Response to the National Transport Commission's Reforms to Heavy Vehicle National Law (HVNL): Consultation Regulation Impact Statement

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CVIAA
Commercial Vehicle Industry Association Australia

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About the Commercial Vehicle Industry Association of Australia

The Commercial Vehicle Industry Association of Australia (CVIAA) is a national peak industry association that represents suppliers of parts, services, repairs, and modifications to the Australian heavy road freight sector. It sits as an industry-specific association within the Motor Trades Association of Australia (MTAA).CVIAA's members include the Motor Trades Association of Western Australian, Motor Trades Association of South Australia and Northern Territory, Motor Trades Association of New South Wales, Motor Trades Association of Queensland, the Victorian Automotive Chamber of Commerce, and the Tasmanian Automotive Chamber of Commerce, representing approximately 1,300 members operating within the commercial vehicle sector across Australia.

Summary of CVIAA recommendations

CVIAA respectfully presents the following recommendations in response to the National Transport Commisssion's paper *Reforms to Heavy Vehicle National Law (HVNL): Consultation Regulation Impact Statement*.

CVIAA recommends:

1. The objectives of the HVNL be expanded to include:
   - Promotion of effective adoption of new technologies in road transport.
   - Promotion of effective working relationships between the operator community and regulators. (Section 4)
2. The Codes of Practice, Vehicle Standards Bulletins and Vehicle Standards Guides should be implemented only after the draft proposals from the National Heavy Vehicle Regulator (NHVR) are worked through the technical liaison process and are agreed by industry associations. (Section 5)
3. The scope of technical standards that the NHVR can apply to heavy vehicles should be clarified in the HVNL, because both road vehicle standards and occupational health and safety standards apply to freight vehicles. (Section 5)
4. The standards and procedures developed by the 'framework administrators' for new technologies should be implemented only after the draft proposals are worked through the technical liaison process and are agreed by industry associations. The CVIAA's agreement to the D-RIS proposal is contingent on consultation, review and overview approval procedures being adequate. (Section 6)
5. Certainty about what operational data the regulator can access should be specified in the HVNL. (Section 6)
6. The CVIAA supports unconditional adoption of a general 2.55m width limit – not just for motor vehicles. (Section 7)
   The CVIAA supports unconditional increase in the general access mass and dimension limits. Other identified prescriptive limits could also be reviewed. (Section 7)
7. The CVIAA recommends that additional or alternative industry-initiated accreditation modules be available under the HVNL. (Section 8)
8. The CVIAA supports a national approach rather than a local approach to road access decision making. (Section 9)
9. The CVIAA recommends that consistent national approach to AVE appointment, qualifications, training and modification-assessment procedures be implemented. (Section 10)
10. The revised HVNL should give the NHVR power to accredit 'supplier modifier companies' to approve the work they do based upon their compliance with agreed standards and procedures. (Section 10)
11. The case for establishing an Office of Heavy Vehicle Safety that advises the NHVR (and government generally) is compelling and is consistent with a risk-based approach to regulation. (Section 11)
12. The CVIAA recommends that towing/recovery operators who act under instructions from an incident controller be specifically included under the Section 265 exemption. (Section 12)
13. It is imperative that the HVNL specify that the NHVR must establish consultation, review and appeal processes. The CVIAA recommends that an ombudsman's office be established within the HVNL framework. (Sections 4 & 13)

The CVIAA's response to the consultation review questions in the C-RIS are presented in Section 14.

The CVIAA's 2020 submission to the Heavy Vehicle National Law review is in Appendix 1.

1. Introduction

The CVIAA thanks the National Transport Commission (NTC) for the opportunity to respond to the paper Reforms to Heavy Vehicle National Law (NHVL): Consultation Regulation Impact Statement and understand all aspects of the operation of the law are open for review. The HVNL and its regulations are considered a community asset and not just a regulatory instrument, as such CVIAA hopes to see a measurable improvement in the conditions experienced by industry as a result of law reform. Further, the CVIAA strongly supports a national approach to road transport and hopes that the positive suggestions outlined in this submission will assist the NTC with this important work.

2. Consultation

This submission has been developed via consultation with member organisations and focuses on areas of business interest to member companies. A CVIAA reference group was established and met multiple times to contribute to the development of this submission.

3. Understanding of the Regulatory Impact Statements

The National Transport Commission (NTC) has presented two regulatory impact statements for comment. These are:

- D-RIS: *HVNL high-level framework – decision. Regulation Impact Statement, June 2023.*
- C-RIS: *Reforms to Heavy Vehicle National Law (HVNL) Consultation Regulation Impact Statement*. 19 October 2023. There are 25 questions posed for comment in the C-RIS.

The CVIAA welcomes the opportunity to comment on these documents. Additionally, the CVIAA presents additional comments deemed important be addressed by the National Transport Commission in its review work.

The Australian heavy road-transport industry is essential, efficient, adaptable and innovative. In many aspects it is a world leader in the adoption of new configurations and new technologies in trucks and trailers. It is notable that in 1995 The Age newspaper in Victoria ran a public campaign against allowing 24m B-double combinations onto urban Victorian roads. Twenty-five years later Victoria has a high-productivity freight network that allows 30m combinations weighing up to 90t to use specified urban roads. This reform was achieved without any public controversy.

The substantial benefits to the community were achieved because of enlightened regulatory reform and because a partnership of interest and respect was achieved between regulators and the road-freight operator and supplier communities. Safety and productivity have been enhanced. It is imperative that the National Heavy Vehicle Law (NHVL) promotes safe, productive and innovative practices, and that the industry 'owns the HVNL'.

The Australian road-freight sector faces substantial change vectors and challenges, including:

- Safety vulnerability
- Fuel technology change / reduction in diesel fuel use
- Shortages of drivers, mechanics, managers
- Increasing complexity of the motive equipment
- Unregulated supply of replacement parts in Australia

- A significant shortage of Approved Vehicle Examiners (AVEs) who can inspect modified vehicles in a timely manner
- Disruption arising from different assessments of road worthiness.
- Severe cost pressures

There is a significant national interest in the road freight sector having adequate capability and being able to operate in a simple regulatory environment so it can provide essential service in times of national emergency, such as during floods, bushfires, and pandemics.

For the past two years, new quarterly registrations of medium and heavy rigid trucks in Australia have exceeded 4,800 in total[1]. Virtually all these trucks had bodies manufactured and fitted in Australia. The number of new trailers has exceeded 3,700 per quarter. More than 90 per cent of these trailers were made in Australia. The number of new prime mover registrations per quarter exceeded 2,000. About 25 per cent of these were constructed in Australia. Minor modifications to the others were done in Australia. The road freight vehicle manufacturing industry in Australia is significant and adds more than $1.5 billion to GDP. This does not count the value of maintenance and repair work. It is vital for Australia that this manufacturing and repair industry is regulated efficiently and with recognition and consideration by government.

The Heavy Vehicle National Law and its regulations are a community asset and not just a regulatory instrument. That is, the revised law should assist the operator community to be safe, innovative, efficient, adaptable, and profitable. It should also promote local manufacture and local maintenance. **There should be a measurable improvement in the conditions that the industry experiences as the result of law reform.**

The CVIAA is concerned that the review proposals so far revealed do not adequately consider the operator and supplier interests. The proposed reforms are focused on regulator flexibility.

4. Objectives of the HVNL

The Object of the current HVNL are:

> **3 Object of Law**
>
> The object of this Law is to establish a national scheme for facilitating and regulating the use of heavy vehicles on roads in a way that—
>
> (a) promotes public safety; and
>
> (b) manages the impact of heavy vehicles on the environment, road infrastructure and public amenity; and
>
> (c) promotes industry productivity and efficiency in the road transport of goods and passengers by heavy vehicles; and
>
> (d) encourages and promotes productive, efficient, innovative and safe business practices.

Every clause should be consistent with the Objectives.

The Object should be expanded to include:

- Promotes the effective adoption of new technologies in road transport.
- Promotes effective working relationships between the operator community and regulators (represented by enforcement officers).

The D-RIS identifies the problem that the HVNL is not responsive to change. The detail of the criticism is that there are too many prescriptive requirements in the HVNL itself that could be in regulations or codes of practice. Codes of practice could have a more prominent role. By moving requirements 'down the pyramid', decisions can be made by regulators without need for parliaments or ministers to alter the law or make new regulations. CVIAA supports this principle but recognises the danger that poor decision making could occur if regulators are not appraised

1 ARSTA Data http://www.artsa.com.au/data/index.html

of adverse consequences of decision making. **The CVIAA contends that consultation, review and appeal processes need to be specified in the HVNL to ensure that satisfactory decision-making occurs.**

There is no mention in the review documents about the existence of the National Heavy Vehicle Law (Qld) and (NSW).

5. D-RIS: Codes of Practice

Under Recommendation 4, the regulator will be responsible for developing and maintaining codes of practice. The existing HVNL already has provisions (*Section 13.2, Industry codes of practice*) that gives the regulator the power to register industry codes of practice. There seems to be no power to register codes developed by the regulator. Presumably, the existing provisions were intended to ensure that industry was involved. Industry involvement is essential if a useful code is to be developed because compliance with a code is not mandatory. Therefore, it should aim to have the confidence of the operator and supplier community. The success of Recommendation 4 depends upon adequate consultation with industry. That consultation needs to be broad and not just with Brisbane-centric industry groups.

Both the Heavy Vehicle Modification Code (VSB6) and National Heavy Vehicle (roadworthiness) Inspection Manual (NHVIM) were developed from industry codes. They are now essential operational codes for assessing modifications and for road worthiness respectively. Neither seem to have any status in the HVNL. Both contain provisions that are beyond the scope of the vehicle standards regulations and the Australian Design Rules. In some sections VSB 6 wanders into state plant regulations. Whilst these deviations from HVNL scope can be justified, it is imperative that industry stakeholders are involved so that workable and justifiable vehicle-standards guidelines are achieved. The CVIAA strongly recommends greater consultation by the NHVR with suppliers, modifiers and repairers about technical guides, codes and standards.

The Codes of Practice, Vehicle Standards Bulletins and Vehicle Standards Guides should be implemented only after the draft proposals from the NHVR are worked through the technical liaison process and are agreed by industry associations.

It is noteworthy that all chassis cab trucks sold in Australia get modified. This accounts for more than half of all motive heavy vehicles. The modifications are usually done in Australia. If the modification is performed under a Second-Stage Manufacturer approval that is issued under the Federal ROVER scheme, negligible information about the modification is required by that regulator. If the same modification were done under the HVNL, a much more rigorous approval process would be applied to every vehicle, according to the 'HVNL Section 86' requirements that are administered by the NHVR.

Some of the standards that AVEs are required to check are not traceable to the HVNL and virtually none of these are referenced in the ADRs. The overlap of road-vehicle technical standards and plant-equipment technical standards is not explained or resolved in the HVNL review.

The D-RIS is silent about the existence of two sets of technical standards that are applied to motive vehicles that have plant equipment attached. The work health and safety regulations make cranes with a lifting capacity greater than 10t prescribed equipment. This affects most trucks that have a vehicle loading crane installed; however, the issue is mainly ignored. These regulations also require the hazards of plant equipment to be identified and the risks of those hazards to be controlled. None of this makes it into vehicle regulations. Indeed, dangerous goods vehicles are partly regulated by jurisdictional work health and safety regulators. **The scope of technical standards that the NHVR can apply to heavy vehicles should be clarified in the HVNL because both road vehicle standards and occupational health and safety standards apply to freight vehicles.**

The CVIAA notes that inspections done at some inspection stations and at registries are sometimes under the jurisdiction of the NHVR and sometimes under the jurisdiction of the states/territories (e.g. South Australia). This situation is confusing for industry.

6. D-RIS: Regulation of New Technologies

The D-RIS contains recommendations aimed at establishing frameworks to give industry certainty about adoption of new technology. The proposal is to establish a technology and data framework that is administered by a 'framework administrator'. Presumably the framework administrator concept is modelled on the Transport Certification Agency (TCA). The CVIAA understands that the TCA was acquired by AustRoads Ltd. The AustRoads membership goes beyond participating states in the HVNL project.

The existence of the TCA is already acknowledged but not prescribed in the HVNL (see Part 7.5). The D-RIS does not explain whether the TCA is likely to be involved. The CVIAA understands that the 'framework administrator' is not a regulator and that the regulator, being the NHVR will adopt the standards and procedures that the 'framework administrator' develops.

Whilst the CVIAA supports the 'framework administrator' concept, to be successful the 'framework administrator' must work closely with industry because the purpose is to remove uncertainty about technical standards, procedures.

The standards and procedures developed by the 'framework administrators' should be implemented only after the draft proposals are worked through the technical liaison process and are agreed by industry associations. The CVIAA's agreement to the D-RIS proposal is contingent on consultation, review and overview approval procedures being adequate.

It is unclear whether technologies that are mandatory under the Australian Design Rules will also be managed by the 'framework administrator'. These technologies are primarily safety-based and there are national technical standards for them in the ADRs that are often retrieved from a UN ECE Regulation.

There seems to be a risk that two sets of technical standards for new HV technologies could arise – those in the ADRs and those in the HVNL that the 'framework administrator' has developed. Again, this is a domain where detailed consultation with industry is needed.

The Recommendation 12 is very hard to understand. Apparently, it seeks to make it certain who can access data that is stored in technical equipment used by transport operators. The CVIAA welcomes certainty about data access and sharing related to technologies that are regulated according to technical standard developed by a framework agreement. **Certainty about what operational data the regulator can access should be specified in the HVNL.**

7. C-RIS: Limits to General Road Access

The proposals to address C-RIS problem 2, which is the existence of multiple access schemes for vehicle loaded about general limits, are to:

- Increase the general mass limits (GML).
- Increase the prescribed heavy vehicle height limits.
- Increase to prescribed length limits beyond 19m.

None of the identified limits are 'hard' at present and satisfactory operation under special schemes have been demonstrated for: CML mass limits, 4.6m stock crate height and 20m semi-trailer combinations under PBS. Permits for 27m long B-doubles can now be obtained, contrasting with past battles to have 26m long B-doubles approved.

Total vehicle mass or axle mass is not limited by the Federal Road Vehicle Standards Act 2018 (RVSA). Maximum vehicle height is specified in ADR 43, as is maximum (single vehicle) length. Combination vehicle length is not regulated by the RVSA.

There are other regulated mass and dimension limits that could be considered. These are:

- Overhang limited to 3.7m when many special purpose vehicles are allowed to operate at 4.0m.
- Transition mass limits specified in Table 9 of Section 9 of ADR 42/04 that industry regards as conservative; and
- Maximum width 2.5m.

The Australian Design Rules have recently been amended to allow new heavy motor vehicles with certain safety enhancements to be 2.55m wide. **The CVIAA supports adoption of a general 2.55m width limit – not just for motor vehicles.**

These examples indicate that the HVNL vehicle standards regulations may need to be amended from time-to-time to reflect changes to national standards (ADRs). The mechanism for doing this at present is to get approval for all ministers in participating jurisdictions. This process is very cumbersome.

The CVIAA supports 'resetting' the general-access mass and dimension limits. Whilst acknowledging that there will continue to be some 'special purpose' schemes applicable to limits above the general access levels, the CVIAA hopes these schemes are kept to a minimum and there is some consistency between the limits that are specified in the various 'special purpose schemes'.

There is a long history of government tying mass and dimension limit liberalisation to use of new safety technologies on vehicles. The latter is happening irrespective of any proposed changes to the HVNL limits, and it is onerous on the road freight sector to impose more change. Furthermore, axle mass liberalisation eases the compliance burden by reducing the proportion of trucks that could be over limits. Ultimately the community benefits from the proposed modest liberalisation of mass and dimension limits through productivity improvement. The CVIAA notes that the mass limits that apply in Western Australia (WA) and the Northern Territory (NT) are greater than are available to eastern state operators.

The CVIAA supports unconditional increase in the general access mass and dimension limits. It also recommends that the items identified in the dot-points above be reconsidered.

8. C-RIS: Confidence in the Robustness of the NHVAS Accreditation

The NHVAS provides operators with a path to more flexible operating conditions subject to demonstrated performance against accreditation metrics. The NHVAS has three modules, which are:

1. Mass management.
2. Maintenance Management.
3. Fatigue Management.

Proof of compliance with these modules depends largely on technologies that measure and/or create records. Therefore, assurance of reliability of these technologies is important. The CVIAA generally supports the existence of operator accreditation schemes, of which the NHVAS is one. The proposal in the D-RIS to allow greater use of industry codes of practice, begs the question why alternative industry accreditation schemes cannot also be acceptable under the HVNL. The CVIAA recommends that industry accreditation schemes be registerable under the HVNL and that operators of such schemes can have the same benefits as operators that are enrolled in the NHVAS.

The current HVNL is about a decade old. It is obvious that the road freight sector will come under increasing pressure to reduce diesel fuel use per tonne-kilometre over the next decade. The operating sector might be assisted to maximise fuel-efficiency via an additional accreditation module that concerns fuel efficiency. This module might be modelled on the USA's Smartway scheme that is run by the USA Environmental Protection Agency[2].

The CVIAA recommends that additional or alternative industry-initiated accreditation modules be available under the HVNL.

9. General: A Path for Non-Participating Jurisdictions

CVIAA is surprised that the problem of there being two non-participating jurisdictions (WA and NT) in the HVNL project has not been identified in the D-RIS. The CVIAA supports a truly national HVNL project.

The reason for this situation relates to the nature of heavy road transport in those jurisdictions. The CVIAA has member companies in both WA and NT. The CVIAA recognises that there can be unique operating conditions in some jurisdictions and that non-national schemes need to be accommodated. For example, WA has separate PBS and fatigue management schemes. A path should exist for the NT and WA to formally participate in the HVNL project whilst being able to opt out of, or modify some national modules/schemes. The greater the commonality in road transport across borders, the easier it is for operators and suppliers to service Australia's freight task.

2 https://www.epa.gov/smartway/smartway-program-successes

It is noteworthy that some participating jurisdictions impose additional technical requirements on heavy vehicles beyond those specified in the HVNL. For example, construction vehicles that operate in the Sydney environs operate under the NSW SPECTS scheme. The CVIAA recognises that local operating rules might be justifiable. The more these local rules can be included in a national framework, the simpler it is for out-of-region operators to understand the requirements and to comply.

The CVIAA supports a national approach rather than a local approach to road access decision-making.

The CVIAA notes that the productivity improvements arising from the WA and NT mass limits and fatigue limits are not available to eastern state operators. Much could be learned from these jurisdictions. The HVNL should facilitate limit reform.

10. General: Clarification of Responsibilities of Approved Vehicle Examiners (AVE)

Suggestions to improve the AVE process were described at Item 9 in Appendix 1.Additionally, the CVIAA points out that a qualitatively different AVE scheme operates in Queensland compared to other participating jurisdictions. The Queensland scheme has up to ten times more accredited professional modifiers who are able to approve work done by them and by others. The number of AVEs in Queensland could be about ten times that in any other single jurisdiction. This situation arises from the original set-up of the Queensland 'blue-plate' scheme. In contrast, the other participating jurisdictions usually require AVEs to have engineering degree-level qualifications and to have broad experience.

The CVIAA understands that modification certificated that are issued in WA and in the NT are acceptable to the NHVR.

There are significant differences between jurisdictions relating to training, accreditation, and approval requirements for AVEs. The HVNL is silent about these aspects. Consequently, there are significant differences between the jurisdictions that make it unsafe for mutual recognition of AVE approvals. The processes across jurisdictions are so different that the approvals marketplace is distorted and AVEs in some jurisdictions complain that work is going to the 'easier' jurisdictions, sometimes based upon photographic evidence rather than inspection. Vehicle assessments should not be made based on photos of vehicles, yet this is allowed in some participating jurisdictions. A non-trivial modification should be inspected by an accredited person as a fundamental requirement of the process.

There is also disquiet in the operator community about the quality of some modifications that get approved. The HVNL review should consider the justification for keeping AVE administration out of the national law. **A consistent national approach to AVE appointment, qualifications, training and modification-assessment procedures is recommended.**

The current HVNL allows the NHVR to approve a modification. It does not allow the HNVR to delegate that approval process to competent private suppliers. There are many professional supplier modifiers that both supply and install transport equipment. These businesses are experts with the items that they install. In many cases an AVE who is required to assess an installation of transport equipment might need the advice of the professional supplier modifier. Furthermore, the professional supplier modifier might be able to obtain a Second Stage of Manufacture approval for the modification in the federal ROVER system, without any examination of the installation procedures involved. That is, the approval processes for modification of transport equipment by professional supplier modifiers is significantly different under the federal Road Standards Act when compared to the HVNL.

A solution to this significant problem is to allow the NHVR to accredit professional supplier modifiers to approve modifications they do involving the installation of equipment that they provide to industry. This reform would result in significant economic benefit because it could reduce the modification cost by at least $500 and speed up the approval process up by days or weeks.

The revised HVNL should give the NHVR power to accredit 'supplier modifier companies' to approve the work they do based upon their compliance with agreed standards and procedures.

11. General: The need for an Office of Heavy Vehicle Safety

The CVIAA reaffirms its view that an Office of Heavy Vehicle Safety should be established (Item 10 in the Appendix). This office should either be explicitly established by the new NHVL, or alternatively, it might be established by agreement of participating jurisdictions. The office could operate within the NHVR or within AustRoads. In either case, the NHVR should receive specific advice from such an office about the level of and causes of road trauma and workplace trauma involving heavy vehicles so that it is better informed about safety factors. Co-operation of the insurance sector and operator community should be sought.

Whilst the safety record of the road-freight sector of industry is improving (mainly due to the improved safety performance of long combinations), being a heavy truck driver remains Australia's most dangerous occupation. **The case for establishing an Office of Heavy Vehicle Safety that advises the NHVR (and government generally) is compelling and is consistent with a risk-based approach to regulation.**

12. Emergency Towing and Recovery Fatigue Limits

Towing operators that attend significant and complex vehicle collisions on national highways requiring long durations to clean up. Often that are unable to legally assist emergency services because work diary and fatigue management limits under NHVL prevent the operators from working.

This has been highlighted in regional and remote South Australia where a towing operator from Adelaide will travel at least three hours to attend a collision. For a complex matter the recovery driver might be on site for up to 20 hours. The driver might then be ordered by local police to remove the vehicles, in breach of fatigue management obligations. In a recent example the breach was picked up and pursued by the NHVR, but overturned on appeal. In this example, National Highway one was closed, and 30 hours of tow recovery operations (travel & recovery) were necessary. Under the fatigue management rules the drivers would require seven (7) hours of stationary rest time. As National Highway one was closed for a long period of time due to the collision, a further seven-hour delay would have been untenable and cause further significant cost to logistics operators and the community at large.

Towing operators, as much as police, fire and ambulance, are in the group of emergency services vehicles that attend these vehicle collisions. Often, they are directed to use heavy lift equipment to assist emergency services to rescue trapped occupants, or to clear a chaotic crash scene. In these circumstances they should be afforded the same exemptions as emergency services described under section 265 of the NHVL. Specifically, the requirement to tow away the damaged vehicles to the nearest suitable destination falls under the definition of section 265(2) where the "noncompliance does not present an unreasonable danger to other road users", especially where local police have assessed the situation and directed the towing operator to tow away the vehicles.

The CVIAA recommends that towing/recovery operators who act under instructions from an incident controller be specifically included under the Section 265 exemption. The CVIAA notes that such an exemption exists in section 265A of the NSW NHVL legislation.

13. General: The Need for Consultation, Review and Appeal Processes

Nothing in the review proposals requires the NHVR to consult with the road transport industry concerning proposals or decision-making. The CVIAA's 2020 submission to the review process is in Appendix 1.The NTC might consider that some of the items discussed in this submission could be dealt

with by the NHVR if it had additional discretions made available in a new HVNL. The CVIAA would happily participate in a consultative mechanism whereby it could make recommendations and contribute to improved procedures. At present there is no proposal to enshrine such a consultative process into a new HVNL. The best outcomes for the community and for the operating industry will come from a co-operative approach. The law should recognise this and strive to facilitate it.

There is a significant, current problem faced by the operator community, which is disagreement with roadworthiness assessments made by some NHVR roadside inspectors (see Items 4, 5 & 6 in the Appendix). Many operators complain that roadside roadworthiness assessments are wrong, and that this situation arises because inspection officers often have inadequate training and vehicle-mechanical experience. The results of disputed assessments can be scheduling disruption and 'black marks' that result in future inspection targeting of the operator. A review mechanism for roadworthiness assessments should exist that is directed to the supervisor level should exist. While the HVNL need not be prescriptive about the review mechanism, it should direct the NHVR to establish one.

There is a separate problem that police can issue road worthiness defect notices to heavy vehicles with only a rudimentary knowledge of the applicable technical standards.

Many operators argue that a heavy-vehicle industry ombudsman is needed to address problems arising from contestable classifications and assessments.

It is imperative that the HVNL specify that the NHVR must establish consultation, review and appeal processes. The CVIAA recommends that an ombudsman's office be established within the HVNL framework.

14. C-RIS: Requested Responses

Case for change

Q.1 To what extent has the C-RIS fully and accurately described the problem to be addressed within the scope of identified issues? What other factors should be considered in the problem statement? Please provide detailed reasoning for your answer

Q1 Response: The C-RIS identifies various problems. This paper provides many additional suggestions for improvements to the HVNL. The CVIAA agrees that the regulatory domain for heavy road vehicles must be flexible because the change vectors affecting the industry are substantial. The CVIAA agrees that the case for change has been made and that greater flexibility is needed in a new HVNL.

Need for government action

Q.2. Has the C-RIS provided sufficient evidence to support the case for government intervention? What else should be considered and why?

Q2 Response: The C-RIS has provided some evidence to support the case for government action but has not addressed many of the issues raised in the CVIAA's first paper. Hopefully, they can be considered. A summary of the CVIAA's recommendations follows:

- Standards for road HV repair might be addressed in a new HV Repair Code.
- Quality of road HVs offered at auction might be addressed by requiring a statement of known defects to be issued by vehicle resellers. It is suggested that auction houses be held accountable in the same way as a Licenced Motor Car Trader (LMCT) as it relates to heavy vehicle dealerships.

- Improving the training, qualification and capability of workshop personnel requires development of training accreditation frameworks that are consistent with the technical standards and codes of practice that arise from the new HVNL. A four-level accreditation framework was described in item 3 in the CVIAA's 2020 submission.
- Improved co-operation between industry practitioners and authorised officers and police should be a high priority. It could come from improved industry-regulator consultation and review processes.
- Minimum training accreditation for authorised officers are needed to improve vehicle condition assessments. The HVNL should require regulators and state agencies to establish such levels.
- An appeal and review process are needed to clear vehicle defect notices. Such a review process could result in better agreement being achieved between authorised officers, police and the operator community.
- Quality of replacement parts offered for sale is a continuing challenge. The HVNL regulations should require replacement part suppliers to publish the safe operating limits and approval status of (identified) safety-critical replacement parts that they supply for use on road vehicles.
- Reform of the approval of modified vehicles is required, as described previously. The HVNL should give the NHVR power to accredit professional supplier modifiers the authority to approve modification work without secondary approval by an AVE. The reforms should also make it clear that an AVE can approve a modification if it is safe irrespective of competing or unclear requirements in codes of practice.
- Establishment of an Office of Heavy Vehicle Safety has been described previously. This is a potentially transformational suggestion that should be explicitly dealt with in the HVNL reforms.
- The CVIAA contends that national technical standards and regulations are needed for **tow trucks**, **crane trucks**, **route-service passenger buses** and **school buses** because of specific safety issues that exist with these types of vehicles. The types of vehicles are currently regulated by road agencies in some jurisdictions, but not others. The HVNL review is a once per decade opportunity to establish national standards for these high-risk vehicle types.

Q.3. In addition to the barriers and constraints identified, what other impediments could impact the success of implementing options presented in the C-RIS?

Response Q3:A key barrier to achieving a quality reform of the HVNL might be avoided if a range of peak operator and supplier associations are routinely consulted about reforms. The HVNL should stipulate that consultation, review and appeal mechanisms be established.

Impact analysis methodology

Q.4. Are there any potential changes to the impact analysis methodology that you would suggest? Please provide reasons and evidence

Response Q4: The road freight sector is the backbone of the Australian economy. Disruption to this sector would seriously impact the community and other businesses. On the other side, a thriving road freight sector with improving metrics including overall safety, productivity and profitability is the goal. The HVNL does not try to quantify the importance of the industry or the costs of non-compliance or failures.

The impact analysis should consider the additional information provided in this submission by the CVIAA.

Fatigue management: record-keeping requirements -impacts, costs and benefits.

Response Q5 – Q14: The CVIAA does not represent participants who manage driver fatigue and is not well placed to answer these questions.

The CVIAA has the general opinion that driver fatigue must be managed by the driver and operator and regulated. Driver and vehicle monitoring technologies will provide an increasing capability for operators to improve fatigue management. The CVIAA supports application of flexible fatigue driving limits based upon reliable monitoring reports. It observes that drivers want to be safe when driving and the ability of a driver to plan a trip with sensible stages is desirable.

Increase general access: vehicle mass limits – impacts, costs and benefits

Q.15. Which option (either Option 4a or 4b) would deliver the greatest benefit? Which would have the simpler implementation pathway? Please give reasons in your response.

Q15 Response: Option 4a is supported. The proposal to increase the GML by 5 per cent additional mass allowance dependent on Euro VI vehicles is not supported because the future challenge for Australian heavy vehicles is not gaseous emission but rather CO2 emissions. These are two different elements. Reduction of CO2 emissions per tonne-kilometre will result from productivity improvement.

The proposals are silent about changes to the CML and HML limits. They also need to be increased to maintain relativity. It is noteworthy that availability of the CML and HML are dependant on the use of a road friendly suspension (RFS) being used on the rear axle group. Most airbag suspensions have RFS rating and most vehicles that travel on sealed roads have airbag rear suspensions. There is little value for roads in tying CML to use of RFS. CML is superfluous if GML is increased.

There is a case for increasing the HML in some categories. This would acknowledge technical progress with suspension design and performance. For reference, the HML mass limit for a tandem axle group in Australia is 17t. However, virtually all European countries allow 18t (or more) onto a tandem axle group3.

Australia has low road mass limits by European comparisons.

Q.16. What are the main benefits for industry in simplifying mass limits to GML and HML?

Q16 Response: A simpler regulatory structure and fewer breaches.

CVIAA supports making the GML the same as the CML and dropping the RFS requirements. Changing to a two mass-limit scheme would simplify the operating rules. The HML limits should continue to be available for operators accredited to mass management in the NHVAS or equivalent accreditation schemes.

Q.17. Alternatively, would there be value in creating a 'new CML', as an incentive for mass accreditation, between the proposed "new GML" and current HML?

Q17 Response: CVIAA supports reform of the mass limits regulations so there are two levels. If the vehicle is in the NHVAS mass management module, then it should have access to the HML limits.

3 https://www.itf-oecd.org/sites/default/files/docs/weights-2019.pdf

Q.18. Could reforms that make it easier for operators to operate at CML without the need for accreditation lead to any adverse outcomes to road safety or road infrastructure?

Q18 Response: The CML should be available to all operators without the need to be in an accreditation scheme. While the CVIAA supports lifting the GML to CML level without condition, the provision of an RFS could be an acceptable requirement if road agencies object. Making CML available outside NHVAS would simplify mass management.

Increase general access: vehicle height limits – impacts, costs and benefits

Q.19. Given increased vehicle height limits already available to operators through existing laws and notices targeted at specific supply chains, would a general increase in vehicle height allowances provide material productivity benefits (i.e., reductions in heavy vehicle trips)?

Q19 Response: An increase in the maximum height limit from 4.3m to 4.6m might be important for some operators. This allowance is currently available to livestock carrying trailers. The added 0.3m load space height that is anticipated might allow a three-level mezzanine trailer to be viable, with load space height of about 1m height per level. This might be usable space for parcel load haulers travelling on main highways.

Q.20. Could reforms that make it easier for operators to operate at increased vehicle height limits lead to any adverse outcomes to road safety or road infrastructure? Are there options (e.g. vehicle or load type limitations) to mitigate any increased risk of adverse outcomes?

Q20 Response: The original argument for the 4.6m limit was that the livestock-hauling operators were usually outside major cities. In fact, livestock trucks often travel through major cities.

It is notable that many bridge-clash incidents occur with trucks that are much lower than the current 4.3m limit. Therefore, it does not follow that the 4.6m vehicles will experience a greater level of bridge-strike road trauma than the 4.3m vehicles. However, there could be operational restrictions on 4.6m high vehicles. The CVIAA is aware that 4.6m high livestock vehicles are not permitted to travel through Melbourne's Citylink tunnels. Consequently, they regularly travel through inner Melbourne.

Increasing volumetric load by vehicle length increase – impacts, costs and benefits

Q.21. Given increased vehicle length limits already available to operators through existing PBS scheme and notices, would a general increase in vehicle length limits provide material productivity benefits (i.e., reductions in heavy vehicle trips)?

Q21 Responses: Yes. For example, the availability of 23m semi-trailers without the need for a PBS approval would be a benefit to operators and thereby lift productivity for the community. The benefit would accrue to trailers carrying volume freight. The added load space (19m to 23m) is about 18.2 – 14.2 / 14.2 = ~ 25 per cent. If the limit was changed to 20m, the productivity benefit would be about seven per cent.

Additional length may be unacceptable on some PBS Level 1 urban roads. However, there is no evident reason why a 23m length limit should not apply on a PBS Level 2 road, because much longer PBS vehicles are acceptable.

The PBS scheme has successfully demonstrated that long vehicles can be safely used on the road network according to classification. The PBS scheme has technical standards that deal with lane tracking performance, startability and gradability. Rail crossing clearance time also needs to be considered. It may be that length limits for some long-vehicle categories cannot be safely increased.

As a general response, the heavy vehicle sector is innovative. It will find productivity improvement in any length limit liberalisation. PBS has demonstrated improved safety performance over 'prescriptive vehicles'. The success of the PBS project should give regulators confidence that length-limit liberalisation will not result in poorer safety outcomes. There should be a reasonable expectation that less congestion will result.

Q.22. Could an increase in vehicle length limits enable newer, more innovative vehicle/trailer designs? What types of supply chains could benefit?

Q22 Response: The added length would be useful for volume freight operators. Increasing the length limit to 23m would make the productivity benefit increase available to smaller operators who are unlikely to obtain a PBS approval.

As a general response, the heavy vehicle sector is innovative. It will find productivity improvement in any length limit liberalisation.

Q.23. Could reforms that make it easier for operators to operate at increased vehicle length from 19 to 20m lead to any adverse outcomes to road safety or road infrastructure? Which risks would any regulatory conditions mitigate and what controls could be put in place?

Q23 Response: It is unlikely that any adverse road safety problems would arise from increasing the vehicle length limit to 20m. This vehicle length must be shorter than a typical B-double (26m), which can now be found on many urban roads, including single carriageway roads. The swept path performance of a 20m long semi-trailer is likely to be marginally wider than that of a 19m semitrailer, but less than that of a B-double combination. The variation is very minor, and no adverse situations are anticipated.

Cumulative impacts of proposed changes to mass and dimension limits

Q.24. Do you have any comments on the cumulative impact of increasing general access limits for vehicle mass, length and height? Please give reasons and evidence where possible.

Q24 Response: The effect of all mass and dimension limit changes is to provide increased operational-limits for both volume and mass-limited operators. That is, there is an advantage for all operators.

National Audit Standard Requirements

Q.25. Do you agree with the potential impacts described regarding the potential inclusion of NAS requirements in regulations? Are there additional impacts you think should be considered?

Q25 Response: Audit reports relevant to NHVAS should be accurate. The CVIAA supports the concept that National Audit Standards (NAS) should be applied on the assumption that this would improve the quality of audit reports. The additional costs (if any) need to be considered.

15. Appendix CVIAA's 2020 Submission

A1 Standards of Heavy Vehicle Repair

This item concerns the standard of repair work after a heavy vehicle has been damaged.

Clause 87 of the HVNL sates: "A person must not use, or permit to be used on a road, a vehicle that is unsafe." The CVIAA agrees with this principle. The problem is that assessment of what is safe and unsafe in the repair industry is not defined by standards. The Original Equipment Manufacturer (OEM) specification usually does not consider repairs and does not provide guidance about when an item or subsystem should be replaced.

The CVIAA understands that:

- Service is the action of keeping the vehicle in roadworthy condition. The relevant standards are the Australian Design Rules (ADRs), National Heavy Vehicle Inspection Manual (NHVIM) and the OEM specification.
- Repair is the action of returning a damaged vehicle to acceptable condition. The OEM specification is relevant.
- Modification is the action of changing the vehicle specification. The relevant standard is the National HV Modification Code (VSB6).

The HVNL requires that an in-service vehicle continue to meet the vehicle standards specified in the original Australian Design Rules (ADRs). There are also minimum performance and feature standards in the HVNL vehicle standards regulations. These requirements do not explicitly concern the standards of repair, or in many cases, modification. Furthermore, the NHVIM (*Inspection Manual*) is a primary reference for roadworthiness assessments but is not applicable to repairs.

The suitability of modified vehicles should be certified by an Approved Vehicle Examiner (AVE) and a national modification plate attached to the vehicle. The suitability of servicing of the vehicle can be assessed by a roadworthiness inspector and a roadworthiness certificate can be issued. There is currently no mechanism by which repairs can be certified against technical standards.

Whilst the HVNL could specify that a repaired vehicle has the same specification as the original equipment vehicle, the original specification is usually non-committal about strength, squareness, alignments and use of substitute parts, etc … A code that defines acceptable practice is needed by the repair industry.

The CVIAA believes that acceptable repair standards can be defined in an 'industry code' that could be registered under the Section 706 of the existing HVNL. The CVIAA wants to work with the insurance industry and associations representing operators to develop a national code of acceptable repair practice for heavy vehicle repairs ('*The Heavy Vehicle Repair Code*')

The CVIAA acknowledges the existence of repair industry codes of conduct. For example, The Motor Vehicle Insurance and Repair Industry Code of Conduct, which is mandatory in NSW, can be cited. It establishes requirements for 'Network Smash Repairers' and describes minimum experience levels for 'Code Estimators'. This Code has merit as far as it goes. It does not cover standards of repair.

The CVIAA believes that the repairer should be accredited and that the HVNL should require the accredited repairer to provide the owner of the vehicle with a certificate of completion that declares the repairs are complete within the scope of engagement. These requirements could be specified in The Heavy Vehicle Repair Code

The certificate would require a declaration that the repair was conducted according the principles and instructions in the Repair Code.

The CVIAA does not foresee that an AVE or accredited roadworthiness inspector or any other inspector should be required to certify the repairs.

The CVIAA recommends:

1. A national code of repair practice be developed – *The Heavy Vehicle Repair Code*.
2. Repairers of heavy vehicles be required to issue a certificate in specified form to the owner of the repaired vehicle that declares the repairs are complete within the scope of engagement.
3. Repairers be accredited by an industry association that the repairer has been trained in and has work practices in place that provide confidence that the 'Repair Code' can be followed.

Whilst the scope of *The Heavy Vehicle Repair Code* does not include light vehicles, other associations might develop consistent practices for the light vehicle sector.

A2 Quality of Heavy Vehicles Offered at Auction.

There is a serious problem with the quality of some second-hand vehicles that are offered for sale at auction. No warranties apply to such vehicles. It is impractical for a purchaser to adequately assess the defects that may exist because no workshop facilities are available, vehicles cannot be test driven and inspection access time is limited. Consequently, purchasers often find out afterwards that the heavy vehicle they have purchased is defective.

For example, chassis twists are almost impossible to measure outside a workshop. CVIAA members are aware of vehicles that have struck a bridge or tree, being offered for sale as a cab-chassis at auction. Subsequently, poor vehicle road tracking indicated the chassis rails were twisted.

There is a sector of the repair industry that purchases heavy vehicles at auction and repairs or modifies them for sale. A high percentage of these vehicles and repaired and then resold. This repair work is unregulated. It is common for cheap repairs to be done and for the quality of the repairs to be poor. This supply chain represents a high risk to public safety, and it should receive particular attention in the HVNL, based upon risk.

This situation is an unacceptable risk to the community because purchasers are likely to find a way to get the vehicle back into service as cheaply as possible. Because no national repair standards exist, many defective vehicles will be re-registered without the defects being adequately repaired.

CVIAA acknowledges that NSW operates a register of written off heavy vehicles (*HVWOR*).The NSW scheme has two levels which are statutory write offs and repairable write offs. Suppliers and insurers of vehicles are required to engage an accredited *HVWOR* Assessor to determine whether a heavy vehicle that needs repair should be classified as a 'total loss', or that it is viable to repair it.

The NSW *HVWOR* scheme is based upon recognition that some damaged vehicles cannot be economically repaired. Even if vehicles can be economically repaired, the issue of how the vehicle can and should be repaired exists. Furthermore, many damage heavy vehicles will not be reported.

CVIAA also acknowledges that Austroads has published assessment criteria for classification of heavy written off vehicles and that the Transport and Infrastructure Council has agreed in principle to set-up a national register. Therefore, significant prior work exists that could form

the basis of a national *HVWOR*. The CVIAA welcomes these developments. They may help clarify the condition of some vehicles offered for sale at auctions.

The CVIAA recommends that heavy vehicles offered for sale at auction should come with a statement of defects ('*Defects Statement*'). The *Defects Statement* should be prepared by an accredited person such as an AVE or an Assessor accredited according to a national *HVWOR*.

The law should require that a *Defects Statement* be cleared before the vehicle can be registered. Clearance of the *Defects Statement* might be done by a person with suitable accreditation, who might be a licenced roadworthiness inspector, an AVE or a *HVWOR Assessor*. There is great value in having defects recognised before such vehicles are presented for roadworthiness inspection because it will increase the likelihood, the defects will be corrected.

The purpose of this reform is to better inform the market about potential problem-vehicles and to lift the standard of repair of those vehicles.

The CVIAA envisages that the onus would be on the seller of the vehicle to provide this *Defects Statement* to the Auction House. This requirement would not apply to a licenced motor vehicle trader because there are already auditable reporting requirements.

A3 Training, Qualification and Capability of Workshop Personnel

The HVNL should promotes continuous improvement of the standard of heavy vehicle repairs and modifications. Perhaps only 25 per cent of repairers have formerly qualified tradespeople. In many workshops there are none, so service, repairs and modifications are done without the supervision of a tradesperson. This puts the community and operations at risk because vehicles may not be safely serviced, repaired or modified, due to lack of skill and knowledge.

Many workshops have difficulty finding skilled and mechanically competent workers. Many workers do not have good English-language skills, and this limits their access to service manuals and instructions. The pay rates are usually low. There is no formal accreditation required and no control over shoddy repairers. Shopping on price without regard for quality is commonplace. This situation presents a safety risk to the community and operators of heavy vehicles.

The CVIAA recommends that the HVNL should require people who work at repairing, modify or service vehicles to have basic training about heavy vehicle safety. Many leading workshops have established their own training programs; however, there is no nationally recognised approach. A training structure is urgently required that fits below the fully qualified trades level so unqualified workers can be trained without entering formal apprenticeship agreements.

The CVIAA contends that many repairs and modifications are not overseen by an AVE. Roadworthiness inspectors, if involved, may not be able to assess the quality of the work done based on observations of the finished vehicle, because the structural aspects of the repair or modification may not be visible. Therefore, it is important that the people doing the work:

- have basic mechanical knowledge;
- they work to quality checklists; and
- they are supervised by a qualified tradesperson.

The HVNL should require apply the principle that: *People or organisations that repair, modify or maintain heavy vehicles should have been trained to do so*. This principle should result in a legal requirement that people or organisations that repair, modify or maintain heavy vehicles for fee or profit, should have the work approved by an accredited person.

To support this proposal, the maintenance and repair industry needs a qualification structure that is described in a national training and accreditation framework. This framework would probably be outside the HVNL. However, the HVNL should force it to be developed.

Work done on safety critical or safety relevant mechanical systems should be done by a worker who has passed *basic mechanical training* and is being supervised by an accredited (trade qualified) person.

The key aspects of a training and accreditation structure should be:

a. Four training levels constituting *Heavy Vehicle Service and Repair Training* should exist. These are **Basic, Additional, Accredited (Trade) and Technician**.

b. The **Basic** training standard should cover the basics of:
   Braking.
   Steering.
   Wheel-end hardware.
   Welding.
   Lighting.

c. **Additional** training might include:
   Engine including emissions
   Chassis strength considerations.
   Requirements in Vehicle Standards Bulletins.
   Requirements in the National Heavy Vehicle Inspection Manual.
   Quality checklists for specific tasks.
   Participation in meetings (physical or virtual) involving Authorised Officers, AVEs and roadworthiness inspectors.

   People who have **Basic** or **Additional** status, or are being trained, would need to work under supervision of an **Accredited** or **Technician** supervisor. The scope of the work they do should be covered by the training modules they had achieved, or are being trained in.

d. A **Technician** level should exist above **Accreditation** (Trade) to provide a development path for accredited mechanics. The **Technician** level would involve modules dealing with advanced technologies on vehicles.

e. The envisaged training structure would use existing apprentice modules where applicable; with some additional modules being developed.

Participants could acquire modules sequentially and build their knowledge and status within the industry. A path should be developed to allow workers with sufficient modules to achieve **Accredited** status.

CVIAA envisages that the *Heavy Vehicle Service and Repair Training* would be provided by TAFEs, accredited trainers or OEM supplier companies. The training module structure either exists or could be further developed by training agencies. The NHVR would not need to oversee the operation of this training.

CVIAA has also identified the need for refresher training, top-up training and additional modules relevant to body-building work and repair work are needed.

CVIAA is willing to play a leading role in defining the contents of *Heavy Vehicle Service and Repair Training.*

The CVIAA believes that if the HVNL were to require workers who repair, modify and service heavy vehicles to be trained, an improvement in vehicle condition would result in the medium term.

Furthermore, the future supply of accredited workers depends upon significant improvements being made to the existing trade-training, qualification structure and status of mechanical workers. Whilst the HVNL need not specify the details of the training, it should require safety-related work to be done by trained workers and to be approved by an accredited person. This stipulation would force improvements to be made to workforce training structures.

A4 Co-operation Between Industry Practitioners and Authorised Officers

CVIAA members have participated in meetings involving Authorised Officers, AVEs and roadworthiness inspectors to discuss vehicle standards and roadside enforcement assessments. Such meetings are worthwhile for all concerned because of the valuable knowledge and experience transfers that occur.

The CVIAA recommends that such meetings should be a regular occurrence. They could be virtual. Participation in them should be a requirement for accreditation of Authorised Officers and workshop personnel (see previous item).

The CVIAA is willing to play a role in establishing such (virtual) meetings in conjunction with the NHVR.

A5 Accreditation of Authorised Officers

CVIAA members sometimes question the defect assessments made by roadside inspectors and by police. It is not uncommon for a defect to be cleared and to find it is then reimposed. These problems will be lessened if Authorised Officers are trained with minimum competency levels.

HVNL is silent about mechanical qualifications required by Authorised Officers. The CVIAA recommends that Authorised Officers should have standards equivalent to **Additional**, **Accredited or Technician** levels, as described for the *Heavy Vehicle Service and Repair Training* described in Item 3.

The CVIAA understands that the NHVR has been provided with a training syllabus that one of the CVIAA state members, MTA SA developed. An opportunity exists for co-operation between the NHVR and the industry associations about the nature of the training for Authorised Officers.

The CVIAA recommends that the HVNL should specify that Authorised Officers are specifically trained and that the NHVR require all Authorised Officers partake in regular co-operative meetings with industry practitioners, as is described in Item 5.

A6 Clearance of Defect Notices

Occasionally CVIAA members clear a defect notice that has been issued by an Authorised Officer and then find that defect notice has been reapplied. Sometimes police apply a defect notice without good knowledge of the NHVIM.

The HVNL provides no mechanism to resolve disputes over the correctness of defect notices or how a defect should be corrected. This puts the repairer in a dispute position with the enforcement officer and/or the vehicle owner. The sensible way forward is for the fleet or workshop manager to discuss the matter with the enforcement officer. However, there is no established mechanism available to do this.

The CVIAA recommends that a dispute resolution process is needed for defect notice clearance disputes. Such a resolution mechanism could be a 'Help Desk' run by the NHVR, that is operated by an experienced Authorised Officer. This desk would register the dispute. It would then seek to communicate with the repairer, the operator and the Authorised Officer and try to find a resolution.

The CVIAA is aware of frustration in the heavy-vehicle operator community about this problem. Under old arrangements, operators could call an officer in the local road agency to discuss the problem. That mechanism is no longer available because of changed reporting structures for roadside enforcement in many jurisdictions.

The CVIAA recommends that the HVNL should specify such a dispute resolution procedure and that the NHVR should implement it.

A7 Chain of Responsibility for Service, Repair and Modification Workshops.

Repair, modification, and service workshops are not identified parties in the Chain of Responsibility (COR) requirements. CVIAA contends that it is impractical for them to be covered by COR because they do not have control over the heavy vehicles that come into the workshop. They are not empowered to stop a vehicle leaving the workshop once the agreed scope of work has been completed.

CVIAA recognises that repair, modification and servicing workshops do have a duty of care to the community generally; and to the vehicle owner specifically. Often CVIAA members will identify a developing or actual defect in a vehicle. Repair of the defect can be beyond the scope of the current engagement of the workshop.

The CVIAA recommends that the HVNL should require repair, modifying and servicing workshops to advise the vehicle owner in writing of the developing or actual defect that has been identified. This notification should be in a prescribed format. It would be non-binding on the owner of the vehicle.

Such a notification would advise the vehicle owner of a developing or actual safety issue and it would provide should provide some legal protection for the workshop against a future incident resulting from the defect being ignored. Many workshops do place notes about unrepaired defects onto the invoice for the work they do. However, there is no compulsion to do so and it is unclear what legal requirements exist.

For high-risk defects, the HVNL could proscribe a reporting requirement.

A8 Quality of Replacement Parts

The HVNL requires that a vehicle continue to meet minimum standards including the original ADRs. HVNL provides no mechanism for regulating part quality, except for CRN and SARN parts. These later parts have ADR approval status.

Specific technical standards do not exist for many safety critical or relevant vehicle parts. Where standards exist, they often have no international or Australian status. Therefore, a practical difficulty exists in enforcing replacement-part standards because they do not exist.

The HVNL does not require replacement parts to be approved. The CVIAA cannot see a way in which mandatory replacement part quality could be generally enforced. However, a potentially useful approach is to require suppliers of replacement parts for heavy vehicles to follow a national code of conduct.

The CVIAA has contributing to the development of *Good Practice Guide for Supply of Replacement Parts for use on Heavy Vehicles.* This project is receiving support from the NHVRs safety initiates program, which is supported by the Federal Government.

The CVIAA recommends that the HVNL should state that suppliers of replacement parts have a duty of care to provide replacement parts that are fit for the intended purpose. The law might also require suppliers to keep a technical file that can be used to support the claim that a part of fit for purpose. It may also require records to be kept that show the quantities of parts supplied and where they were supplied. These requirements could be in an industry code of practice.

The next step in the development of the Guide to have some local part supplier companies trial it and prove its value. In time the Guide might become a 'registered code of practice' under the Clause 706 path. Suppliers of replacement parts could discharge their duty of care to the community and to vehicle owners by complying with the code.

The CVIAA recommends that the NHVR oversee a trial of the Guide by some Australian suppliers to gain experience of it.

A9 Clarification of Responsibilities of AVEs

The National Heavy Vehicle Modification Code (VSB 6) specifies the basis of approval of modifications of heavy vehicles to be:

A. maintenance of the original compliance status with the Australian Design Rules; and

B. compliance with the OEM manufacturer's body builder guides, where applicable; and/or

C. compliance with specifications in the VSB6 code.

The CVIAA agrees with this structure as far as it goes.

There are some modifications for which the above 'basis of modification approval' is unworkable. These modifications are not described in any of the referenced standards path, or there are practical reasons why the modification cannot be approved via these paths. Approved Vehicle Examiners (AVEs) often find themselves assessing work that they judge to be safe, but outside prescriptive requirements in VSB 6.

The CVIAA recommends that VSB 6 should be amended to clearly define the ability of and limits on use of engineering judgement and assessments by Approved Vehicle Examiners.

The CVIAA contends that the preface to VSB6 should be amended to add a fourth element to the basis of the approval as follows:

D. An AVE can approve a modification if it is safe. The AVE shall document the reasons for this assessment and refer where applicable to ADR, OEM Body Builders Guide, VSB6 clauses, technical calculations, or assessments to explain why the modification is safe.

Such an additional clause would provide certainty for AVEs about the procedures to be followed by them when they apply judgments based upon sound engineering principles and experience. In practice judgements based upon engineering principles arise in most inspections because the general information in VSB6 cannot cover the range of details that each AVE routinely inspects. That is, the existing 'basis for modification approval' cannot be applied in many cases.

The CVIAA recommends clarity concerning the use of engineering judgement and assessment be added in the Heavy Vehicle Modification Code, VSB 6.

A10 Office of Heavy Vehicle Safety

Improved safety is the principal motivation for the HVNL review.

The NHVR does not collect (as far as we know), HV safety incident reports.

The CVIAA contends that an '*Office of Heavy Vehicle Safety*' should be established under the HVNL. This office would be responsible for:

a. Collecting specific information about serious incidents involving heavy vehicles.

b. Investigating selected incidents to obtain better understanding of causation.

c. Issuing safety bulletins when necessary.

d. Initiating mandatory safety recalls when necessary.

e. Publishing aggregate incident data according to a detailed incident classification.

The CVIAA contends that this office could help to significantly improve road safety and occupational health and safety in the heavy vehicle sector. It could do this by making pertinent knowledge available to agencies, heavy vehicle operators and suppliers for urgent attention. At present information about safety incidents is not adequately reported or investigated by agencies.

This proposal would help drive a risk approach to management of heavy vehicle safety. The HVNL should specify that the *Office of Heavy Vehicle Safety* has the power to request incident information from insurers. It should also provide a mechanism for private practitioners to provide information about systematic risk situations.

The CVIAA envisages that the *Office of Heavy Vehicle Safety* would provide a focal point for reporting of heavy vehicle safety incidents by coroners, police, road agencies, OH&S agencies, insurers, investigators operators and the public.

The scope of activity by the *Office of Heavy Vehicle Safety* should include road safety and occupational health and safety. The later might help bridge the current discontinuity between road safety aspects, which are the focus of the HVNL, and Occupational Health and Safety regulations, which are the responsibility of other agencies of government.

The CVIAA recommends that the *Office of Heavy Vehicle Safety* be established under the HVNL.

A11 Consolidated Vehicle Standards Guides (VSGs)

The road agencies all publish vehicle standard guides. Some of these are specifically directed to heavy vehicles. The CVIAA recognises the value of these guides but is concerned that they should be part of a national set of guides for heavy vehicles. Guides should be national, and they should be developed and published by the NHVR.

The CVIAA acknowledges that the NHVR has published 27 VSGs on its website. These are valuable documents. There could be another 20 or so VSGs based upon jurisdiction information that could be written.

The CVIAA acknowledges that local operating advice/requirements do occur because of the specialised nature of road transport in remote regions. Information about such requirements could be published by the jurisdictions as Vehicle Standards Instructions (VSI).

The CVIAA is prepared to work in conjunction with the NHVR and other interest groups to develop missing VSGs.

A12 Need for Additional National Regulations

The CVIAA supports national regulation of the heavy vehicle sector. The CVIAA hopes that the new HVNL provide pathways that the Western Australian and Northern Territory Governments can follow to join the national scheme. Perhaps a mechanism might be provided to allow these jurisdictions to adopt some but not all HVNL aspects.

The CVIAA recommends that national vehicle regulations are needed for:

a. Tow trucks.

b. Crane trucks.

c. Passenger buses.

At present different operating and approval conditions can apply to these vehicle types in different jurisdictions. Some of the differences arise because occupational health and safety (OH&S) regulations, as well as vehicle standards regulations apply.

Tow trucks and crane trucks can operate at the edge of special-purpose vehicle regulations. Sometimes they operate outside the permit framework because the movements are done under direction of police or road agency personnel.

The vehicle-standards and the operating rules for tow trucks are currently different in different jurisdictions. This puts tow truck operators at risk because the rules change at borders and the operator might not be appraised of local requirements.

The Australian Design Rules have outdated tow truck standards requirements in ADR 44/02 (Specific Purpose Vehicle Requirements). This rule applies to ADR-certified tow trucks, which are a minute fraction of the tow-truck fleet. ADR 44/02 is based upon four tow-truck classes that are no longer used by jurisdictions. It also references *AS1418 Rules for Cranes*. However, the applicable tow truck standard for most tow trucks is now *AS5400:2015 Tow trucks – Tilt, slide and underlift*, which is not referenced. In summary, ADR 44/02 is no longer useful. VSB 6 Codes T1 & T2 are applicable when a tow truck is created via a modification path. A national tow truck regulation should encompass, revise and clarify these existing standards.

The CVIAA recommends that a national tow truck regulation be developed that covers:

- technical standards;
- operational vehicle standards;
- towing limits; and
- procedures for dealing with hazardous situations.

This will provide certainty for tow truck operators about rights and responsibilities.

Many heavy vehicles have cranes installed. There is a wide range of cranes in use, which span from small vehicle loading cranes with one stabilizer to custom built mobile cranes.

Crane trucks operate under both HVNL regulations and OH&S regulations. An AVE might approve the installation of a crane under an R code in VSB 6, which concerns the strength of the installation and the stability of the vehicle. An AVE is not required to certify that the crane is acceptable. Many technical requirements and inspection timeframes for cranes that are used on vehicles are specified by jurisdictional OH&S rules. A national approach is preferred.

The CVIAA recommends that vehicles with cranes with a lifting capacity under 10t should comply with a national crane regulation. This should cover:

- crane technical standards;
- crane installation requirements;
- crane certification;
- periodic crane inspection requirements;
- operating conditions.

Note that cranes with a lifting capacity of greater than 10t are prescribed equipment and a work safety authority is likely to be involved.

There are different operational and vehicle standards requirements applied to school buses and motor coaches in different jurisdictions. These concern for example, the number and location of school-bus warning signs, door safety interlocks and seatbelt requirements. There is no evident reason why a national approach to bus standards could be achieved. The CVIAA appreciates that the passenger bus fleet is diverse, and it may be impractical to bring all buses to a current standard. However, if there is no national bus regulation, the differences between requirements in jurisdictions will be perpetuated.

The CVIAA recommends that the identified vehicle types could and should operate under national regulations. This will probably require transfer of some OH&S regulation requirements into the HVNL for some vehicle types. In so doing, a national approach can be achieved.

A13 Need to Develop an Industry Organisation Chart

The CVIAA contends that an industry 'Organisation Chart' is needed. This chart would identify all the authorities, agencies and associations that are pertinent to the heavy vehicle sector.

This chart is necessary because there are a multitude of parties in this complex, national industry. The chart would identify the area of responsibility of the organisation and its contact details, including web links. This would be useful for all participants to understand which entity to contact when arranging travel or solving operational problems that arise.

The CVIAA envisages that the chart would be accessible via the NHVR website.

The CVIAA is prepared to take a leading role in developing such an industry organisation chart. It would be grateful for any assistance that the NHVR and the NTC might be able to provide.

CVIAA
Commercial Vehicle Industry Association Australia

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