad supports the objective road pricing reforms currently underway, albeit that there are a large number of policy options still being considered to meet the objectives.
22. NatRoad supports the ultimate goal of HVRR that is moving to a system where heavy vehicle infrastructure is provided as an economic service with an integrated charging system. Independent price regulation is a required feature of this system and must also include toll roads and landside port charges.
23. An economic regulator should take into account the evaluations of infrastructure projects by Infrastructure Australia or similar infrastructure advisory bodies in jurisdictions to ensure that only expenditure prioritised by those agencies flows through to user charges.
24. As was evident from the discussion in this submission earlier, having a proper data base of roads and their condition should be a precursor for local government funding of infrastructure.

¹⁰ <https://www.nhvr.gov.au/news/2019/04/02/nhvr-welcomes-additional-road-assessment-and-safety-program-funding>

25. To increase transparency around road funding decisions, governments should set up road funds separate from their general budgets for both heavy and light vehicle revenues. Roads should be built to particular service standards to facilitate the movement of freight. As one member said when NatRoad was seeking member feedback on these issues:

There is no standard for road assets, every road manager builds their road to their standard, most often dictated by funding (or more accurately, lack of funding.)

26. The issue of access is thus integrally tied to the HVRR process and the need for Australia to develop a more appropriate road funding model. It is therefore disappointing that the current review is not set up to examine the HVRR policy proposals to assess their utility.

Question 1: Why do access decision timeframes vary so significantly? To what extent does the HVNL cause or allow access decision delays?

27. The problem lies mostly with the structure of section 156 of the HVNL. The power to authorise a route for a restricted access vehicle lies with the NHVR, but the NHVR must liaise with road managers to obtain consent for each applied route. Under s 156, road managers have 28 days from the NHVR's request to decide whether to give consent. But requests for information in effect postpone the time period's operation until a response is provided. Roads managers are able to request extensions of time up to 6 months.
28. There are no sanctions imposed on road managers for not meeting the requisite timelines. There is also no consistent approach to the issue of consent both across and within each road manager's jurisdiction. The way in which risks to infrastructure and the public are assessed is not currently consistently applied by road managers.
29. Recommendation 37(a) of the OSOM Report is that: "Section 156 of the HVNL is reviewed, with prescribed time limits more appropriately structured."¹¹
30. NatRoad supports the NT scheme of arrangements for access as expressed earlier in this submission and summarised in the Issues Paper.¹² Whilst it is imperative that section 156 is restructured as recommended in the OSOM Report, we favour an as-of-right system once a heavy vehicle complies with relevant mass and dimension limits as reflected in the current NT system.
31. We reiterate that if the aspirational system we have pointed to is not introduced, "one-off" OSOM movements must be streamlined, as next discussed.

Question 2: Most road managers can grant consent within seven days. Given this is the case, should we reduce the 28-day timeframe currently in the HVNL? Should we introduce a mechanism to deal with a nil response?

32. If there is caution about moving to the NatRoad aspirational model proposed, a transitional arrangement could be that a permit is deemed to be issued where a road manager fails to act within 7 days. Alternatively, the road manager would consciously need to trigger a mechanism that indicates the matter is unusual or requires special consideration.
33. A period of greater than 7 days would not be supported. Many members get very little notice of a particular job and need a highly responsive permit system. In practice operators that try to do it by the book miss out to others with a laxer attitude to the law about road access. Or they constantly apply for permits on a just-in-case basis when they don't really have work – which creates an unnecessary burden on the permit system and adds costs for no benefit. This must change.

¹¹ Above note 3 at xiii

¹² Above note 1 at pps 34-36

34. The Guidelines that currently operate¹³ should set out the circumstances where unusual or special circumstances exist so that the decisions in that context were not arbitrary or inconsistent.
35. In addition, the Guidelines should be a code that contains the criteria all road managers must observe rather than being an instrument that must be considered but not necessarily followed as currently is the case.¹⁴
36. In other words, the criteria for assessing permits (if that system remains) should be set out in a binding instrument that is applied by all road managers. The approach of the code should be that a permit is assumed to be approved unless there is a valid reason to do otherwise having applied the assessment criteria.

Question 3: Is vehicle classification useful? Does the new HVNL need a vehicle classification system and, if so, should it be different from the current system?

37. NatRoad members have not provided feedback that the current classification system is problematic. It is more a question of road managers and others understanding the classification system rather than a systemic issue with the way heavy vehicles are classified.
38. The other feedback NatRoad has received is that there has been a very large investment by the industry in PBS vehicles. These vehicles operate more productively and more safely than other classes of heavy vehicle. Members invest a great deal of time and money in getting PBS approvals which is a complex and time consuming process. But the issue is with getting timely and connected access to PBS routes. There does not appear to be a priority in putting in place road networks for PBS vehicles, a position that must change. Where road managers do not have the resources to properly assess their networks for PBS access, assistance should be provided by the NHVR and funding allocated appropriately.
39. We note that the Issues Paper contains a discussion which shows that the current system does not properly facilitate higher productivity vehicle access¹⁵ and which sets out the benefits of opening up access to those vehicles. The principal way that is isolated in the Issues Paper as a means to improve the situation is for all agencies associated with roads to work together to treat them as “networks.” Co-operation is commendable. But there needs to be incentives for this approach to be adopted, inclusive of the linkages of funding with appropriate asset management as set out earlier in this submission.

Question 4: What are the challenges road managers face under the HVNL access decision-making framework? Which road managers do it well, and why? Why are some road managers struggling with access?

40. As is made plain in the Issues Paper, road managers suffer from resource constraints, particularly where the number of permits required to be processed is high. This points to the need to reduce the number of permits that are required to be issued as well as to increasing the road manager’s resources.
41. For NatRoad, the requirement to link proper asset information and management with road funding should lead to greater discipline in permit assessment and issue. Greater resources and education should also be available to road managers. Moving to an as-of-right system of access will also substantially reduce the number of permits requiring processing by road managers thereby reducing their costs of administration.

¹³ Albeit being updated see <https://www.nhvr.gov.au/road-access/local-government-road-managers/guidelines-for-granting-access>

¹⁴ Above note 1 at p49 contains a list of the sections where the Guidelines are required to be considered.

¹⁵ Above note 1 pps 55-56

42. Implementation of two recommendations from the OSOM Report, 34(b) and 34(c), would assist:

Introduce and encourage the adoption of a tool that provides local government guidance in assessing access consents. This could be done by implementing the Australian Road Research Board - Restricted Access Vehicle Route Assessment Tool (RAVRAT). This tool allows for local government to undertake a consistent route assessment process, focused specifically upon the road infrastructure assessment criterion, including OSOM movements.

NHVR and state Road Managers to provide guidance on access and resources to local government Road Managers, this could include creating a NHVR team who can be accessed to undertake independent bridge and route assessments consisting of certified structural engineers, in QLD will need to be a Registered Professional Engineer of Queensland (RPEQ).

Question 5: Should the law allow for external review of access decisions?

43. Whilst the power in relation to access decisions lies with the road manager or managers along a particular route, it is only the NHVR's decisions which are appealable under s647 of the HVNL.
44. As is evident from the prior discussion, NatRoad seeks a radical overhaul of the current system. However, if there is a lower level of reform applied in this area, we support road manager's decisions being open to external review.
45. This might occur through the establishment of an expert panel within the NHVR that would be comprised of, say, at least two members from the industry who would understand the way the access system works and the need for proper considerations to apply in making access decisions. The specialist group would also ensure a more likely consistent interpretation of the mandatory Guidelines which should be introduced to govern decision making in a less-than-fully reformed system. Technology should enable this expert group to meet remotely.

Question 6: Have we covered the issues with access under the current HVNL accurately and comprehensively? If not, what else should we consider?

46. We note that the Issues Paper contains an extensive discussion of pilot and escort issues.
47. In this context, the Issues Paper summarises 2 recommendations from the OSOM Report that NatRoad supports and which should be implemented without delay as follows:
- Transport and Infrastructure Council should agree to harmonise inconsistencies around accreditation for pilot drivers by 2020 (Recommendation 18)
 - Transport and Infrastructure Council should agree to simplify pilot and escort process to simplify the consent process (Recommendation 20).
48. We agree that these recommendations should be urgently introduced. Policies to better integrate this subject area have languished for over 5 years.¹⁶
49. As is evident from the material published by the NHVR in June this year,¹⁷ this area is overly complex and far from harmonised. It is crying out for reform.
50. The Issues Paper also contains a discussion of first and last mile issues. This is especially important for members in New South Wales where suitable light industrial land to support

¹⁶ See the NTC 2014 discussion paper on this subject [https://www.ntc.gov.au/Media/Reports/\(917C2D81-B549-CE71-9F4E-690DB96AD55A\).pdf](https://www.ntc.gov.au/Media/Reports/(917C2D81-B549-CE71-9F4E-690DB96AD55A).pdf)

¹⁷ <https://www.nhvr.gov.au/files/201809-0902-pilot-and-escort-requirements.pdf>

demands on increased freight access is in scarce supply. This increases the range of the so-called “last mile” problem. De-coupling of vehicles and the addition of other vehicles to transport the same load are not economical solutions to access issues.

51. We note that the NSW Government in its Freight and Ports Plan 2018-2023¹⁸ deals with last mile issues. The proposed relevant action, however, appears to be confined to the provision of advice to local councils for new developments: “The NSW Government will support local councils to improve the amenity of key urban centres through good planning for freight and servicing in new developments.”¹⁹
52. Greater attention needs to be directed to existing infrastructure and how better planning for last mile issues should be implemented. This subject should be further explored by the NTC.

Question 7: How can the new HVNL work, most likely with other reforms, to best support optimised use of our transport assets and vehicles?

53. The NTC notes that “efforts to reform road user charging are beyond the scope of the HVNL review.”²⁰ But the NTC does acknowledge what NatRoad has indicated earlier is a preference for reform. NTC says: “A possible interim solution could be to link infrastructure funding to providing access in some way.”²¹ The substance of this “suggestion” is fully supported.
54. NatRoad reiterates that there should be linkages between the proper management of road assets, inclusive of their recording and assessment, and infrastructure funding. As the Issues Paper indicates, linking funding to a proper approach to access management “may also help manage costs for road managers who are higher performers in opening up access.” NatRoad agrees.
55. The new HVNL should provide for as much pre-approved road access as is feasible having regard to the proper management of road assets and should bring about an emulation of the current NT system to the extent possible.

Question 8: How can the new HVNL expand as-of-right access and generalise access authorisations? Can we remove time limits for notices, for example?

56. The Issues Paper indicates that lowering the number of access decisions needed should lower the costs of delay. We agree and hence emphasise the pre-approval of roads to particular configurations or classes of vehicle as earlier suggested in this submission.
57. NatRoad also supports the expansion of the use of telematics as a means of expanding access as the information provided to road managers will assist their decision making about road maintenance and priorities for new infrastructure.
58. The way in which this subject is approached should ensure that the current distrust of the IAP system (outlined in NatRoad’s first submission to the Review²²) is not replicated and that as is indicated in the Issues Paper the data should “focus on aggregated data for

¹⁸

<https://future.transport.nsw.gov.au/sites/default/files/media/documents/2018/TNSW%20Freight%20and%20Ports%20Plan%202018-2023.pdf>

¹⁹ Id at p60

²⁰ Above note 1 page 59

²¹ Ibid

²² <https://www.ntc.gov.au/media/2060/ntc-issues-paper-risk-based-approach-to-regulating-heavy-vehicles-warren-clark-national-road-transport-association-natroad-may-2019.pdf>

planning purposes rather than individualised, high-assurance data for prosecutions.”²³
Mandating of the relevant technology is not supported. But its use is commended.

Question 9: Do we have the right tools to implement access decisions? How can we modernise the tools for access authorisations?

59. We refer to earlier comments about the need to map pre-approved routes. The Issues Paper indicates that such a mapping tool is needed and would be beneficial.
60. The Issues Paper acknowledges that using a geographic information system to present relevant access data in the form of a map that can be updated easily has cogency. The Issues Paper points to three benefits with which we agree:
 - serve as a single and contemporary source of truth
 - help operators and the regulator to assess decisions
 - provide transparency over road manager and road authority consents.²⁴

Question 10: How can the new HVNL accelerate access decisions? Is a proactive approach possible?

61. We note that the existence of pre-approved routes where compliant vehicles would have as-of-right access, as proposed in this submission, meets the definition of a pro-active approach.
62. In the Issues Paper the NTC outlines seven propositions that reflect how improvements to the current system could be achieved. NatRoad supports these principles as interim measures before more fundamental reform is achieved. We note these points in part reflect the direction of the recommendations in the OSOM Report:
 - prescribes a maximum time for parties to refer matters onwards and for road managers to provide or deny consent;
 - requires process handovers to be more robust (so that applications aren't lost), and include 'triggers' for action when there is no response;
 - provides incentives and consequences for road managers to meet the decision-making timeframes;
 - requires road managers to consider the costs and benefits of granting consent;
 - requires consistency in definitions underpinning access decisions (for example, defining an 'indivisible load');
 - improves dealings with third parties (such as utilities managers);
 - provides the power for a local government to delegate its responsibilities as a road manager, in whole or in part, to another party.
63. These changes would assist with the efficiency of the current process system and should stand as a means to accelerate the permit process perhaps in a transitional phase before moving fully to the NatRoad envisaged system.

²³ Above note 1 at p 61

²⁴ Ibid

Question 11: How should the new HVNL implement access decision-making? Should it specify process and roles? What role is there for the operator? What improvements to access decision-making can be made?

64. The Issues Paper indicates that there should not be an overly simple approach to access in the new HVNL.²⁵
65. The issue of pre-approved routes as reflected in an accessible and up-to-date map of the road networks is a great simplification of the system when compared with how this area is currently dealt with. We do not believe it would represent an “oversimplification.” In the meantime, the principles set out at paragraph 63 of this submission could be applied to make the system more transparent and responsive in the short term.
66. Operators should be aware of the need to comply with mass, dimension or other criteria to qualify to undertake journeys on the pre-approved routes but beyond that the responsibilities should lie mostly with the national regulator. In a risk-based system operators would continue to have responsibility for managing their transport activities in a safe manner.

Question 12: How do we reach consistent and predictable risk-based access decision-making? How can we make sure decision-making is transparent and fair?

67. As suggested earlier in this submission, pre-approvals should comprise a much larger proportion of the road network. Where those pre-approvals were not available, guidelines which were binding and consistently applied by the national regulator should be in place and taken up in the HVNL.

Question 13: How do we best share the risk management responsibilities between parties with a role in heavy vehicle access?

68. Where the system envisaged by NatRoad was in place, operators would need to be satisfied that their vehicles were compliant with the requirements to undertake a journey on the relevant pre-approved route.
69. The role of the national regulator should be taken to the level where consultation with local governments is a part of the process of looking at non-standard applications for access but with responsibility clearly vested in a “one-stop-shop” agency for controlling access throughout the system.
70. In the meantime, the reforms to the current system based on the principles set out at paragraph 63 of this submission would allow the transitional arrangements to properly reflect risk with greater responsibility being placed in the hands of decision makers.

Question 14: How do we manage the accountability of parties with a role in heavy vehicle access?

71. In the system envisaged by NatRoad, the linking of road funding to proper asset management with the ultimate outcome of assessing all roads as appropriate for particular heavy vehicle classes/combinations would address the issue of resources and the requirement to be accountable so far as local governments are concerned.
72. Similarly, the national regulator would have responsibility for ensuring that the system worked fairly and consistently in relation to access decisions that were outside of the pre-approved part of the system.

²⁵ Above note 1 at p 63

Conclusion

73. NatRoad's suggestions for reform would see a radically different approach adopted.
74. In the meantime, if the system were to be changed on a transitional basis whilst the "aspirational " system we have proposed was introduced, the principles set out in paragraph 62 of this submission should be applied to improve the system immediately.