



Submission to the National Transport Commission

**Heavy Vehicle National Law Consultation Regulation Impact
Statement (2023)**

24 November 2023

Executive Summary

Australia's national truck laws need reform to improve safety, productivity and reduce red tape, but the review of the Heavy Vehicle National Law (HVNL) has gone on for too long. There have been multiple issue papers, workshops, proposals and regulatory impact statements (RIS). The latest consultation RIS is not the first, the entire reform agenda appears to have become an end in itself with outcomes always over the horizon.

NatRoad shares the widely held disappointment in the review and the lack of ambition in the overall reform agenda.

That said, the consultation RIS proposals present an opportunity to reduce the administrative burden of the HVNL, provide some improvements to enforcement, and improve general access conditions. This would represent a clear reform step in the right direction.

NatRoad supports the following consultation RIS reform options—

Proposal number	Description	NatRoad response
Option 1A	Remove duplicate requirements from the law and streamlining offences relating to these requirements.	Supported
Option 1B	Remove administrative process requirements and offences.	Supported
Option 3C	Enable a review of fines for 'trifling' administrative offences	Supported
Option 3E	Support the use of formal warnings for administrative offences relating to work diaries	Supported
Option 4B	Establish new GML in the HVNL by increasing the current GML by 5 percent. The new GML replaces the current CML. Additional mass allowance is provided for Euro VI vehicles.	Supported, with comments.
Option 6A	Increase the general access length limit to 20m for general access vehicles	Supported, with amendments to also include an extension for B-doubles to 27 metres.
Option 7A	NAS is prescribed in primary law, NAS requirements are included in regulations.	Supported, with comments.

NatRoad proposes that an **additional reform option on enforcement** should proceed, to reduce the penalties for non-safety breaches.

There are also options which should be further assessed, including—

- Option 2D – on scope of fatigue requirements
- Option 3A – limiting the timeframe for issuing a work and rest breach
- Option 5A – increase in the height limit to 4.6m for general access vehicles.

1. About NatRoad

The National Road Transport Association (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, express, car carriers, as well as tankers and refrigerated operators.

2. Response to the reform options

Record keeping

Proposal number	Description	NatRoad response
Option 1A	Remove duplicate requirements from the law and streamlining offences relating to these requirements.	Supported
Option 1B	Remove administrative process requirements and offences.	Supported

NatRoad supports both reform options for streamlining record keeping requirements for operators.

The assessment of these options understates the benefits – which would have a positive impact on the regulatory burden on industry. By reducing the regulatory burden on drivers, it may also assist the industry to retain professional and skilled staff and drivers.

Scope of fatigue regulated heavy vehicles

Proposal number	Description	NatRoad response
Base case	Prescriptive fatigue requirements for HVs > 12 tonnes only, work diary exemptions for drivers doing local work.	WHS laws also apply.
Option 2A	Prescriptive fatigue requirements for HVs > 12 tonnes only, full written work diary requirements for HVs > 12 tonnes.	Not supported.
Option 2B	Prescriptive fatigue requirements for HVs > 12 tonnes only, 'lite' work diary requirements for lower risk operations.	Lower risk operations already have obligations under WHS laws.
Option 2C	Prescriptive fatigue requirements for all HVs, full written work diary requirements for all operators.	Not supported.
Option 2D	Prescriptive fatigue requirements for all HVs, work diary exemption for local work.	Not supported at this stage. Further assessment should proceed.
Option 2E	Prescriptive fatigue requirements for all HVs, 'lite' work diary requirements for lower-risk operations.	Not supported.

NatRoad holds two central concerns about the options assessed under option 2—

- There are a number of proposals to increase the scope of regulation and regulatory burden on industry for lower risk operations without an assessment of the existing WHS obligations which apply to lower risk operations
- There is no data-led assessment of the impact on road safety and fatigue related crashes.

At this stage of assessment, NatRoad does not support any of these options. Even for option 2D which warrants further assessment, it would require a 72 percent reduction in fatigue crashes just to meet a breakeven policy assessment for the increased \$189.2 million compliance burden on industry. It is unlikely that imposing a new regulatory burden would achieve that level of crash reduction.

There appears to be no data-led assessment of what would be the best policy mechanisms for reducing crashes. Regulatory options are being proposed without evidence about their potential impact on crashes.

Options 2A, 2C and 2E would impose an additional cost burden so high that they could not be assessed under a breakeven assessment.

Enforcement

Proposal number	Description	NatRoad response
Option 3A	Limit on the timeframe for issuing a work and rest breach infringement	Further assessment required.
Option 3B	Implementation of a risk profile for work and rest breaches	Further assessment required.
Option 3C	Enable a review of fines for ‘trifling’ administrative offences.	Supported, but alongside the additional option proposed below.
Option 3D	Driver defence for minor administrative errors.	To be replaced by the additional option below.
Option 3E	Support the use of formal warnings for administrative offences relating to work diaries.	Supported.
Option 3F	Allow for a formal education option in lieu of a fine for administrative offences.	To be replaced by the additional option below.
Additional option	Reduce the penalties for non-safety breaches, such as record keeping breaches.	NatRoad proposal.

The priority reform for NatRoad on enforcement is to reduce penalties for minor or non-safety related breaches. That the various options proposed seek to address this problem with the existing HVNL – but without actually dealing with the core issue itself – is an illustration of the underwhelming nature of the HVNL reform options.

NatRoad is also concerned that the options proposed do not include a proper assessment of implementation costs. Costs to implement these various solutions by the NHVR would ultimately be

paid for industry, by increasing NHVR costs and the heavy vehicle cost base, and ultimately as higher road user charges on heavy vehicles.

NatRoad reserves the right to change our position on the supported options if implementation costs prove to be significant.

On option 3A, we need to better understand the potential risk of greater use of the judicial system for low level offences, and the risk of higher costs and disruption on industry that would entail.

Access

Proposal number	Description	NatRoad response
Option 4A	Establish a new GML in the HVNL by increasing the current GML by 5 percent. The new GML replaces the current CML. No additional mass allowance is provided for Euro VI.	Not supported.
Option 4B	Establish a new GML in the HVNL by increasing the current GML by 5 percent. The new GML replaces the current CML. Additional mass allowance is provided for Euro VI.	Supported.
Option 5A	Increase height limit to 4.6m for general access vehicles.	Supportive, but further assessment required.
Option 6A	Increase the general access length limit to 20m for general access vehicles.	Supported, with amendments to also include an extension for B-doubles to 27 metres.

NatRoad supports improvements to access, but has the following comments on the consultation RIS options—

- Increasing GML should not wipe out higher mass for Euro VI heavy vehicles. There are strong policy grounds for providing concessions to account for the higher mass of low emissions solutions. HVNL reform should not undermine the reform task of reducing transport emissions. Additionally, option 4B was assessed to have much greater levels of benefits and cost savings.
- Increasing height needs to be assessed for any potential impact on reductions in general access, as a result of infrastructure limits, as well as understanding safety and rollover considerations.
- For length, NatRoad strongly supports a corresponding increase should also be extended to B-doubles, from 26 metres to 27 metres, which would provide much stronger benefits from this reform.

National Audit Standards requirements

Proposal number	Description	NatRoad response
Option 7A	NAS is prescribed in primary law, NAS requirements are included in regulations.	Supported, with comments.

NatRoad is supportive of this option, but unconvinced that will solve its intended problem.

Even if it did manage to address the lack of consistency between accreditation schemes, it would still leave the difficulties caused by multiple customer requirements and inductions from different customers and parties under chain of responsibility.

3. Reform timeline

Recently, debate has shifted to a possible extension to the HVNL review beyond the current timeline, which intended to have a draft new law presented to ministers by mid-2024.

But after five years of a never-ending review, NatRoad does not support unqualified extensions to the review timeline. Having a draft new law is also not the end of the journey, it would need to pass parliament and a number of the reforms are likely to require further implementation work.

NatRoad recommends that—

- The HVNL review timeline should continue as planned, with draft legislative changes proposed by mid-2024
- If there are specific issues which cannot be addressed in this timeline, governments should present a plan which—
 - Explains why the issue cannot be resolved on the existing timeline
 - Provides a new timeline, with clear resourcing commitments to ensure the new timeline can be achieved
 - Still seeks to maximise the delivery of reform in 2024. This may include splitting the legislative proposals into two stages, and/or accelerating the delivery of non-legislative reforms
 - If delaying legislative reform, governments should commit additional resources to commencing a HVNL maintenance update.
- Non-legislative access reforms should be accelerated, with additional resources for the development of the automated access system and rolling out improvements to as-of-right access on national and key freight routes.

NatRoad would also consider a review extension if it lifted the ambition in the intended outcomes to be achieved, but this would still need to be done in a manner which seeks to achieve some outcomes in 2024. However, after five years which have only resulted in producing underwhelming legislative proposals, NatRoad remains to be convinced that further extensions of time will produce a better outcome.