

8 December 2023

Submission in response to the National Transport Commission changes to Heavy Vehicle National Law (HVNL)

Introduction

The Australian Rail Track Corporation (ARTC) welcomes the opportunity to provide feedback to the National Transport Commission's (NTC) Heavy Vehicle National Law (HVNL) Consultation Regulation Impact Statement (C-RIS).

ARTC is proud of the vital role we play in Australia's transport supply chain and in the economic development of the nation. As one of the country's largest Rail Infrastructure Managers, ARTC maintains and operates 8,500km of the national rail network across five states, managing the transit of around 450 trains per day across New South Wales, Victoria, Queensland, South Australia and Western Australia.

We employ more than 2,000 people and continue to invest in Australia's future prosperity and growth through the delivery of transport infrastructure projects which enhance the safety, reliability and efficiency of our rail network.

Each day our network transports intermodal containers, agricultural products, general freight and passenger services, as well as hundreds of thousands of tonnes of coal and minerals. We get freight off roads and reduce congestion, which improves our environment and increases the safety of motorists and local communities.

We continue to meet the changing needs of our customers and are committed to the health and safety of our people, the environment and the local communities in which we operate.

C-RIS

The C-RIS aims to address several issues within the HVNL including:

- Fatigue management
- Access to the road network
- Accreditation issues

ARTC considers that the specific issues raised in the C-RIS are best addressed by the heavy vehicle participants, however the proposals do raise broader issues in respect of the efficiency of the freight supply chain which must be addressed as part of any implementation to ensure a level playing field in the national transport market.

In order to ensure that the changes do not deliver an inefficient market outcome in the national freight transport market, it is imperative that the market failure that results from the under-pricing of heavy vehicle access is addressed as part of any reform. Failure to address this will therefore only further tilt the competitive balance in favour of road resulting in excess consumption of the road network and the increased societal and externality costs that arise from that. In addition, the consequential costs that arise from the changes to length and weight of trucks on the rail network must be covered and not left to rail to meet.

These issues are discussed in more detail below.

Fatigue Management

Fatigue management is essential to the safe operations of road and rail, not just the drivers themselves but also those parties that operate in the shared corridor with those vehicles. It is essential therefore that any changes do not have any negative safety impacts associated with them. ARTC notes the focus is how to improve the record keeping requirements and remove duplicative offence provisions and administrative processes that no longer have a regulatory purpose. Whilst ARTC supports any procedures that reduce regulatory burden and duplicative procedures that provide no demonstrable benefit, it is important that the proposed changes are assessed against any potential unintended consequences that make the regulations easier to by-pass. Fatigue management rules that apply in rail are already more stringent than those that apply to road, placing rail at a competitive disadvantage on longer hauls. ARTC therefore seeks that the NTC ensures any changes are limited to the removal of duplicative processes and do not further tilt an already uneven competitive landscape.

Access

The C-RIS states (at p11) that “Policy options relating to access are designed to improve access arrangements for heavy vehicles by reducing administrative burden and improving productivity” and options are presented that look at increasing the weight of vehicles, increasing the height of vehicles and their length.

In analyzing these options, it is important to highlight that innovation in service delivery within the freight transport market, be it by road or rail or sea, are not developments which should be constrained by regulation. However, to ensure that these innovations provide the most efficient outcome for the supply chain as a whole, it is important that the regulatory and access frameworks that underpin competing modes are consistent to ensure each mode competes on a level playing field.

Whilst road and rail provide competing freight services, they are also complements and the road and rail networks share corridors and access; especially at level crossings where the road network crosses the rail network. Any changes to the access to the road network therefore need to ensure they do not impose costs or risks to the rail network; or, if they do, that the costs to rectify and address those risks are met by the road industry and not left for the rail industry to cover them when they have not caused the issue.

Level crossings and structures

The risk of a collision between a train and road vehicle at a level crossing is one of ARTC’s biggest corporate risks with long term impacts on local communities, productivity and reputations. Changes to the weight, and especially the length, of a heavy vehicle will have an impact on level crossings by impacting on the weight limit of the crossing and the timings of active crossings. ARTC is the subject of numerous requests across all jurisdictions to alter the timing of active level crossings to accommodate longer heavy vehicles that are becoming more common on regional roads; which requests will only increase as vehicles become longer and heavier. While it may appear simple, adjusting the timing is a site-by-site process, spanning long distances, that requires the resources and time of ever limited numbers of signalling engineers with costs up to tens of thousands of dollars per site. It is unsustainable and unfair for ARTC to undertake these works at its own expense for which the benefits flow directly to the road network and vehicle operators with no benefit to ARTC.

Where ARTC constructs a new railway (as in the case of Inland Rail), alters its track or changes its operations in such a way that it impacts on the road corridor, the costs associated with that related road impact will be met by ARTC. This should be a fundamental principle that the costs associated with changes to infrastructure or operations imposed on alternate infrastructure should be met by those causing the change. ARTC therefore believes that the road network operator and/or heavy vehicle operators should be covering the expenses associated with any proposed changes.

The lengthening of trucks creates the potential issue of short-stacking at some intersections adjacent to level crossings. In most instances, the storage space on the road between the level crossing and a parallel road or highway is enough for a 19 metre truck. Increasing truck length to 20 metres could result in the railway being fouled as the truck waits to turn onto the road, or the parallel road being obstructed as the truck waits at the level crossing for the train to approach and clear. Both instances can have serious safety consequences for rail and road network users. ARTC and other rail network operators bear their own risk on this issue; but extending and augmenting connecting or adjacent roads is not within their responsibilities. However, to date, there has been little interest in road network operators to make adjustments for locations where this problem currently exists.

Longer heavy vehicles also increase the required sighting distances for safe passage across the track at passive level crossings, where road vehicles must stop before proceeding or at least slow down and judge that it is safe to cross (GIVE WAY signage). At many passively protected crossings there may not be adequate space to increase sighting distances without works that can be costly, timely to approve and undertake such as modifying the road, undertaking embankment works, removing vegetation, adjusting signalling equipment and activation of the crossing if these works are inadequate.

It is therefore imperative that any changes to the NHVL that allow for longer trucks to access the network requires that the costs imposed on related networks are met by the road industry that has caused them and any consequent safety risks addressed.

In addition to increased permissible length, the proposed increased permissible mass of heavy vehicles may have adverse impacts on the integrity of road bridges that pass over various points of the ARTC network and other networks. The impact on bridges is an issue that also impacts the road network manager as they are usually the owners and/or responsible for the maintenance and upgrading of the asset with potential impacts on the adjacent rail network. Inspections will need to be undertaken by road and rail managers to understand the potential impacts and avoid unnecessary closures of the networks.

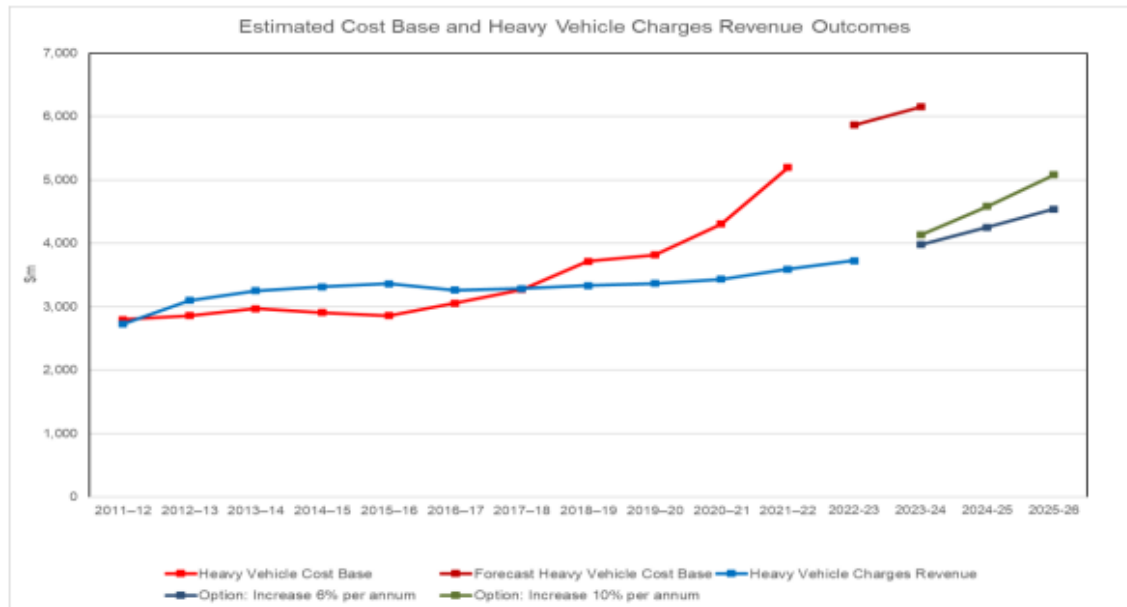
Access Frameworks

This requirement for the costs of the proposed changes to be met by heavy vehicles also relate directly to the road network. Aside from the specific impact on the operational rail network above, the proposed changes in weight, height and length of trucks have the potential to significantly alter the competitive balance of intermodal freight transport if they occur in a vacuum of efficient access pricing within a well-managed access framework.

The current road access framework, and PAYGO pricing models, create a market that favours road by ensuring that access is not efficiently priced as road user charges do not recover the full costs of the impact on the road network by heavy vehicles; let alone the societal and externality costs their use imposes.

By allowing longer and heavier trucks to operate on the road network, these changes impose greater costs on the network that would not be recoverable under the current PAYGO model given the 3 year commitment to increase charges at a set 6%; a level which effectively maintains the existing real under recovery of costs. This was highlighted by the NTC in Figure 5 of their December 2022 Heavy Vehicle Charges Consultation Report, reproduced below, which highlights the continued under recovery under the 6% price path merely maintains an already significant under recovery. Increasing the costs line based on the relationship between weight and damage to the road network, the under recovery gap will only increase further; the outcome of which is a further tilting of the national freight transport landscape in further of road.

Figure 5. Comparison of heavy vehicle cost base and estimated revenue



The outcome of this under pricing of road access is to drive excess consumption of the road network by heavy vehicles which results in:

- trucks consuming greater amounts of road capacity, increasing congestion;
- trucks consuming greater amounts of fuel increasing emissions; and
- increased truck numbers drive an increase in safety incidents and costs.

None of these societal costs (or externalities) are recovered under the current model with costs borne by the community, ensuring that gap between the true cost of road access and revenue is significantly greater. This under recovery highlights a market failure in the road transport market, tilting the competitive landscape and ensuring utilization of existing infrastructure and mode choices is inefficient. Aside from electricity generation, the transport sector is the biggest contributor to emissions in the Australian economy. It is therefore critical that the sector meet its share of the task in reducing emissions, with rail able to provide a significant benefit in this regard. Failure to address the market failure through the implementation of road pricing reform (ensuring that the true cost of road transport is reflected in road user charges) will therefore constrain the pace and extent of Australia’s net zero emission transition.

Road Market Failure

The market failure arises from the inability to contractually manage road access and the lack of network management principles, effectively making road capacity a public good resulting in substantial externalities based on the poor safety record of heavy vehicles compared to rail. Whilst the PAYGO system provides for some form of payment for the use of the road system through licensing and fuel excise, there is no practical method to control the use by trucks of road capacity at any time. That is, if an extra truck enters a highway, the consumption of capacity is uncontrolled and uncoded.

Whereas in rail, the consumption of network capacity is contracted and rigorously controlled; no such contract and no such control exists for heavy vehicles on roads.

Supply Chain Resilience

This inefficiency has a further impact on supply chain resilience through its impact on the availability of rail industry capacity; both in an above and below rail sense.

For above-rail, by constraining rail volumes using the network, rail operators can respond by reducing capacity on key routes, thereby reducing rail's ability to compete for additional volumes further impacting on the efficient market outcome.

These lower volumes, in turn, impact on below-rail outcomes as those lower volumes provide less revenue to invest in the rail network to improve capacity and reliability, placing further pressure on the rail service offering and its ability to compete with road.

The market failure in road access therefore reduces rail's resilience and its service offering, limiting the ability to create modal shift driving further externalities onto the community and reducing the efficiency and resilience of Australia's freight supply chain.

ARTC therefore recommends that any changes to the access limits on heavy vehicles using the road network must be accompanied by changes to the pricing and access arrangements that apply to heavy vehicle usage of the road network to ensure the consequences of road market failure do not further reduce Australia's supply chain efficiency.

Accreditation issues

ARTC supports any movement to consistency in accreditation schemes, noting this is a significant constraint on rail network efficiency as well which ARTC is working with the NTC on resolving.