



# **Progress on the Heavy Vehicle National Law**

---

**Bus Industry Summit 2023**

**Ken Kanofski**

21 March 2023

# Heavy Vehicle National Law review

---

- **February 2022** Infrastructure and Transport Ministers' Meeting (ITMM) commissioned a report
- **August 2022** ITMM agreed to progress a package of propositions (legislative and non-legislative)
- **September 2022** ITMM approved governance arrangements, and for the NTC to complete a Decision Regulatory Impact Statement (D-RIS) on the legislative reforms

# The Report involved extensive consultation

---

A total of 80 people from government and industry (including all of the peak bodies) were involved

- 11 multilateral meetings
- 2 all day workshops
- 37 individual meetings

# Seven overarching themes emerged

---

1. A two-tiered fatigue system, with flexibility built mainly around a SMS and medical screening
2. Reforms to access/PBS decision making
3. More accountability for road managers to improve productivity
4. Testing some increases in access with a Cost Benefit Analysis
5. Red tape reduction and process improvement
6. Reform of offences and penalties
7. Letting the regulator regulate

# Package of reforms with strong stakeholder support

---

- 82% support the package, 9% oppose, 9% neutral
- 87% agree that the package will improve productivity, 0% disagree, 13% neutral
- 59% agree that the package will improve safety, 9% disagree and 32% neutral

# Key Reforms – Access

---

- Jurisdictions to implement on-line real time access decision making and greater use of right access routes
- Economic appraisal of some modest increases in mass and dimension
- Economic appraisal of possible road upgrades on some key freight routes
- A raft of reforms to the PBS system

# Key Reforms – Fatigue

---

- Encourage fatigue detection and distraction technology
- Revised medical standard and assessments as part of the licencing process
- The regulatory system should where possible incentivise the uptake of electronic fatigue records e.g. Electronic Work Diaries (EWDs).
- Introducing a two-tiered Fatigue management system
  - Tier 1: Fatigue General Schedule
  - Tier 2: Fatigue Certification Scheme

# Key Reforms - Enforcement

---

- A review of offences and fines should be undertaken in consultation with jurisdictions, the NHVR, Police and industry considering:
  - Roadside enforcement should focus on immediacy on fatigue risks, rather than historical breaches
  - The time frame for issuing infringements for fatigue breaches should be amended to 14 days
  - Infringements for work/rest breaches should shift from focusing on specific incidents to focussing on overall breach risk profiles.
  - Proportionate administrative offences related fines
  - The rectification of administrative oversight at the roadside should be the primary mechanism for addressing administrative errors
- Testing of fatigue proposals against real world pilot trials and subject to the advice of safety experts.
- Improvements to chain of responsibility enforcement



# Key Reforms - Accreditation

---

- Improvements are made to the existing NHVAS for a single, modular, opt-in (voluntary) certification scheme, administered by the NHVR.
- Overall aim of this reform is to improve safety and productivity outcomes for the NHVAS.
- Key elements of the improved voluntary NHVAS:
  - A compulsory Safety Management System (SMS) Core Module
  - More flexible and diverse alternative compliance
  - Electronic documentation will replace NHVAS paper-based requirements, with operators retaining the option to carry paper copies of documents.
  - Reduce the reliance on audits by customers to meet their chain of responsibility obligations.
  - A National Auditing Standard will be recognised in law as part of the scheme

# Implementation

---

Reform in two parts:

- **Part 1 - Reforms to be covered by a new law** – to be progressed by NTC via a D-RIS
- **Part 2 - Non-legislative reforms**, which will be progressed by nominated state or territory governments, include a new national system to automate approvals for heavy vehicle access.
- A **Steering Committee** to oversee both streams of reform
- **Ongoing industry engagement** will be part of the implementation process

# HVNL Steering Committee

---

The Steering Committee will ensure:

- Progress of the reforms is consistent with the recommendations agreed at 5 August ITMM,
- The timeframes set by Ministers are met,
- An appropriate level of consultation with stakeholders is undertaken and feedback is reflected in reforms as appropriate.

# HVNL Steering Committee

---

## Roles and responsibilities

- Oversee progress of legislative and non-legislative reform activities, and provide direction to the NTC on legislative reform activities as required.
- Consider advice from Ken Kanofski and Matt Pinnegar (ALGA).
- Engage with all jurisdictions and other reform leads including the NTC, Austroads and the National Heavy Vehicle Regulator to resolve issues related to implementation of the reform activities.

# Legislative reform update

---

**NTC currently progressing through the 30 legislative reform proposition recommendations, across:**

- Fatigue management
- Access
- Accreditation (Enhanced NHVAS)
- Technology and data
- Safety obligations and chain of responsibility
- Delegation of authority in the HVNL

## **Draft Scope of Safety Assessment – General Schedule**

- Presented to and sought industry feedback prior to procuring a specialist to undertake the work shortly

## **Decision Regulatory Impact Statement (D-RIS) for the HVNL high-level regulatory framework**

- In September, Ministers requested the NTC bring this D-RIS back for their consideration at their June 2023 meeting
- The NTC has since circulated with jurisdictions the draft D-RIS for their further input

# HVNL Work Program

As presented by the NTC at recent RAC+ meetings with industry and government

D-RIS drafting and consultation

Legislative preparation and drafting

## HVNL Primary Legislation

2023

January | February | March | April | May | June | July | August | September | October | November | December

## HVNL Regulations

C-RIS / D-RIS preparation and consultation for regulations

Regulation preparation and drafting (to 2nd quarter '24)

Ongoing biweekly pulse meetings – optional and open to all RAC+ members (industry and government)

◆ RAC+ meetings

# Legislative reform update

Fatigue Management	Accreditation (Enhanced NHVAS)	Technology and data	Access	Safety obligations and chain of responsibility	Delegation of authority in the HVNL
<p>Simplified fatigue management and record-keeping without compromising on safety. A risk based regulatory approach that provides industry with clarity of their obligations and fairness in enforcement.</p>	<p>A more comprehensive operator certification scheme that can be expanded over time and provide flexibility for certified operators. A new national auditing standard, with measures to reduce the need for multiple audits.</p>	<p>An adaptable technology and data framework to foster smarter technology investment that encourages innovation, enables uptake of emerging technology and provides industry with certainty through a certification mechanism.</p>	<p>Ensuring the law supports improvements to road network access systems and processes, including an online access system that automates access decision-making.</p>	<p>A responsive and adaptable law that enables the prescribing of obligations for off-road parties and new and emerging risks.</p>	<p>A responsive and adaptable HVNL that allows the Regulator to regulate while ensuring appropriate oversight arrangements for ministers.</p>
<p>Industry feedback received on the scope of the fatigue safety assessment. Consultant to be engaged shortly.</p>	<p>Engaged with industry on the design and structure of the enhanced NHVAS and the relationship between Heavy Vehicle Safety Obligations and Alternative Compliance Options.</p>	<p>Two-day Data and Technology Framework workshops and further working group meetings held to advance workable policy solutions</p>	<p>Policy development has progressed on the replacement of the vehicle classes with a vehicle classification framework focussing on "General Access" and "Restricted Access".</p>	<p>NTC is finalising outstanding issues and will look to provide a more comprehensive overview at an upcoming RAC+ Pulse meeting.</p>	<p>Finalising detail of legal constraints is underway.</p>
Area	Feature of the new Law	Recent update			

# Non-legislative reform update

---

- Various state and territory agencies are responsible for leading implementation of each of the 21 non-legislative reform recommendations (as well as NHVR, NTC and Austroads).
- Interim milestones have been agreed against which to monitor implementation progress.
- Progress reporting to the Steering Committee has just commenced.
- The Commonwealth will provide a coordination function across all non-legislative reforms, to ensure connections are made and timely progress enabled.



Get in touch

## Contact Information

---

Email: [ken@kenkanofskiadvisory.com.au](mailto:ken@kenkanofskiadvisory.com.au)

Phone: 0412 514 666



Ken  
Kanofski  
Advisory

---