

13th November 2024

Dear Minister

Re: Concerns Regarding Proposed Changes to the Heavy Vehicle National Law (HVNL) and Associated Regulations

I am writing on behalf of Nolan's Interstate Transport to raise concerns regarding the proposed changes to the Heavy Vehicle National Law (HVNL) and the associated regulations. While Nolan's is a signatory to the letter submitted by Ron Finemore Transport, Frasers Livestock Transport, Pearsons Transport, Cavanaghs Transport, McCulloch Bulk Haulage, and White Line Transport, we wish to provide our own submission to reinforce our position on the matter.

Nolan's has been a participant in the Advanced Fatigue Management (AFM) scheme since its inception, consistently meeting all required Business Rules and Standards and maintaining our certification every two years without issue. While we understand the intent behind the proposed changes to fatigue management regulations, we believe the recommendations fail to address the core issues and may inadvertently compromise safety across the industry.

1. Effectiveness of Current Fatigue Management Systems

The current AFM system, which has been in place for over a decade, has proven effective in managing fatigue risk and ensuring the safety of drivers and the public. It allows a company to identify their drivers' risk of fatigue and how the company will counter act this risk to ensure the safety of the drivers and the general public. Companies accredited under AFM are rigorously audited, ensuring compliance with safety standards, which includes comprehensive checks for driver fatigue and compliance with work/rest schedules. We also acknowledge that the transport industry is diverse, with many different types of transport tasks, and a "one-size-fits-all" approach to fatigue management, particularly regarding Standard Hours and Basic Fatigue Management (BFM), is impractical.

For Nolan's, AFM allows us to operate efficiently while delivering perishable goods—such as fresh produce—early in the morning to supply markets and supermarkets, which benefits the wider community. The proposed changes to AFM, however, could disrupt this operational flexibility and reduce the safety margins currently in place.

Head Office
16 Brooking Drive
Gatton QLD 4343
Phone: 07 5466 2800

Bowen Depot
41 Jurgens Place
Bowen QLD 4805
Phone: 07 4786 8700

Brisbane Depot
375-379 Sherbrooke Road
Willawong QLD 4110
Phone: 07 3728 1500

Melbourne Depot
128-130 Fairbairn Road
Sunshine West VIC 3020
Phone 03 8388 2500

Sydney Depot
32 Ottelia Road
Kemps Creek NSW 2178
Phone: 02 9835 7400

The current fatigue systems are working.

Nolan's offers all our drivers the option to drive to Standard hours, BFM or AFM. It is their choice. It provides the drivers and the company flexibility. Nolan's provides comprehensive fatigue training for all drivers including drivers utilising Standard hours work and rest option. The company applies the same diary checks for the drivers using Standard hours as we do for drivers using BFM and AFM. All drivers are checked for compliance and the system employed is robust and works. The company has been doing this for many years as per accreditation requirements. It is safe.

It is interesting when looking at an alternative narrative in relation to safety on the roads, the NTI Major Crash Investigation 2023 report shows that "the truck and car fatal at-fault proportion has partly reversed the decline seen in 2021's data, with the truck not at fault in fatal truck and car crashes in 77.4% of incidents." Driver error and inappropriate speed accounted for more incident causes than fatigue.

It would be fair to surmise from this information, the transport industry is complying with the current requirements of fatigue accreditation. It appears that it is easier for the government to tightly regulate the heavy vehicle industry, than it is to find effective measures to improve the safety practices of other road users.

2. Concerns Over Lack of Transparency and Detail

There has been insufficient transparency regarding the proposed changes to fatigue management regulations, and many companies, including Nolan's, remain unclear about the full scope and implications of these changes. Until clear, comprehensive information is made available, our business cannot assess how these changes will impact their operations, compliance requirements, and overall safety performance.

The existing system, which includes roadside checks and internal audits, provides a robust framework for monitoring compliance with fatigue management regulations. However, we are concerned that the proposed changes primarily target businesses that are already accredited under BFM and AFM, while those operating under Standard Hours may continue without sufficient checks on their adherence to work/rest rules.

3. Addressing Compliance Gaps: The Need for Greater Focus on Non-Accredited Operators

We are particularly concerned that the proposed changes to BFM and AFM do not address the critical issue of operators who are not accredited to these programs but are still permitted to operate under Standard Hours without adequate checks. The focus should be on ensuring that all operators, regardless of accreditation status, are subject to the same stringent compliance checks to ensure the

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safety of all road users. Without this, the changes will do little to improve safety and non-accredited operators will continue to pose a risk.

4. The Safety Assurance System and Multiple Accreditations

Nolan's is fully compliant with multiple safety accreditations, including the National Heavy Vehicle Accreditation Scheme (NHVAS), Registered Industry Code of Practice (Master Code), and others required by our large base of top tier companies. We understand the goal of streamlining the accreditation process, but the proposed single safety management system raises concerns. While we support efforts to reduce the complexity of multiple accreditations, the lack of clarity regarding how this will be implemented, and how it will be accepted by customers, is a significant issue. Many transport companies, including Nolan's, have invested considerable time and resources in maintaining multiple accreditations, and without assurance that this new system will be universally accepted, there is a risk of creating additional layers of bureaucracy and cost without improving safety outcomes.

Nolan's requested information to the NHVR some months ago, in relation to the proposed new safety management system and how it may relate or align to the current Master Code accreditation held by some transport operators as per requirement by some of our customers. In part the response below was given via email to the company:

“There is nothing legislatively stopping “Big Boy” customers adding additional conditions to their supply contracts and again this falls outside of NHVR regulatory powers.”

This is in direct contrast to what has been touted as a means to reducing multiple accreditations. There is a lot of ‘talk’ about the changes to come, but little clear information is being given. This is leading to contradictory information coming from NHVR and NTC. In the Queensland Information Session 6 November 2024 – Draft Heavy Vehicle National Law Amendment Bill and Regulations organised by TMR, and presented by Don Hogben from NTC, attendees were led to believe that the introduction of a safety management system would have the potential to reduce the need for other safety system accreditations. It is also stated on the NTC website that “a new National Audit standard will be created by the Regulator and approved by the minister. This should reduce the need for multiple audits benefiting productivity and saving costs.”

Once again, we state that the proposed changes to include a new safety management system will not guarantee that other parties in the supply chain will accept this system.

5. Concerns Over Proposed Changes to Mass Limits and Safety Standards

Nolan's also wishes to address the proposed changes to General Mass Limits (GML) and Concessional Mass Limits (CML). While we understand the desire to harmonize these limits, we believe that removing

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CML as an audited accreditation will create a significant safety risk. Operators using GML are not required to meet the same rigorous audit standards as those accredited under CML, potentially allowing overweight loads to be transported without proper verification or safety checks. This carries a higher risk to public safety and infrastructure damage due to the lack of road friendly suspension, utilisation, maintenance and moving freight over mass limits. By operating to GML operators essentially can transport loads overweight without being detected.

By removing CML and allowing all companies to operate with new GML limits, it will downplay the importance of safety and remove the integrity of the auditing and compliance systems and will effectively mean that previously non-compliant and non-verified operators, continue to travel over mass, just at a new higher weight.

Furthermore, accredited operators who comply with CML standards may find themselves at a competitive disadvantage, as non-compliant operators will be able to transport overweight loads without the same safety measures and assurances in place.

6. Support for Increased Combination Lengths

Nolan's supports the proposed increase in combination length from 19 metres to 20 metres, especially with an increased length trailer, as it offers several operational benefits, including:

- *Reduced travel time*
- *Lower vehicle operating costs*
- *Decreased emissions*
- *Improved productivity*

As we transition to a Higher Productivity Freight Vehicle (HPFV) fleet, we have already seen the benefits of transporting more freight per trip, which reduces the number of heavy vehicle movements and, in turn, minimizes road congestion, infrastructure wear, and emissions.

7. Concerns Regarding Enhanced Accreditation and Regulatory Discretion

We also have concerns about the enhanced accreditation system and the discretion it affords regulators to develop codes of practice without industry consultation. This approach could limit the ability of transport operators to fully engage with and provide input on regulations that directly affect their businesses. We urge the Minister to ensure that any regulatory changes are transparent and involve meaningful consultation with the industry to avoid unintended consequences.

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8. Timeframe for Consultation and Feedback

Lastly, we are disappointed by the short timeframe provided for feedback on the proposed changes—just over five weeks. Given the complexity of these proposed amendments, a more reasonable period for consultation is necessary to allow the industry to thoroughly assess and provide input on the changes.

We understand that there is urgency to pass these amendments before the upcoming Christmas period; however, it is vital that the concerns of the transport industry be fully considered to avoid adverse impacts on road safety and operational efficiency.

Conclusion

In conclusion, Nolan's Interstate Transport strongly urges the Minister to reconsider the proposed changes to the HVNL, particularly in relation to fatigue management, accreditation systems, and mass limits.

We invite the Minister to engage directly with us and other transport operators, to speak with them, to listen to their opinions and take this information on board before approving the amendments.

While we appreciate the intention to improve safety and efficiency, we believe that the current proposals may have massive unintended negative consequences for both industry operators and may impact on public safety.

Thank you for taking the time to consider our concerns. We welcome the opportunity to discuss these matters further and can be contacted on 07 54662800.

Yours sincerely,



Adrian Nolan

Director

Nolan's Interstate Transport

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