



18 November 2020

National Transport Commission
Public submission – Easy access to suitable routes
Level 3, 600 Bourke Street
Melbourne VIC 3000

To whom it may concern,

Heavy Vehicle National Law – Regulation Impact Statement

The Local Government Association of Queensland (LGAQ) appreciates the opportunity to provide comment on the National Transport Commission's *Heavy Vehicle National Law (HVNL) Regulation Impact Statement (RIS)*.

Please find attached LGAQ's responses to the questions posed within the RIS. These responses focus on the capability and capacity development required to support councils fulfil their role in granting access to a safe and productive road network in Queensland.

If there is a need for further information or clarification of LGAQ's responses, please feel free to contact Mr Robert Chow, Lead – Transport and Logistics via email at robert_chow@lgaq.asn.au or via telephone on 1300 542 700.

Yours sincerely

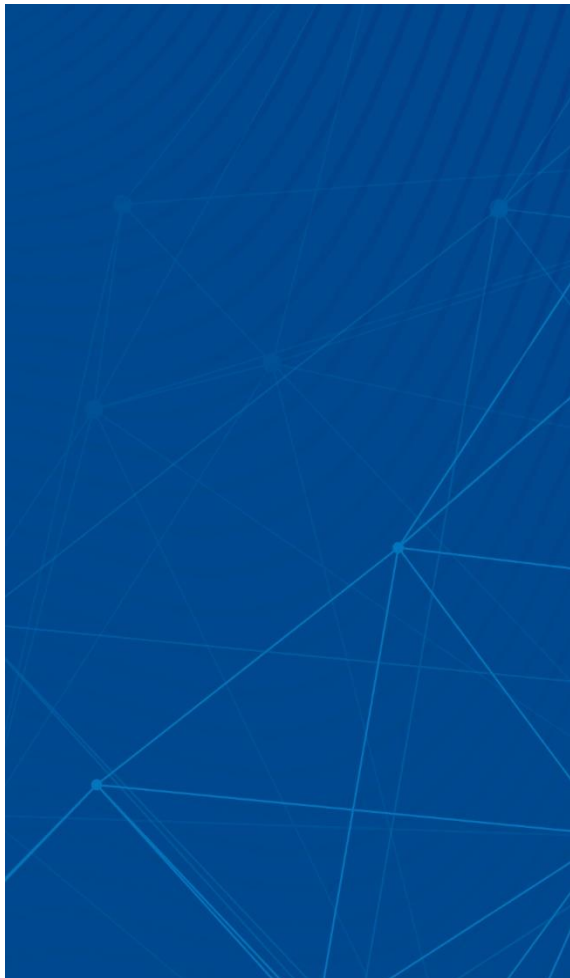
A handwritten signature in black ink, appearing to read 'Alison Smith', written in a cursive style.

Alison Smith
HEAD OF ADVOCATE

Heavy Vehicle National Law Review – Regulation Impact Statement

November 2020

LGAQ Submission



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1. Executive Summary

The local government sector is a key provider and manager of infrastructure including community facilities, roads and bridges, stormwater management, water supply and treatment. The infrastructure and services provided by councils support the operation of urban and regional economies and the communities they sustain.

Councils are under constant pressure to increase the quantum and range of services they provide, to meet rising community expectations, demands from other levels of government and changes in standards and legislation. The introduction of the Heavy Vehicle National Law (HVNL) is no different in this regard. As a result of the HVNL, local government has a greater role in facilitating heavy vehicle access to local government-controlled roads. The legislative obligation to undertake this role has placed additional pressure upon constrained council resources without recompense.

The system would be enhanced if constrained councils were properly compensated for their role, mapping tools were improved and data sharing through the compulsory use of telematics was introduced.

While local governments acknowledge their critical role in responding to the growing freight task, they face a delicate balancing act between the need for greater productivity through increased heavy vehicle access and their responsibilities to preserve the local network benefits to all road users within the constraints of available funding.

In response, the Local Government Association of Queensland (LGAQ) has partnered with the National Heavy Vehicle Regulator (NHVR) to provide the necessary assistance to councils as they strive to fulfil their role promoting the safety and productivity of the local freight network. The LGAQ's approach, and the collective effort of Queensland councils in responding to these challenges, has been recognised in recent inquiries and, as a result, its replication has been recommended for other jurisdictions.

2. The Local Government Association of Queensland

The LGAQ is the peak body for local government in Queensland. It is a not-for-profit association established solely to serve councils and their needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places; supporting innovation and improves service delivery through smart services and sustainable solutions; and delivering the means to achieve community, professional and political excellence.

The LGAQ welcomes the opportunity to provide feedback on the Heavy Vehicle National Law (HVNL) Review Consultation Regulation Impact Statement (RIS). If there is a need for further information or clarification, please contact Mr Robert Chow, Lead – Transport and Logistics via robert_chow@lgaq.asn.au.

The LGAQ agrees to the publication of this submission by the National Transport Commission.

3. LGAQ Policy

The LGAQ's Policy Statement 2020¹ is a definitive statement of the collective voice of local government in Queensland.

The key positions of local government relevant to the NTC's HVNL Review, as below.

8.1.5 Freight and Heavy Vehicle Management

8.1.5.1 Recognising that the majority of freight tasks start and finish on a local government-controlled road, councils play a critical role in responding to the growing freight task.

8.1.5.3 Local government is committed to working with Federal and State Governments to develop strategic freight routes, and to address impediments to accessing the locally controlled network.

8.1.5.4 Local government is committed to working with the National Heavy Vehicle Regulator and other regulatory agencies to ensure that heavy vehicle reforms benefit councils.

8.1.5.5 Local government requires simplified and transparent heavy vehicle permit approval processes.

8.1.5.9 While local government acknowledges that technologies are being developed to improve route and impact monitoring of heavy vehicles, councils require access to Intelligent Access Program data and better information on the impact of high mass limits, performance-based standards and multi-combination vehicles on varying pavements through braking, traction and horizontal forces.

¹ Available at: <https://www.lgaq.asn.au/downloads/file/183/2019-lgaq-policy-statement>

Question 9.1 Is it reasonable to increase mass and dimension limits for general access? Under option 9.1, which sub-option would be the preferred way to increase mass and dimension limits?

The LGAQ supports initiatives to improve productivity for general access, particularly where transport operators are incentivised to use newer, cleaner and safer vehicles.

The challenge for the local government sector is that a large portion of the local government road network was not designed to cater for larger heavier vehicles and the growing freight task has increased the level of maintenance required without recompense.

Option 9.1e *Create enhanced general access category*, would be the most practical option, provided the appropriate framework through Heavy Vehicle Road Reform will allow for road funding to be applied against actual usage.

Question 9.2: Under sub-options 9.1a to 9.1c, how much would an increase to Concessional Mass Limits (CML) reduce the need to apply for permits?

Minimal, Class 1 heavy vehicles account for at least half of the permit requests received by Queensland road managers. Performance Based Standards (PBS) applications are the next most common permit request and account for about 25-30% of all permit requests. As such, increases to CML may provide greater flexibility for general access transport but are unlikely to reduce the current volume of permits.

Question 9.3: Under sub-option 9.1c, would the benefits of CML outweigh the costs of OBM for operators? Would the data provided by OBM systems provide regulators and road managers with the right information to make investment and planning decisions?

Heavy vehicles have been monitored using telematics for more than a decade through the Intelligent Access Program (IAP), and while state jurisdictions have been able to access this data in the form of non-compliance reporting, local government in Queensland, on the whole, has not been able to access this data.

OBM adds another level of complexity to simple location data, but if analysed and displayed correctly would be incredibly valuable in determining investment priorities and maintenance schedules. For data to be beneficial, local government needs to understand the volume of heavy vehicles and what roads are being used. While this data would be valuable, local government road managers may lack appropriate systems to analyse and interpret this data. As such, data would need to be provided in an easy-to-digest format, which may be too costly for local governments.

Question 9.4: Under sub-option 9.2a, what would be the costs and benefits of a precedent approach for operators and road managers?

The LGAQ supports this option of an efficient access process as has been demonstrated by the work undertaken with Queensland councils to increase the number of pre-approvals and approvals for As-of-Right access over the last four years. There is also great value in the creation of heavy vehicle classifications to support simple decision-making.

However, the level of risk a local government road manager is willing to accept can be affected by the number of vehicles/movements, and this could create issues in taking a precedent approach. Where higher volumes of heavy vehicle traffic can be expected, consideration would need to be

given to improving the standard of the road (e.g. road width and seal) before providing expedited access.

A possible solution, outside this review, could be the inclusion of an option within the NHVR Road Manager Portal permitting road managers to approve all vehicles of a similar or lesser risk profile. This would ensure access efficiency while recognising that precedence should not apply in all circumstances.

Question 9.5: Would road managers exercise the delegation power proposed in option 9.2b? Why or why not?

The LGAQ supports provision under a new HVNL enabling road managers to delegate power. However, local government road managers who would consider exercising this provision would not be interested if the liability for the decision would continue to rest with the infrastructure owner or would impose additional costs.

Councils that require the greatest support are generally rural and remote in nature and receive low volumes of access consent requests. These councils are often under-resourced and have high attrition rates for skilled officers, which results in increased processing times.

Another suggestion outside of this review would be the creation of a pool of qualified engineers at the NHVR or within State jurisdictions that assist regional and rural road managers in the decision-making process. This would provide councils with greater assurance, improve access timeframes, and increase the number pre-approvals and gazettals. However, for this to be successful, liability would have to be clearly defined and understood.

Question 9.6: Would operators benefit and use a geospatial map as proposed in option 9.2c? What would be the costs for road managers to input the data and keep it updated?

Yes, a geospatial map portraying a live network based on an operator's configuration, that removes the need for permits, would be extremely beneficial to operators. Option 9.2C outlines the future of heavy vehicle access and the new law should be flexible to allow for solutions such as this.

There is quite a bit of work to do to reach this level of sophistication, but with investment in the right systems, frameworks and the education of road managers, this could be a real possibility. The operational cost for road managers is unknown as the scope of this work has not yet been determined, however it should be noted that any additional costs to manage and maintain mapping systems may be too expensive for many local governments.

Question 9.7: Under option 9.2d, which option would make it easier to adopt a risk-based approach to vehicle classification?

The LGAQ supports Option 2 in relation to new categories: *(1) existing authorisation categories (captures existing class 2 vehicles and (2) exemption categories (captures existing class 1 and class 3).* For this option to be successful the following would be needed:

- Nationally consistent envelopes (including template vehicles for assessment)
 - NHVR Portal enhancements enabling categorisation of a vehicle's risk profile to a recommended envelope
 - Education of local government road managers on the vehicle classifications
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- Mapping of access decision made previously to allow for better decision-making

Please note that while the framework would guide decision-making, other factors still need to be considered, such as cumulative impacts of heavy vehicle access and comparing risk may not always be applicable when considering access to bridges.

Question 9.8: Under option 9.3a, which option would provide more transparent, quick and cost-effective decisions?

While the LGAQ understands the issue option 9.3a seeks to address, as reflected in our submission to the *Easy Access to Suitable Routes* issues paper, changing statutory timeframes does not address the root cause of the issue - resourcing and capability.

Since the NHVR's Return of Delegations project was completed in December 2019, permits have increased significantly, which demonstrates that actual usage of local roads has been largely underrepresented in the past. Latest statistics indicate that many Queensland councils are now receiving as many as ten times the volume of consent requests as they were prior to December 2019.

Despite this, most councils continue to respond within 7 days. Based on the latest NHVR website heat maps:

- Only two Queensland councils have average response times greater than 28 days. For five councils the average response time is 14-28 days. Of these, four are first nations councils and three rural/remote
- The remaining 70 councils respond within seven days
- Mackay Regional Council, Isaac Regional, Western Downs Regional Council and Central Highlands each receive more than 1000 permit requests per year and respond within two days.

This demonstrates that road managers who understand the demand, resourcing requirements and their responsibilities under the HVNL will generally respond within legislated timeframes. Road managers who have average response times greater than 28 days are often from rural, remote or first nations councils who may need assistance with their responsibilities.

A deemed refusal and deemed referral for a nil response, as outlined in option 1, would address the issue of applications that sit with road managers for longer than 28 days and as such is the preferred option. However, this provision does not address slower response times. The LGAQ believes average response times would improve significantly if greater assistance for rural and remote councils was provided through technical support (such as the pool of engineers referenced in question 9.5), tools and systems. Addressing the cause of the issue would improve the response times and the need for a provision to address a nil response.

Question 9.9: Under option 9.3b, which option would provide the right level of review? Would operators and road managers spend time and money seeking an external review?

A provision enabling a review of access decisions may have adverse effects on average response times, as there would be further increased requirements when undertaking assessments. Local government road managers have already raised concerns on how difficult it is to provide refusals. As an example, for refusals on routes with load limited timber structures, the road manager has been

asked to provide a technical engineering reports that would increase the cost and time required to assess the application, when engineering judgement and common sense should be considered a valid justification.

To further demonstrate the point that local government road managers generally promote access where safe and practical, the NTC has outlined that only 4% of all consent requests are refusals despite a local network that is often below the Australian engineering standards required for heavy vehicle access. This indicates that many local government road managers are approving consent requests using a risk-based approach to decision-making to ensure that heavy vehicle access can continue, with conditions, rather than refused.

As has been described earlier, local governments receive no compensation for the cost of assessments and increased maintenance costs. Along with increased responsibilities with limited resourcing, smaller councils would financially struggle if the cost of reviews was passed down to local government.

The LGAQ would prefer option 1, as an independent review panel would be the preferred level of review. However, the independent review panel should be motivated by improving confidence in decision-making and due process. Any independent review should also give full and proper consideration to infrastructure capacity, public safety, amenity, and appropriate conditions to reducing risks.

Question 9.10: Would the structure proposed in option 9.4 be responsive to future changes?

The decision-making process should be responsive to future changes, as long as there are checks and balances to ensure the standard is structured, impartial and evidence based. Expanding the NHVR Approved Guidelines for Granting Access would provide a solid basis, taking into consideration a number of reviews undertaken in relation to assessment guidelines with a focus on both sealed and unsealed roads and different classes of vehicles or vehicle envelopes.

Question 9.12. Are there other costs or benefits that we should consider in the impact assessment?

In Queensland, local government road managers bear the cost of complex route assessments. Councils in mining regions with higher permit volumes, such as Mackay Regional Council, have spent as much as \$400,000 on bridge assessments. Expansion of the current section under s159 (4) to enable local government road managers to charge for route assessments in circumstances that require complex engineering assessment, i.e. bridge load assessments or complex geometric assessments (large OSOM loads), should be considered under the new law.